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REVISED STATUTES
OF
UPPER CANADA.

THE
S T A T U T E S
OF
U P P E R C A N A D A,
T O T H E T I M E O F T H E U N I O N.



REVISED AND PUBLISHED BY AUTHORITY.

VOL. I.—PUBLIC ACTS.

TORONTO:

ROBERT STANTON, PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY.

REPORT

OF THE COMMISSIONERS, APPOINTED TO REVISE THE STATUTES OF UPPER CANADA.

TO HIS EXCELLENCY, THE RIGHT HONOURABLE SIR CHARLES BAGOT, K.C.B.

&c. &c. &c.

Toronto, March 8th. 1843.

MAY IT PLEASE YOUR EXCELLENCY:

By a Commission under the Great Seal of Upper Canada, bearing date the twenty-fifth day of July, one thousand eight hundred and forty, we were appointed Commissioners "diligently and carefully to examine and revise the several Statutes from time to time passed, and enacted by the Parliament of Upper Canada, and then in force and effect; and to make such report upon the premises, as in our opinion should be most for the interest, welfare and good government, of the Province."

Before proceeding to execute this Commission, we ascertained that what was contemplated by the Government was, that we should present the Statute Law of Upper Canada as it stood at the time of the Union of the Provinces, having expunged all such parts as had been repealed, either expressly or by clear implication; carefully revising the whole; giving the necessary references in the margin of each Statute; and adding a well compiled index.

This we have endeavoured to do.

We were not certain that it might not have been intended that, after ascertaining what Acts, and parts of Acts were in force, we should arrange and classify them according to their subject matter, consolidating in one Statute such as relate to the same object, transposing clauses, and parts of clauses, as well as the Statutes themselves, in order to improve the arrangement, suggesting improvements, supplying deficiencies, and carefully revising the language of the whole.

But, besides that some of the Commissioners, who had been appointed, could not have undertaken this task without being relieved, for the time, from their other duties, it would have been a useless labour, unless it were to be followed by a Legislative revision of the whole of this body of Statute Law, and by re-enacting it all, in the order in which it might be proposed to place it, with such further alterations as the Legislature might deem expedient.

This would have required probably one or more extraordinary Sessions of the Legislature; and without the certainty of such subsequent ratification, of course the disturbing the present arrangement of the Statutes would have been an irregular and unauthorised act, which could only have created confusion, by furnishing, as it were, by public authority, a compilation of Statute Law, wanting the necessary sanction.

Such a re-casting of the Statute Book, by classifying the whole, according to the various subjects, without regard to the order of time, has been frequently proposed in the Mother Country, but never yet attempted, nor has it, so far as we know, been effected, in any of the British Colonies, though it has been in some other Countries.

Doubtless, there is the promise of great convenience in a new arrangement of that description, though the value of such a work might be less now than it would have been in former times, from the great frequency of changes in Legislation which distinguishes the present age.

This point of time, however, would probably not have been the most proper to select, in regard to the Statute Law of what once formed the Province of Upper Canada; because the Union of the two Provinces may be expected to lead to many enactments applying equally to the whole territory,

and to the gradual incorporation of much of the Statute Law of each of the late Provinces into new Statutes, which shall extend to the whole population.

Indeed the two Sessions of the United Legislature have already produced so many alterations of what used to be the Statute Law of Upper Canada, that it would scarcely have been worth while to have taken up the Statute Book, as it stood at the time this Commission was issued, with a view to classifying the several enactments according to their subject matter. The Statutes which have been passed since the Union, respecting Education, the establishment of Municipal Councils, the Criminal Law, Inferior Courts, Elections, and several other matters, have made such extensive changes that they render a great part of the Statute Book of Upper Canada a dead letter. A few years hence, perhaps, a revised edition of the Statutes in force in Canada may be published with advantage, when those points shall have been ascertained on which it may have been found desirable, and convenient, to make the Statute Law the same in both divisions of the Province.

In this edition we have done nothing more than to present the whole of the Statute Law of Upper Canada, as it stood on the tenth of February, one thousand eight hundred and forty-one, when the Proclamation was issued uniting the two Provinces, carefully expunging what we found to be not in force at that time; and giving such marginal references as will direct attention, we hope, to all that has been enacted on each subject, up to the time of the volumes passing through the press.

We have not expunged anything that formed part of the Law in force at the time of the Union; because we considered that we were desired to exhibit the whole, as it stood when Upper Canada ceased to be a separate Province; but we have referred to such of the provisions of the Act of Union, and to such enactments of the United Legislature, as have interfered with any of these Statutes, or as may be required to be considered in connection with them.

The volume containing the Public Acts had passed through the press, before the second Session of the United Legislature occurred; and could not therefore contain any references to the Acts of that Session, and it will be found, also, that some of the earlier Statutes are printed without reference to Statutes passed in the first Session of the United Legislature, though the latter affect some of their provisions.

This was unavoidable, because that portion of the work had been struck off, before the Statutes of that Session were passed.

Although we could not take the liberty of transposing the public Statutes, either wholly, or in part; and have therefore printed them in the order of time, as they were passed; yet we have ventured, for the sake of convenience, in publishing the Private Acts, to collect them in a separate volume, and to arrange them according to each subject.

The first volume will be found to contain the heading; at least, of every Statute, whether public or private; (with one accidental omission, the Local Act for the division of the County of Prince Edward, which formed the seventeenth chapter of the Session of one thousand seven hundred and ninety-seven,) all standing in the order in which they were published at the end of each Session.

Every chapter will thus be found accounted for in the first volume, and in its proper order, in each Session, being either published at length, or the heads only, if it has been repealed, or expired, or if it be a Local or Personal Act, the heading only will be found in the first volume, with a reference to the second volume for the Statute printed at large.

In many of the Statutes there are inaccuracies, such as misrecitals of former Statutes referred to, repugnance between the title or preamble and the enactments, and sometimes errors arising from assuming provisions to be in force which had been repealed before, or vice versa. These we could not, of course, venture to correct; but we have generally, perhaps always, made some note of the error.

In some few instances we found it not easy to determine whether a particular Act, or part of an Act, continues in force, or has been superseded by some later provision; and whenever we thought the point in any degree doubtful, we have refrained from expunging the enactment, because a decision of ours, though it might seem to be authoritative, could not in fact control the judgment which Courts of Law might have to form upon the same questions, and it might therefore mislead.

In such cases we have carefully referred to the conflicting enactments, and have left the reader to judge for himself.

In those Statutes especially which relate to licenses to be issued by Inspectors of Districts, and to Militia pensions, we have found a confusion which it is not very easy to unravel, and several evident errors, particularly in the enactments of the last two or three Sessions.

The Statutes on these two subjects require much to be arranged and consolidated.

In one or two instances, as in regard to those Statutes which related to the barring of dower, and the alienation of the estates of married women, we have thought it right to print Statutes and clauses which have been repealed by later Statutes, referred to in the margin, because it is necessary that the repealed laws should still be kept in view, as they affect the validity of existing titles taken while they were in force.

Where Acts have been reserved, and afterwards assented to by Proclamation or Message, we have printed them with those of the year in which they were passed by the two Houses of the Legislature, and this has necessarily made a change in the numbers of Chapters of some of the Sessions.

It occurred to us, at first, that we should collect and publish such British and Imperial Statutes as are in force here; but as these, with very few exceptions, apply to both divisions of the Province equally, and were not embraced in the terms of the Commission under which we have been acting, we have not incurred the expense of reprinting them in this collection, which regards only one portion of Canada. We have endeavoured, however, to note those instances in which the Imperial Trade Acts, and other British Statutes, control any of our Provincial enactments.

The Index has been executed by Mr. Cameron, one of the Commissioners, who had the kindness to undertake it, on a plan which we had approved of. And we feel it just to observe, that the Commissioners have been much assisted in the progress of the work by the careful attention and exactness of Mr. Stanton, the Publisher.

We have spared no pains, by a diligent examination of the Statute Book, and by a careful comparison of our notes throughout, to make the present edition accurate; and we trust that we shall be found to have done so, with as few exceptions as the nature of the work would admit. But it has been made quite evident to us in the course of our examination, that to go through a task of this description with ease, and with anything like certainty of accuracy, it is necessary that the persons engaged in it should not only have the kind of information required, but that they should be able to withdraw their attention, for the time, from other occupations.

They would then retain the particulars of each subject more clearly in their minds, while the work advanced, and would be always proceeding with an uniformity of design; but this uniformity of design can scarcely fail to be interrupted, and in some measure lost sight of, when it is necessary, as it has frequently been with us, to suspend the work, in the midst of some particular subject, without the possibility of returning to it for several days, or weeks.

The errors which may have crept in, (we hope they are not many,) have probably arisen from this disadvantage.

We cannot forbear stating, before we conclude this Report, that the public Statutes, in the form in which we now present them, afford striking and abundant arguments of the necessity of a revision, if it were only for the purpose of taking up the principal subjects, one by one, in succeeding Sessions, and consolidating and arranging all the enactments connected with each.

But perhaps, for the reasons we have mentioned, this is not the best point of time for entering upon the work.

All which is respectfully submitted.

(Signed)

J. B. ROBINSON,
J. B. MACAULAY,
W. H. DRAPER,
JOHN H. CAMERON.

STATUTES

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.

ANNO DOMINI 1792.

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.

[Passed 15th October, 1792.]

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

Preamble.

Recital of Act 14 Geo. III.
chap. 83.

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 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 it is hereby enacted, That from and after the passing of this Act, the said provision contained in the said Act of the fourteenth year of His present 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 inhabitants 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.

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

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.

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

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.

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

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 hereinafter mentioned.

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

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.

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.

AN ACT to establish Trials by Jury.

[Passed 15th October, 1792.]

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 Government of the said Province," and it is hereby enacted, 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 this 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.

(See 34 Geo. III, chap. 1.
36 Geo. III, chap. 2.
37 Geo. III, chap. 9.
43 Geo. III, chap. 13.
2 Geo. IV, chap. 1, sec. 30)

All issues of fact to be determined by the verdict of 12 jurors conformably to the law and 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.

[Passed 15th October, 1792.]

[REPEALED BY 4th GEO. IV. SESS. 1, CH. 16.]

CHAP. IV.

AN ACT to abolish the Summary Proceedings of the Courts of Common Pleas, in Actions under Ten Pounds Sterling.

[Passed 15th October, 1792.]

[Court of Common Pleas abolished by 34 GEO. III, Ch. 2, Sec. 30.]

(See 2 Geo. IV, chap 2;
3 Wm. IV, chap 1.)

CHAP. V.

AN ACT to prevent accidents by Fire in this Province.

[Passed 15th October, 1792.]

Preamble.

(See 7 Geo IV, chap 8—
see also the several local
Police Acts.)

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

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 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 it is hereby enacted, 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.

CHAP. VI.

AN ACT for the more easy and speedy Recovery of Small Debts.

[Passed 15th October, 1792.]

[REPEALED BY 3 Wm. IV. CH. 1.]

CHAP. VII.

AN ACT to regulate the toll to be taken in Mills.

[Passed 15th October, 1792.]

WHEREAS it is expedient to ascertain and determine the quantity of ^{Preamble.} 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 it is hereby enacted, 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, by 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 and 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, 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 ^{Penalty:} 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. ^{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 Surname 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.}

C H A P . V I I I .

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

[Passed 15th October, 1792.]

Preamble.

(Sec 11 Geo. IV. Ch. 3.
4 Wm. IV. Ch. 10,
1 Vic. Ch. 5.)

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*— A Gaol and Court House to be built in each District.

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

III. The District of Mecklenburgh to be henceforth called the Midland District.

IV. The District of Nassau to be henceforth called the Home District.

V. The District of Hesse to be henceforth called the Western District.

VI. Such alteration of names not to avoid Commissions or legal proceedings.

VII. Magistrates in Quarter Sessions to procure different Plans and Elevations of a Gaol and Court House, and to approve of one, and—

VIII. To contract for building the same, agreeably thereto. Public notice being given for receiving Proposals, and the same examined, the lowest shall be accepted, provided the security be sufficient.

IX. When to be completed.

X. Where to be built in the Eastern District.

XI. In the Midland District.

XII. In the Home District,

XIII. In the Western District.

Sheriff to appoint the Gaoler.

XIV. *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 license to be granted for retailing spirituous liquors within such Gaols.

(See 3 Victoria, chap. 14.)

XV. *Provided always,* That no license 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 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.

XVI. *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 convenient, 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.

(See 1 Victoria, chap 5, sec 6.)

XVII. *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 authorised 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.

STATUTES 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.

HIS EXCELLENCY JOHN GRAVES SIMCOE, ESQUIRE,
LIEUTENANT GOVERNOR.

ANNO DOMINI 1793.

CHAP. I.

AN ACT for the better Regulation of the Militia of this Province.

[Passed 9th July, 1793.]

[REPEALED BY 48TH GEO. III. CH. 1.]

CHAP. II.

*AN ACT to provide for the nomination and appointment of Parish and
Town Officers within this Province.*

[Passed 9th July, 1793.]

[REPEALED, EXCEPT SEC. 10, BY 5TH WM. IV. CHAP. 8.]

Election and duties of
the Overseers of the
Highways.

(Repealed by 5 Wm. IV.
Chap. 8.)
(See 4 Wm. IV. Ch. 12.
Sec. 5, 21.
5 Wm. IV. Ch. 8, Sec. 1,
1 Vic. Ch. 21, Sec. 35.)

The sufficiency of Fences
to be within their
cognizance.

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 height 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.*

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.

(See 5 Wm. IV. Ch. 2, Sec. 1.)

“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.”

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.

[Passed 9th July, 1793.]

[REPEALED BY 47 GEO. III. CH. 7.]

CHAP. IV.

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

[Passed 9th July, 1793.]

[REPEALED BY 50 GEO. III. CH. 1.]

CHAP. V.

AN ACT to confirm and make valid certain Marriages heretofore contracted in the Country now comprised within the Province of Upper Canada, and to provide for the future Solemnization of Marriage within the same.

[Passed 9th July, 1793.]

WHEREAS many marriages have been contracted in this Province, at a time when it was impossible to observe the forms prescribed by law

Preamble.
(See 38 Geo. III, chap. 4,
59 Geo. III, chap. 15,
2 Geo. IV, sess. 1, ch. 11,
1 Wm. IV, Ch. 1.)

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.

Method of preserving the testimony of such marriages.

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 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.
(See 59 Geo. III. Ch. 15)

"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 —.”

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.

Manner of entering the same of record.

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

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:

Regulations for the future celebration of marriages.

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

“ 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.”

Public notice.

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 inter-marrying 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.

Penalty for 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 certificate 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 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 and 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 afore-

said, 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.

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 license 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.*

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

VII. [EXPIRED.]

Fromulgation of this Act.

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.

[Passed 9th July, 1793.]

[REPEALED BY 7 WM. IV. CH. 11.]

CHAP. VII.

AN ACT to prevent the further introduction of Slaves, and to limit the term of contracts for servitude within this Province.

[Passed 9th July, 1793.]

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 license 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 license 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. Ch. 27.

The same in part repealed.

Provisions against the further introduction of slaves.

Term of servitude by contract limited.

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

II. *Provided always*, That nothing herein contained shall extend, or be construed to extend, to liberate any Negro, 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 come into the possession of any person, by gift, bequest, or *bonâ 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.

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

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 clothing 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 entitled 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 authorised 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.

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.

Birth of the children of slaves to be recorded.

Penalty for neglecting or refusing to record the same.

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

Remedy against the undue detention of such children.

Provision for the issue
of the children of slaves.

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 entitled to all the rights and privileges of free-born subjects.

Security to be given on
liberating a slave.

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.

CHAP. VIII.

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

[Passed 9th July, 1793.]

Preamble.

(See 2 Geo. IV, chap 6;
Act of Union, 3 & 4 Vic.
Ch. 35, Sec. 44.)

Constitution and jurisdiction
of the Court of
Probate.

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.

II. *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, 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 hereinafter mentioned.

Institution of a Surrogate Court in each District.

III. *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.

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.

IV. 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

Seal of each of the said Courts.

A description whereof
to be sent to the
Secretary's Office.

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.

Oath of the Surrogate.

V. *Provided always*, That no person shall be entitled 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 entitled 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 testamentary
paper to be kept as
recorded in Court, and
the transcript thereof
duly sealed, to be held
a sufficient probate.

VI. *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.

Circumstances required
to render nuncupative
wills good.

VII. *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 nuncupative 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 surprised 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.

VIII. *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.

IX. *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.

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

X. *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.

Proof to be adduced of the demise of an intestate.

XI. *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 entitled 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 entitled to administer, should happen to be absent from the Province, it shall 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.

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

Temporary administration.

XII. *And be it further enacted by the authority aforesaid,* That the Judge of Probate, and every Surrogate in his several District, shall and may;

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

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* :

Form and condition of such bonds.

“ 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 know-
 “ ledge, 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 pos-
 “ session 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 administrator’s 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 respec-
 “ tively, 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 (appro-
 “ bation 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.”

Such bonds pleadable.

Which bonds are hereby declared and enacted to be good and binding to all intents and purposes, and pleadable in any courts of justice.

Method of making distribution of the proceeds of an Intestate’s estate.

XIII. *And be it further enacted by the authority aforesaid,* That it shall 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 expenses of every sort, first allowed and deducted, according to the provisions in the said statutes hereinbefore 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.

XIV. 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 authorised 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.

XV. *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

In administration granted with a will annexed, it shall be expressly conditioned, that such will shall be performed.

express provision or 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 :

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

“ 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 regis-
 “ try 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 inten-
 “ tions of the testator or testatrix, [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.”

Force and effect of such bond.

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.

An appeal to lie from the Surrogate Courts to the Court of Probate.

XVI. *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.

If made within fifteen days next after judgment below;

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

XVII. 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.

Terms of sitting of the said Courts.

XVIII. *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:

Fees to be taken:

	OFFICIAL PRINCIPAL AND SURROGATE.			REGISTER.			
	£	s.	d.	£	s.	d.	
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	By the Official Principal, Surrogate and Register.
From £300 to £1000	1	0	0	0	6	8	
When above £2000.....	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 eighteen lines, six words in each.....	0	0	0	0	1	0	
APPARITOR OR MESSENGER.							
For service of citation.....	0	2	0				By the Apparitor or Messenger.
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.

[Passed 9th July, 1793.]

[EXPIRED.]

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 Expenses thereof.

[Passed 9th July, 1793.]

[EXPIRED.]

CHAP. XI.

AN ACT to encourage the destroying of Wolves and Bears, in different parts of this Province.

[Passed 9th July, 1793.]

[REPEALED BY 47 GEO. III. CH. 2.]

CHAP. XII.

AN ACT to provide for the appointment of Returning Officers of the several Counties within this Province.

[Passed 9th July, 1793.]

[Made Perpetual by 3rd Wm. IV. CH. 12, but superseded by the Act of Union 3rd & 4th VICTORIA, CH. 35, Secs. 22, 23, 27.]

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 expenses thereof.

[Passed 9th July, 1793]

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 license 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 expenses 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 sum of twenty shillings, currency, upon every license that shall be granted by virtue of this Act, in manner following, that is to say: that from and after the fifth

Preamble.

14 Geo. III. Chap. 85.
recited.

An additional duty of 20s. to be levied on all licenses for the retail of wines or spirituous liquors after the 5th day of April, 1794.

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 licenses 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 license 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.*

(See 13 Geo. III. Ch. 9.)

In force now only as regards Tavern licenses.

(See 11 Geo. II. Ch. 9.
6 Wm. II. Ch. 4, sec. 5.
3 Vic. Chap. 31, sec. 2.
3 Vic. Chap. 22, sec. 2.)

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

(January.—See 45 Geo. III. Ch. 1.)

(Inspector.—See 13 Geo. III. Chap. 9.)

3 Vic. Chaps. 21 & 22.

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 license, 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 license for the same, and by such public notice to warn every person who shall neglect, omit, or refuse to take out a license, 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.

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

Penalty for neglecting.

(See 3 Vic. Chs. 19, 20, 21 & 22, as to appropriation of fines.)

Persons licensed shall enter into bonds to keep a decent and orderly house.

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:—“Licensed to sell wine and other spirituous liquors;” and every person neglecting to have the aforesaid words written, painted or printed, as aforesaid, and continuing 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.

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 license 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 there-*

fore enacted by the authority aforesaid, That every person taking out a license by virtue of this Act, shall, upon receiving such license 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 license to him granted as aforesaid. (See 43 Geo. III Ch. 9.)
(See 34 Geo. III. Ch. 12, sec. 6.)

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 license, shall receive from each person to whom a license 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. Fees of the Secretary, or his Agents, on licenses. (See 43 Geo. III. Ch. 9.)
Fee for drawing bond.

- VI. } These two clauses not in force. See 3rd Vic. Chaps. 21 & 22;
 VII. } 1st Wm. IV. Chap. 15; 3rd Vic. Chap. 21.

Retailers not keeping a house of entertainment, exempted from the additional duty after the expiration of two years. Application of the monies arising by this Act. Poundage of the Receiver General.

STATUTES OF UPPER CANADA,

PASSED IN THE

THIRD SESSION OF THE FIRST 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.

HIS EXCELLENCY JOHN GRAVES SIMCOE, ESQUIRE,
LIEUTENANT GOVERNOR.

ANNO DOMINI 1794.

CHAP. I.

AN ACT for the regulation of Juries.

[Passed 9th July, 1794.]

Preamble

*5 Geo. III. Chap. 2.
26 Geo. III. Chap. 2.
27 Geo. III. Chap. 2.
48 Geo. III. Chap. 17.
49 Geo. III. Chap. 6.
2 Geo. IV. Chap. 1.
2 Geo. IV. Chap. 2.
10 Geo. IV. Chap. 1.
7 Wm. IV. Chap. 3.
7 Wm. IV. Chap. 10.*

The Clerks of the Peace
to deliver yearly to the
Sheriffs a list of Jurors,
July directed.

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

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 house-holders 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 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.

Penalty for neglect in the Clerks of the Peace.

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.

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

Penalty.

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.

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

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.

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.

Penalty.

V. [See 36 Geo. III. Chap. 2.]

Method of making the returns of writs of venire facias juratores
Number of jurors to be returned.

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

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

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.

(See 36 Geo. III. Ch. 2.)

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.

(See 7 Wm. IV. Ch. 10)

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.

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

X.

} Repealed by 2nd Geo. IV. Sess. 2, Ch. 1.

Persons competent to serve on special juries.

XI.

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

XII.

} Repealed by 48th Geo. III. Ch. 13.

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

XIII.

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

Method of appointing viewers.

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.

Allowance to each of them per day.

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.

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

CHAP. II.

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

[Passed 9th July, 1794]

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 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

Preamble.

A Court of King's Bench established.

(Queen's Bench—See Victoria Ch. 1.)

Jurisdiction and powers thereof.

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.

Persons who shall preside therein, and place where the same shall be holden. (Four.—See 7 Wm. IV. Chap. 1)

2 Wm. IV. Chap. 8. Act of Union, 3 & 4, 7 & 8. Ch. 35, sec. 44.)

[SECTIONS II. TO XXXII. INCLUSIVE, REPEALED BY 2 GEO. IV. SESS. 2 CH. 1.]

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.

[See Act of Union, 3rd and 4th VICTORIA, Chap. 35, § 44.]

Provision for removing the Court of King's Bench to another place of holding the same.

XXXVII. }
XXXVIII. } Repealed by 2nd GEORGE IV. Chap. 1.

Fees. Increased fees allowed to His Majesty's Attorney General.

CHAP. III.

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

[Passed 9th July, 1794.]

[REPEALED BY 2nd GEO. IV. SESS. 2, CH. 2.]

CHAP. IV.

AN ACT to authorize the Governor or Lieutenant-Governor to License Practitioners in the Law.

[Passed 9th July, 1794.]

[TEMPORARY. SEE 43 GEORGE III. CHAP. 3.]

I. Suspension for two years, of part of the Ordinance of Quebec, respecting Attorneys, &c. II. Persons duly qualified, to be licensed, to a certain number, as Advocates and Attornies; enrolled, and authorized to receive fees accordingly. III. But may be struck off by the Court, on satisfactory evidence of corrupt practices. IV. Persons admissible by the Ordinance, not disqualified by this Act. Revival of the Ordinance. V. Fees for each License, and for enrolment. VI. 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.

[Passed 9th July, 1794.]

Preamble.

(See 7 Wm. IV. Chap. 14.
Sec. 5.)

The application of all monies levied for the uses of the Province, and of fines, &c. to be accounted for to His Majesty.

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.

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 authorise 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."

[Passed 9th July, 1794.]

[REPEALED BY 43 GEO. III. CH. 12. 59 GEO. III. CH. 7.]

CHAP. VII.

AN ACT for the further regulation of the Militia of this Province.

[Passed 9th July, 1794.]

[REPEALED BY 48 GEO. III. CH. 1. 2 VIC. CH. 9.]

CHAP. VIII.

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

[Passed 9th July, 1794.]

[REPEALED, BY 5 WM. IV. CHAP. 8.]

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.

[Passed 9th July, 1794.]

[EXPIRED, SINCE THE REPEAL OF 33 GEO. III. CH. 4, BY 50 GEO. III. CH. 1.]

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."

[Passed 9th July, 1794.]

[TEMPORARY.]

CHAP. XI.

AN ACT to lay and collect a Duty upon Stills.

[Passed 9th July, 1794.]

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

(See 3 Vic. Ch. 19.)

Provision for the current year to determine in April.

Method of ascertaining the content of ratable stills:

(See 3 Vic. Ch. 19, sec. 3, and sec. 11 respecting wooden stills.)

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

[SEE 43 GEO. III. CHAP. 9; 44 GEO. 3, CHAP. 7; 45 GEO. III. CHAP. 1: 4 GEO. IV. SESS. 1, CHAP. 13; 3 VIC. CHAPS. 19 & 20.]

II. [EXPIRED.]

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 license for that purpose; and every person desirous of obtaining such a license, 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 license 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 license, 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 license 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 license 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 license for the purpose of distilling spirituous liquors for sale, for and during the term of three years.*

IV. [See 3 Vic. Chap. 19, Sec. 4.]

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 be*

Licenses to be issued by the Secretary. Form of requisition for such licenses.

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

the said 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 license, for all purposes whatever.

Time of applying for licenses ;
Public notice to be given by the Secretary ;
Duty for the current seven months.

Duty for every ensuing year.

VI. [Not in force ; see 3rd Vic. Ch. 19, Sec. 3.]

VII. [Not in force ; see 3rd Vic. Ch. 19, Sec. 2.]

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 license as aforesaid.*

Fees.

(Sec 43 Geo. III. Ch. 9.)

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 license 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.*

Stills containing less than ten gallons not to be licensed to distil spirits for sale ;

(Sec 43 Geo. III. Ch. 9.)

Penalty.

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 Majesty'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 licensed person does or do contain a greater number of gallons, in the body or bodies thereof, than what is specified in his requisition or license, 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 gauging the bodies thereof ; Provided always, that no such warrant be executed before sun-rise, or after sun-set.*

Search warrant to be granted on affidavit.

(Sec 3 Vic. Ch. 19, sec. 5.)

XI. *And be it further enacted by the authority aforesaid, That it shall not be lawful for any person working any licensed 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,*

Distillers not to retail ; nor to be licensed to retail.

(Sec 43 Geo. III. Chap. 9.)

to grant a license for the purpose of distilling spirituous liquors, to any person or persons licensed at the same time to retail spirituous liquors, or to grant a license for retailing spirituous liquors to any person or persons licensed at the same time to distill spirituous liquors.

Payment of the monies into the hands of the Receiver General.

XII. [See 3rd Vic. Chap. 9, Sec. 4.]

Poundage of the Receiver General.

XIII. [Repealed. See 42nd GEO. III. Ch. 3; 1st WM. IV. Ch. 15.]

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 Licensing Public Houses, and for the more easy convicting of persons selling Spirituous Liquors without License.

[Passed 9th July, 1794.]

Preamble.

Recital of an Ordinance passed 25th Geo. III.

(See 36 Geo. III. Chap. 3,
43 Geo. III. Chap. 9,
50 Geo. III. Sess. 1. Chap. 2,
2 Geo. IV. Chap. 8,
4 Geo. IV. Sess. 2. Chap. 18,
11 Geo. IV. Chap. 9,
6 Wm. IV. Chap. 3,
3 Vic. Chaps 9, 19, 20, 21.)

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 licenses 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.

The same repealed.

Certificates to be obtained by persons previous to their being licensed.

II. [See 59th GEO. III. Sess. 1. Chap. 2. 3rd Vic. Chap. 20.]

III. [Repealed by 59th GEO. III. Chap. 2.]

IV. [See 59 GEO. III. Sess. 1. Chap. 2. 3rd VIC. Chap. 20.]

V. [Repealed by 3rd VIC. Chap. 20.]

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 expenses 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 license shall be granted, upon complaint or information that such licensed 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 empanelled by the Sheriff without fee or reward, to enquire of the misdemeanor charged in the said complaint or information; and if such Jury

The number of inns may be limited by the Magistrates. Meeting of Magistrates annually in March, in order to determine upon applications for licenses. A certificate from the Magistrates so assembled, shall serve as a warrant to obtain a license, on payment of duties. Restrictions in granting licenses to persons not licensed of the preceding year. Provision for the assignees of inn-holders dying or removing.

Recognizance to be entered into on obtaining a certificate.

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.

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 license or licenses granted or to be granted to such person during such time, shall be null and void.

Recognizances to be estreated.

Disability of an offender for three years.

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

VII. [Not in force. See 56th GEO. III. Chap. 3. 3rd Vic. Chap. 9.]

Names of licensed persons to be advertised.

And of those under recognizances.

(See 43 Geo. III. Chap. 9, & 44 Geo. III. Chap. 4. Sec. 2.)

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 license 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.*

Form of a Warrant to a Constable to give notice.

Form of a warrant.

[See 59th GEO. III. Sess. 1, Chap. 2.]

STATUTES OF UPPER CANADA,

PASSED IN THE

FOURTH SESSION OF THE FIRST 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.

HIS EXCELLENCY JOHN GRAVES SIMCOE, ESQUIRE,
LIEUTENANT GOVERNOR.

ANNO DOMINI 1795.

CHAP. I.

AN ACT to regulate the practice of Physic and Surgery.

[Passed 10th August, 1795.]

[REPEALED BY 46 GEO. III. CH. 2.]

CHAP. II.

*AN ACT to ascertain the eligibility of persons to be returned to the House
of Assembly.*

[Passed 10th August, 1795.]

[REPEALED BY 58th GEO. III. CH. 9; AND BY 4 GEO. IV. SESS. 2, CH. 3.]

CHAP. III.

*AN ACT to ratify, approve and confirm, the provisional agreement entered
into by the Commissioners on behalf of this Province, with the Commis-
sioners on behalf of the Province of Lower Canada:*

[Passed 10th August, 1795.]

[EXPIRED.]

CHAP. IV.

AN ACT to explain an 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."

[Passed 10th August, 1795.]

Preamble.

(See 1 Geo. IV. Sess. 2,
Ch. 11, sec. 18:
2 Wm. 4 Ch. 3:
British Stat 3 and 4 Wm.
IV. Ch. 52)

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.

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 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 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.

Michaelmas term to commence hereof in Nov.

II. Repealed by 2nd Geo, IV, Chap. 1, Sess. 2.

III. 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.

[Passed 10th August, 1795.]

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 transferred or alienated by any deed of sale, conveyance, enfeoffment 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, enfeoffment, 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 country 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,

Preamble.

(See 37 Geo. III. Ch. 8,
39 Geo. III. Ch. 4,
56 Geo. III. Ch. 16,
58 Geo. III. Ch. 8,
10 Geo. IV. Ch. 8,
3 Wm. IV. Ch. 15,
4 Wm. IV. Ch. 1, sec. 47,
4 Wm. IV. Ch. 16.)

Register offices to be established;

Appointment of Registers;

A Register may perform the duties of more than one office.

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.

A memorial of deeds, conveyances and wills, affecting any lands, held by grant from the Crown under the seal of the Province, may be registered:

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

Exception:

Notice to be given when the office of Register becomes vacant, to the Governor, &c.:

Term limited for filling up such vacancy.

The memorials to be put in writing, and brought to the office:

(See 38 Geo. III. Ch. 3.)

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 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 hereinafter 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, comprized 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 hereinafter directed.

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.

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.

Oaths to be administered and witnesses requisite in registering 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

Particulars to be inserted in every memorial;

The deed, conveyance or will, shall be produced to the Register, or his deputy, who shall endorse a circumstantial certificate thereon;

Such certificate shall be evidence of registry;

Books of entries to be kept by the Register.

memorial; and the said Register shall enter or register the said memorials in the same order that they shall respectively come to his hand.

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 authorized 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.

Recognizance to be entered into by each Register :

And that when and as often as the said Register 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 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.

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.

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

Searches.

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.

Fees.

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 recovered 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.

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

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.

Provision relative to leases.

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 perfection of

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

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;

(See 55 Geo. III. Ch. 8.)

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 hereinbefore 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 testatrix, 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: *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, wilful 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 hindered 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.

Provision in favour of devisees.

XVI. [Repealed by 39th Geo. III. Chap. 4.]

No members of the Assembly to hold directly or indirectly the office of Register.

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.

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

SCHEDULE

Forms:

OF A BARGAIN AND SALE TO BE ENROLLED.

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 _____.

Memorial of a bargain and sale.

[Signed, &c.]

I. A.

OF A MORTGAGE FOR YEARS.

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

Of a mortgage.

(See 4 Wm. IV. Ch. 16.)

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 ENDORSEMENT.

Of an endorsement.

An endorsement dated the _____ day of _____ made from J. E. of _____ and W. N. of _____ on the back of a mortgage 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 endorsement 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 above said 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 require 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.

(See 4 Wm. IV. Ch. 16.)

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.

STATUTES OF UPPER CANADA,

PASSED IN THE

FIFTH SESSION OF THE FIRST 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.

HIS EXCELLENCY JOHN GRAVES SIMCOE, ESQUIRE,
LIEUTENANT GOVERNOR.

ANNO DOMINI 1796.

CHAP. I.

AN ACT for the better regulation of certain Coins current in this Province.

[Passed 3rd June, 1796.]

FOR the better regulation of certain Coins current in this Province:
Be it enacted, &c.—

[Repealed by 6th William IV. Chap. 27.]

(See 49 Geo. III. Ch. 8,
3 Wm. IV. Ch. 4,
6 Wm. IV. Ch. 27,
3 Vic. Ch. 15.)

The gold and silver coins herein specified shall be deemed a legal tender; Specification, value and respective weights, of such gold coins; Of such silver coins.

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

Counterfeiting or falsifying such current coins shall be deemed felony, or knowingly importing such counterfeit and falsified coins.

Punishment for uttering or tendering false or counterfeit money knowingly; A second offence to be deemed felony.

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

IV. [Repealed by 3rd Wm. IV. Chap. 4.]

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: 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.

[18th Geo III. Ch. 6.]

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 one shilling 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 1st June 1797. gold coins in payments exceeding £50 shall be weighed in bulk, if either party require it; in what manner; at what rate computed.

VIII. [Repealed by 49th Geo. III. Chap. 8.]

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.

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 a majority thereof, shall be final.

Decision of questions arising thereupon.

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. III. 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. III.

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."

[Passed 3rd June, 1796.]

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.

Preamble;

(See 7 Wm. IV. Ch. 1.)

A pannel 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 licensing Public Houses, and for the more easy convicting of persons selling spirituous liquors without license."

[Passed 3rd June, 1796.]

Preamble.

(See 34 Geo. III. Ch. 12.)

Keepers of inns, &c. to be licensed;

Penalty for selling without license;

(See 6 Wm. IV. Ch. 4.)

Application thereof;

(See 3 Vic. Chs. 19, 20, 21, & 22.)

Cases in which a license to keep an inn may be granted in any general quarter sessions, to persons duly qualified; manner of granting 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 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 license 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 licensing Public Houses, and for the more easy convicting of persons selling spirituous liquors without license," 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 creditable witness*, of his, her or their, having offended against the said Act, in manner and form as is 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.

II. [Repealed by 59th Geo. III, Ch. 2, Sec. 1.]

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."

[Passed 3rd June, 1796.]

[REPEALED BY 7TH Wm. IV. CH. 11.]

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."

[Passed 3rd June, 1796.]

[Repealed so much of 33rd George III. Chap. 11. as relates to Bears.]

[SEE 47TH GEORGE III. CH. 2.]

CHAP. VI.

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

[Passed 3rd June, 1796.]

[EXPIRED.]

[EXPIRED.]

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."

[Passed 3rd June, 1796.]

[TEMPORARY.]

[EXPIRED.]

CHAP. VIII.

[REPEALED BY 2ND GEO. IV. SESS. 2. CH. 1.]

STATUTES 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.

THE HONOURABLE PETER RUSSELL, ESQUIRE,

PRESIDENT.

ANNO DOMINI 1797.

CHAP. I.

AN ACT for the better securing the Province against the King's enemies.

[Passed 3rd July, 1797.]

[EXPIRED.]

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.

[Passed 3rd July, 1797.]

[TEMPORARY.]

CHAP. III.

AN ACT for securing the Titles to Lands in this Province.

[Passed 3rd July, 1797.]

[EXPIRED.]

CHAP. IV.

AN ACT for regulating the practice of the Court of King's Bench.

[Passed 3rd July, 1797.]

[REPEALED BY 2ND GEO. IV. SESS. 2. CH. 1.]

CHAP. V.

AN ACT for the further regulation of the Militia of this Province.

[Passed 3rd July, 1797.]

[REPEALED BY 48TH GEO. III. CH. 1.]

CHAP. VI.

AN ACT to extend the Jurisdiction and regulate the proceedings of the District Court, and Court of Requests.

[Passed 3rd July, 1797.]

[REPEALED BY 2ND GEO. IV. SESS. 2. CHAP. 2.]

CHAP. VII.

AN ACT for the more easy Barring of Dower.

[Passed 3rd July, 1797.]

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 entitled 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.

Preamble.

(See 48 Geo. III. Ch. 7,
50 Geo. III. Ch. 10,
3 Wm. IV. Ch. 10.)

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 afore-
said, shall have any force or effect to bar the person so entitled to dower,
and executing the same, unless such person shall come before His

Provided such persons
come before, &c. and
consent thereto, which
shall be certified;
(See 50 Geo. III. Ch. 10.)

But no certificate is now required: see 2 Vic. c. 6.

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 endorsement on the said deed, which certificate, in the case of the said Court of Quarter Sessions, may be in the following 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 volun-
" tarily, 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 entitled to receive the sum of five shillings, and no more, for the said certificate.

Certificate to be enregis-
tered.

III. [Repealed by 48th Geo. III. Ch. 7.]

CHAP. VIII.

AN ACT to supply the want of Enrolment of Deeds of Bargain and Sale.

[Passed 3rd July, 1797.]

Preamble.

(See 4 Wm III. Ch. 1,
sec. 17.)

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 affect 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 35 Geo. III. 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.

[Passed 3rd July, 1797.]

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 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

Preamble.

34 Geo. III. Ch. 2, sec. 19.

(See 2 Geo. IV. sess. 2, Ch. 1. sections 16, 27.)

(See 7 Wm. IV. Ch. 1, sec. 8; 1 Vic. Ch. 15.)

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.

[Passed 3rd July, 1797.]

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 offenders 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 Ferry-man convicted of a breach;

Penalty how to be recovered and disposed of.

CHAP. XI.

AN ACT to increase the Revenue, and to compel the accounting more regularly for the same to the Treasurer of the Province.

[Passed 3rd July, 1797.]

MOST GRACIOUS SOVEREIGN.

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 expenses 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 the 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 license for that purpose, whether he or she does keep a house of public entertainment or does not; which license 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 licensed to keep a house of public entertainment, for his or her license 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 license 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:

Address.

(See 33 Geo. III. Ch. 13.
43 Geo. III. Ch. 9.)

After, &c. and annually,
no person to sell less than
three gallons without
license;
(See 3 Vic. Ch. 20.)

Governor to grant license.

(See 43 Geo. III. Ch. 9.
3 Vic. Ch. 20.)

Rates and duties, how
collected, &c.

Penalty for selling with-
out license;

Penalty how to be applied :

(See 6 Wm. 4 Ch. 4 :
3 Vic. Ch's. 19, 20, 21, 22.)

Secretary to compel agents to account without delay : Secretary to account to the Treasurer within one month.

of licensing public houses, and for the more easy convicting of persons selling spirituous liquors without license," 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.

II. [Superseded by 56 Geo. III. Ch. 3.]

CHAP. XII.

AN ACT to authorize the Lieutenant-Governor to nominate and appoint certain Commissioners for the purposes therein mentioned.

[Passed 3rd July, 1797.]

[TEMPORARY.]

CHAP. XIII.

AN ACT for the better regulating the Practice of the Law,

[Passed 3rd July, 1797.]

Preamble.

(See 55 Geo. III. Ch. 3.
2 Geo. IV. sess. 2. Ch. 5.
4 Wm. IV. Ch. 9.)

Present Practitioners incorporated into a Law Society.

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 Québec, 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 honourable body, to assist their fellow subjects as occasion may require, and to support and maintain the Constitution of the said Province.

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.

The Society to form 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 Visitors 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.

Place and time for the first meeting for adopting rules.

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.

Present Practitioners may take one pupil; (See 47 Geo. III. Ch. 5.)

V. *And be it further enacted,* That no person other than the present Practitioners, 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

None but members of the society to practice except, &c.

(Repealed by 2 Geo. III. Sess. 2. Ch. 5.)

Provision in favour of Clerks articled before the passing of this Act.

Society, and conform to all the rules and regulations thereof: Provided also, that nothing hereinbefore 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.

Further provision.

VI. [Repealed by 2nd Geo. IV. Sess. 2. Chap. 5.]

No person but of full age admitted to practice.

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.

Ordinance of Quebec repealed.

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.

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.

[Passed 3rd July, 1797.]

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 Clergyman, in certain deeds of grant;

Such deeds to be valid in securing the rights of the Crown, of the Clergy and 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.

[Passed 3rd July, 1797.]

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

Preamble.

(See 3 Wm. IV. Ch. 7.)

Warrants issuing within his Majesty's other governments in North America against felons escaping therefrom, may be executed within this Province, being duly endorsed.

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 shall escape, come into, reside or be, to endorse his name on the said warrant, (due proof being first made of the hand writing of the Magistrate issuing the same,) which warrant so endorsed 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 endorsed, 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 expense, and 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 endorsed as aforesaid, the person applying for such endorsement 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 expense 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.

[Passed 3rd July, 1797.]

[EXPIRED.]

STATUTES OF UPPER CANADA,

PASSED IN THE

SECOND SESSION OF THE SECOND PROVINCIAL PARLIAMENT

OF UPPER CANADA:

MET AT YORK, ON 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.

THE HONOURABLE PETER RUSSELL, ESQUIRE,
PRESIDENT.

ANNO DOMINI 1798.

CHAP. I.

AN ACT to ascertain and establish on a permanent footing, the Boundary Lines of the different Townships of this Province.

[Passed 5th July, 1798.]

WHEREAS it is expedient and necessary to ascertain and establish Preamble. 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, Monuments to be placed at the corners, &c. of each Township and Concession That stone monuments, or monuments of other durable materials, shall be placed at the several corners, governing points, or offsets 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. Lines therefrom to be the permanent Boundary Lines of such Township and Concession.

(See 59 Geo. III. Ch. 14.)

1 Vic. Ch. 18.

2 Vic. Ch. 17.

3 Vic. Ch. 11.)

To be under the inspection and order of the Surveyor General.

II. *And be it further enacted by the authority aforesaid,* That the monuments above directed to be placed as afore-mentioned, shall be placed under the inspection and order of the Surveyor General of this Province.

Effect of such Boundary Lines.

III. *And be it further enacted by the authority aforesaid,* That the courses 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.

(See 3 Wm. IV. Ch. 4. Sec. 15.)

IV. *And be it further enacted by the authority aforesaid,* That if any person or persons shall knowingly and wilfully 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 monuments, 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.

Expense 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 expenses incurred by the proceedings, and to receive the monies arising from such sale, to and for the use of the township.

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.

[Passed 5th July, 1798.]

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.

Preamble.

"Ordinances so far as relates to Notaries, repealed."

C H A P. 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.

[Passed 5th July, 1798.]

[REPEALED BY 2ND GEO. IV. SESS. 2. CH. 2.]

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.

C H A P. 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 comprised 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.]

Preamble.

(See 33 Geo. III. Ch. 3.
50 Geo. III. Ch. 15.
2 Geo. IV. Ch. 11.
1 Wm. IV. Ch. 1.)

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 comprised 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 com-

Minister of Church of
Scotland, &c. authorized
to celebrate marriage.

munity of persons, professing to be members of the Church of Scotland, or Lutherans, or Calvinists, who shall be authorised 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.*

(See 1 Wm. IV. Ch. 1, Sec. 3.)

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 authorised 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 shillings) certifying him to be the settled minister or clergyman of such congregation or religious community, which certificate shall be in the following form:—

Minister or Clergyman must have been ordained, and appear before six Magistrates in Quarter Sessions assembled, and take the oath of allegiance.

(See 1 Wm. IV. Ch. 1, sec. 4.)

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.

Form of certificate.

“G. H. *Chairman.*”

“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

No certificate to be given unless notice shall have been given, &c.

(See 1 Wm. IV. Ch. 1.)

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 Clergyman to
celebrate matrimony
unless, &c.

(See 1 Wm. IV. Ch. 1,
sec. 5.)

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 authorised by license, 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.

Parties may demand
certificate.

(See 1 Wm. IV. Ch. 1,
sec. 6.)

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 authorised and required to give the same a certificate of such marriage, which may be in the following form, viz.—

Form thereof.

"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 license, (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———.

In presence of

"G. H.

"J. K."

Certificate to be
registered.

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 comprised within the Province of Upper Canada, and to provide for the future solemnization of marriage within the same."

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 33 Geo. III. 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 the first day of January, in the year of our Lord one thousand eight hundred; and fortieth of His Majesty's reign.]

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 Québec, 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.
(See 39 Geo. III. Ch. 2.)

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 Stormont.

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.

County of Dundas.

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 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.
(S. 256 Gen. III. Ch. 2:
2 For. Ch. 25) 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 Lawrence 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 Elizabethtown, 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 form the County of Leeds.

County of Carleton. IX. [Repealed by 4th Geo. IV. Sess. 2. Chap. 5.]

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.

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.

XV. *And be it further enacted by the authority aforesaid,* That the townships of Ernest-town, Fredericksburgh, Adolphustown, Richmond, Camden (distinguished by being called Camden East,) Amherst Island, and Sheffield, do constitute and form the incorporated Counties of Lenox and Addington.

Incorporated Counties of Lenox and Addington.

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 Hastings.

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 Quinté 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.

County of Prince Edward. (See 4 Geo. IV. Sess. 1. Ch. 35.)

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.

Midland District.

(See 1 Wm. IV. Ch. 7: 7 Wm. IV. Ch. 31.)

XIX. *And be it further enacted by the authority aforesaid,* That the townships of Murray, Cramahé, Haldimand, Hamilton, Alwrick, Percy and Seymour, with the Peninsula of Newcastle, do constitute and form the County of Northumberland.

County of Northumberland.

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.

County of Durham.

(See 4 Wm. IV. Ch. 15.)

XXI. [Repealed by 3rd Wm. IV. Chap. 16.]

East Riding of the County of York.

XXII. [Repealed by 56th Geo. III. Chap. 19; 3rd Wm. IV. Chap. 16.]

West Riding of the County of York.

XXIII. [Repealed by 2nd Geo. IV. Sess. 2. Chap. 3.]

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.

District of Newcastle to be eventually declared by Proclamation.

(See 42 Geo. III. Ch. 2: 7 Wm. IV. Ch. 115.)

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, sixteen 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 authorised 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 Glanford added to the township of Binbrook.

(See 56 Geo. III. Ch. 19.)

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.

(See 7 Geo. IV. Ch. 13.)

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 lying to the southward and southeast of Dundas Street, do constitute and form the County of Haldimand.

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 Coots' Paradise, do constitute and form the District of Niagara.

District of Niagara.
(See 56 Geo. III. Ch. 19.)

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.

County of Norfolk.
(See 7 Geo. IV. Ch. 13.)

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.

Addition to the township of Burford.

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 Oxford.

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.

County of Middlesex.

XXXVII. *And be it further enacted by the authority aforesaid,* That the Counties of Norfolk, 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 boundary, (where the easternmost limit of the township of Orford intersects the river Thames,) till it arrives at Lake Huron, do constitute and form the District of London.

District of London.
(See 7 Wm. IV. Ch. 30;
7 Wm. IV. Ch. 33.)

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 opposite thereto, do constitute and form the County of Kent.

County of Kent.
See 1 Vic. Ch. 26;
2 Vic. Ch. 30.)

XXXIX. *And be it further enacted by the authority aforesaid,* That the townships of Rochester, Mersea, Gosfield, Maidstone, Sandwich, Colchester, Malden, and the tracts of land occupied by the Huron and other

County of Essex.

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.

Western District.

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.

Period, &c.

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.

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 the first day of January, in the year of our Lord one thousand eight hundred; and fortieth of His Majesty's reign.]

[REPEALED BY 2ND GEO. IV. SESS. 2. CH. 1.]

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 the first day of January, in the year of our Lord one thousand eight hundred; and fortieth of His Majesty's reign.]

[REPEALED BY 50TH GEO. III. CH. 1.]

STATUTES OF UPPER CANADA,

PASSED IN THE

THIRD SESSION OF THE SECOND PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT YORK, ON 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.

THE HONOURABLE PETER RUSSELL, ESQUIRE,
PRESIDENT.

ANNO DOMINI 1799.

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."*

[Passed 29th June, 1799.]

[EXPIRED.]

CHAP. II.

*AN ACT to continue an Act, intituled, "An Act for securing the Titles to
Lands in this Province."*

[Passed 29th June, 1799.]

[EXPIRED.]

CHAP. III.

AN ACT to provide for the Education and Support of Orphan Children.

[Passed 29th June, 1799.]

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 countersigned 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.
[See 2 Geo. IV. Ch. 6.]

The like power given to the mother, when the father abandons his 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 countersigned by two Justices, shall be good and valid in law.

Exception.

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.

Further 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.

CHAP. IV.

AN ACT to enable Persons holding the Office of Register, to be Elected Members of the House of Assembly.

[Passed 29th June, 1799.]

Preamble.
[See 7 Wm. IV. Ch. 114.]

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 35 Geo. III. 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.

III. *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.

[Passed 29th June, 1799.]

[EXPIRED.]

STATUTES OF UPPER CANADA,

• PASSED IN THE

FOURTH SESSION OF THE SECOND PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT YORK, ON 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.

THE HONOURABLE PETER HUNTER, ESQUIRE,
LIEUTENANT GOVERNOR.

ANNO DOMINI 1800!

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.*

[Passed 4th July, 1800.]

Preamble.

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 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
September, 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 14 Geo. III.

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 whippod.

(See 3 Wm. IV. Ch. 4; 7 Wm. IV. Ch. 4; 7 Wm. IV. Ch. 6; 7 Wm. IV. Ch. 7; 1 Vic. Ch. 11)

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 labour, 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 workhouse, 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

Banishment substituted for transportation.

(See 7 Wm. IV. Ch. 7.)

without great and 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.

(See 3 Wm. IV. Ch. 4. Sec. 15.)

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, 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.

[Passed 4th July, 1800.]

[REPEALED BY 48TH GEO. III. CHAP. 13.]

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.

[Passed 4th July, 1800.]

[REPEALED BY 4TH GEO. IV. SESS. 2. CHAP. 3.]

CHAP. IV.

AN ACT for the summary Conviction of Persons selling Spirituous Liquor by Retail without Licence.

[Passed 4th July, 1800.]

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 authorised and empowered 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

Preamble.

Manner of conviction when offender resides in the District.

(See 6 Wm IV. Ch. 4.)

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 does not reside within 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.

No shop-keeper to sell less than one quart of wine, brandy, &c.

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.

Limitation of prosecution.

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.

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."

[Passed 4th July, 1800.]

[EXPIRED.]

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.

[Passed 4th July, 1800.]

[EXPIRED.]

STATUTES 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.

THE HONOURABLE PETER HUNTER, ESQUIRE,
LIEUTENANT GOVERNOR.

ANNO DOMINI 1801.

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."

[Passed 9th July, 1801.]

[EXPIRED.]

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.

[Passed 9th July, 1801.]

[REPEALED BY 48TH GEO. III. CH. 1.]

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.

[Passed 9th July, 1801.]

[REPEALED BY 1ST VIC. CH. 27.]

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.

[Passed 9th July, 1801.]

[EXPIRED.]

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.

[Passed 9th July, 1801.]

[REPEALED BY 4TH GEO. IV. SESS. 2. CH. 11.]

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.

[Passed 9th July, 1801.]

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 She-
Preamble.

riffs 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 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.

Confirmation of Courts, Commissions, &c.

Times of holding Quarter Sessions.

Provision respecting the Districts of London and Johnstown.

II. }
 III. } [Repealed by 7th Wm. IV. Chap. 11.]

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.

[Passed 9th July 1801.]

Preamble.

(S. 60 (In. 171. Ch. 5.)

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 appoint 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:—

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.

Appointment in every District, of Inspectors of flour, pot and pearl ashes.

Oath to be taken by Inspectors.

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.

Method of examining flour, pot and pearl ashes, and marking the casks in which they are contained.

(See 60 Geo. III. Ch. 5.)

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 very barrel of Flour, three pence; and for every cask of Pot and Pearl Ashes, one shilling.

Fees allowed to the Inspectors.

(See 60 Geo. III. Ch. 5.)

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.

[Passed 9th July, 1801.]

[SUPERSEDED BY 5TH WM. IV. CH. 19.—SEE 3RD VIC. CH. 13.]

CHAP. IX.

AN ACT the better to adapt the establishment of the Court of King's Bench to the present situation of this Province.

[Passed 9th July, 1801.]

[REPEALED BY 2 GEO. IV. SESS. 2, CH. 1.]

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.

[Passed 9th July, 1801.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XI.

AN ACT to prevent the Acts of the Legislature from taking effect from a time prior to the passing thereof.

[Passed 9th July, 1801.]

Preamble.

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 endorse 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 endorsement 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.

Date of Royal Assent to be endorsed by Secretary of the Province, from which day the Act shall commence.

Endorsement to form part of such Acts.

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 expenses thereof; and further to appropriate the supplies and provide for the payment of the same hereafter.

[Passed 9th July, 1801.]

[RENDERED INOPERATIVE BY THE ACT OF UNION.]

STATUTES 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.

THE HONOURABLE PETER HUNTER, ESQUIRE,
LIEUTENANT GOVERNOR.

ANNO DOMINI 1802.

CHAP. I.

*AN ACT the better to ascertain and secure the title to Lands in this
Province.*

[Passed 7th July, 1802.]

[EXPIRED.]

CHAP. II.

*AN ACT to provide for the Administration of Justice in the District
of Newcastle.*

[Passed 7th July, 1802.]

[See Local and Private Acts, in 2nd Volume.]

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 7th July, 1802.]

[REPEALED BY 1ST WM. IV. CH. 15.]

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 7th July, 1802.]

[EXPIRED.—See 47th Geo. III. Ch. 4; 56th Geo. III. Ch. 8; 59th Geo. III. Ch. 22; and Imperial Statute 3rd & 4th Wm. IV. Ch. 59, Sec. 33.]

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 7th July, 1802.]

[TEMPORARY.]

STATUTES 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 JANUARY, IN THE FORTY-THIRD YEAR OF THE REIGN
OF OUR SOVEREIGN LORD GEORGE THE THIRD; AND PROROGUED ON THE
FIFTH DAY OF MARCH FOLLOWING.

THE HONOURABLE PETER HUNTER, ESQUIRE,
LIEUTENANT GOVERNOR.

ANNO DOMINI 1803.

CHAP. I.

AN ACT to allow time for the Sale of Lands and Tenements by the Sheriff.

[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.]

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 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.

Preamble.

(See British Statute, 5
Geo. II. CH. 7.)

II. *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 5th March, 1803.]

[REPEALED BY 4TH GEO. IV. SESS. 2. CH. 11.]

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 5th March, 1803.]

Preamble. Governor, &c., authorized to licence six persons to practice the profession of the Law.

- II. Before any person applies to the Governor, &c., such person shall procure a certificate from the Court of King's Bench.
- III. After enrolment of any person under this Act, he is to subscribe the rules of the Law Society, and the Society to admit him a member.
- IV. Fees to the Governor's Secretary and Clerk of the Crown.

CHAP. IV.

AN ACT to declare the rights of certain Grantees of Waste Lands of the Crown.

[Passed 5th March, 1803.]

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

Preamble.

(See 4 Wm. IV. Ch. 1.
sec. 45.)

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, 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.

Grants to two or more persons and their heirs, to be construed to operate as giving estates in common, unless expressed in 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 5th 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

Preamble.

(Repealed by 1 Wm. IV. Ch. 3. sec. 5, except as to past conveyances.

(See also 39 Geo. III. Ch. 3; 2 Geo. IV. Sess. 1. Ch. 14; 2 Vic. Ch. 6. sec. 1 & 2.)

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.

It shall be lawful for any married woman having real estate, by deed, jointly with 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 coercion, 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 entitled 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 Marshalls shall be entitled to demand and receive the like sum of five shillings, as a fee for such Certificate.*

The Court or Judge to cause a Certificate of such married woman's consent, to be endorsed on the deed.

Fees for such Certificate.

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*

Such deeds to have no other force or effect than they would have had in case such married woman had been sole.

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 5th March, 1803.]

[REPEALED BY 47TH GEO. III. CH. 2.]

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.]

[EXPIRED.]

CHAP. VIII.

AN ACT to authorise the Attornies now practising, or hereafter to be duly admitted to Practice, to take such number of Clerks as therein mentioned.

[Passed 5th March, 1803.]

[SUPERSEDED BY 47TH GEO. III. CH. 5.]

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 Preamble.

(See 44 Geo. III. Ch. 7;
45 Geo. III. Ch. 1;
56 Geo. III. Ch. 3;
59 Geo. III. Sess. 2. Ch. 2;
4 Geo. IV. Sess. 1. Ch. 13;
4 Geo. IV. Sess. 2. Ch. 18;
6 Wm. IV. Ch. 4;
3 Vic. Ch. 9. sec. 6;
3 Vic. Ch. 19 and 20.)

Repeal of former Acts.

(33 Geo. III. Ch. 13;
34 Geo. III. Ch. 11 & 12;
36 Geo. III. Ch. 3;
37 Geo. III. Ch. 11.)

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 expensés 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 authorise 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.

Inspectors to be appointed in each District.

(See 3 Vic. Ch. 9. sec. 6.)

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 authorise, 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 hereinafter 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 authorised, 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 exercise, perform and fulfil, 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.

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.

Mode of obtaining Licences.
(See 3 Vic. Ch. 19.)

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 authorised and required to proceed against such offender or offenders in the same manner and form as any com-

Inspectors to ascertain persons selling Wine or Spirits without licence, or using Stills without licence, or larger Still than those licenced, and to proceed against offenders.
(See 3 Vic. Ch. 19 & 20.)

(See 6 Wm. IV. Ch. 4.)

plainant 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, at stated times.

V. [Repealed by 56 Geo. III. Chap. 3. Sec. 1.]

Allowance to the Inspector of the District.

VI. [Repealed by 3 Vic. Chap. 19.]

Inspector of each District to take oath.

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 authorised 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 :*

"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 impartially 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 favour or affection, nor will I aggrieve any person from hatred or ill will; and that I will in all cases faithfully 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 Parliament, 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 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.

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.

Fee to the Lieutenant Governor's Secretary.

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.

Continuance of this Act. (See 46 Geo. III. Ch. 6; Perpetual by 48 Geo. III. Ch. 5.)

C H A P. 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 5th March, 1803.]

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| I. | } | [Repealed by 5th Wm. IV. Chap. 8.—See 1 Vic. Ch. 21.] |
| II. | | |
| III. | | |

Whenever any horses, cattle, sheep or swine, taken, they may be impounded, &c.
The Pound-keeper within 48 hours to give notice of sale, &c.
If the owner of any distress shall not appear, Justices to summon freeholders 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 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

Swine not to go at large, in York, Niagara, Queenston, Amherstburgh, Kingston or New Johnstown.
(See 2 Geo. IV. Sess. 2. Ch. 11; 4 Wm. IV. Ch. 23; 1 Vic. Ch. 27.)

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 authorise 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 March, 1803.]

Veramble.

(See 5 Wm. IV. Ch. 6;
6 Wm. IV. Ch. 1;
1 Wm. Ch. 17.)

Every Member having
attended, to receive from
the Speaker a Warrant,

And may demand of the
Justices a sum not exceed-
ing 10s. per day,

Which shall be levied by
assessment.

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 Pro-*

vince; 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 entitled, 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 authorised 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.

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 reign, intituled, "An Act to authorise 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.

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.]

[REPEALED BY 47TH GEO. III. CHAP. 7.]

STATUTES OF UPPER CANADA,

PASSED IN THE

FOURTH SESSION OF THE THIRD 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.

PETER HUNTER, ESQUIRE,
LIEUTENANT GOVERNOR.

ANNO DOMINI 1804.

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.]

[REPEALED BY 10TH GEO. IV. CHAP. 5.]

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.]

[REPEALED BY 3RD VIC. CH. 3.]

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 authorise His Majesty's Court of King's Bench in this Province, to regulate certain Fees, Costs and Charges therein mentioned.

[Passed 9th March, 1804.]

[REPEALED BY 50TH GEO. III. CH. 9.]

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.]

[REPEALED BY 5TH WM. IV. CH. 8.]

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 March, 1804.]

I. [Former Act relative to printing Journals repealed.]

II. [TEMPORARY.]

III. [TEMPORARY.]

IV. [Repealed by 4th Geo. IV: Sess. 2. Chap. 14.]

£300 to be appropriated during the present year for printing all the Acts of the Province. Disposition of the Acts to be printed.

£80 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 expenses 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.]

[REPEALED BY 46TH GEO. III. CH. 4.]

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 March, 1804.]

Preamble.

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.

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 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 entitled to demand the endorsation of the said licence to be made in manner herein after 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 transferred, 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 endorse the original licence granted for the working such still or stills, in manner following, (that is to say),

After notice, &c., Inspector to endorse licence.

“A. B. is hereby Licenced to work the within mentioned Still or Stills, for the remainder of the term by this Licence first granted.”

Form of Endorsement.

“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

Inspector at all times in the day time, when, &c., to enter still-house.

(See 3 Vic. Ch. 19, secs. 5 and 6.)

Penalty for refusing to admit Inspector.

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 offenders 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 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 authorised, 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 authorised 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.

Provision for costs of prosecution, &c.

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 expenses 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, expenses 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.

CHAP. VIII.

AN ACT for granting to His Majesty a certain sum of Money for the purposes therein mentioned.

[Passed 9th March, 1804.]

[TEMPORARY.]

CHAP. IX.

AN ACT appropriating a certain sum of Money annually, to defray the expenses of erecting certain Public Buildings, to and for the uses of this Province.

[Passed 9th March, 1804.]

[REPEALED BY 52ND GEO. III. SESS. 2. CH. 4.]

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.

[Passed 9th March, 1804.]

[TEMPORARY.]

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.]

[REPEALED BY 53RD GEO. III. CH. 7.]

STATUTES OF UPPER CANADA,

PASSED IN THE

FIRST SESSION OF THE FOURTH PROVINCIAL PARLIAMENT

OF UPPER CANADA:

MET AT YORK, ON THE FIRST DAY OF FEBRUARY, IN THE FORTY-FIFTH YEAR OF THE REIGN
OF OUR SOVEREIGN LORD GEORGE THE THIRD, AND PROROGUED ON THE
SECOND DAY OF MARCH FOLLOWING.

PETER HUNTER, ESQUIRE,

LIEUTENANT GOVERNOR.

ANNO DOMINI 1805.

CHAP. I.

AN ACT for altering the time of issuing Licences, for the keeping of a House or any other place of Public Entertainment, or for the retailing of Wine, Brandy, Rum or any other Spirituous Liquors, or for the having and using of Stills for the purpose of Distilling Spirituous Liquors, and for repealing so much of an Act passed in the forty-third year of His Majesty's reign, as relates to the periods of paying into the hands of the Receiver General, the Monies collected by the Inspector of each and every District throughout this Province, for such Licences.

[Passed 2nd March, 1805.]

Preamble.

WHEREAS the time appointed by the Laws now in force, for the granting and taking out of Licences for the keeping of a House, or any other place of Public Entertainment, or for the Retailing of Wine, Brandy, Rum or any other Spirituous Liquors, or for the having and using of Stills for the purpose of distilling Spirituous Liquors for sale within this Province, hath been found to be 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 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 Licences to be granted by the Governor,

Lieutenant Governor, or person administering the Government of this Province, for the keeping of a house or any other place of public entertainment, for the retailing of wine, brandy, rum, or any other spirituous liquors, or for the having and using of stills, for the purpose of distilling spirituous liquors for sale, to commence from the fifth day of April now next ensuing, shall be extended, and continue in force to the fifth day of January, one thousand eight hundred and six, and no longer, and that from the said fifth day of January, one thousand eight hundred and six, and from the fifth day of January in every subsequent year, it shall and may be lawful for the said Governor, Lieutenant Governor, or person administering the Government, to grant licences as aforesaid, for the purposes aforesaid, for one whole year next ensuing

Licences for the present year, to extend only to the fifth day of January, 1806, and from that day in every subsequent year, to extend for one whole year.

II. [Temporary.]

III. [Repealed by 59th Geo. III. Sess. 1. Chap. 2. Sec. 1.; and 3rd Vic. Chap. 21. Sec. 3.]

IV. [Repealed by 56th Geo. III. Chap. 3. Sec. 1.]

Amount of the money to be paid for licences for the present year.

Time of the meeting of the magistrates for receiving applications for the taking out licences. Laws now in force, to extend to such licences as shall be taken out hereafter.

Times of payment by the Inspector to the Receiver General.

CHAP. II.

AN ACT to afford relief to those persons who may be entitled to claim Lands in this Province, as Heirs or Devisees of the Nominees of the Crown, in cases where no Patent hath issued for such Lands.

[Passed 2nd March, 1805.]

WHEREAS it is expedient to afford relief to those persons who may be entitled to claim lands in this Province, as heirs or devisees of the nominees of the Crown in cases where no Patent hath issued for such lands; *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 this Province, at any time *within three years after the passing of this Act*, to issue such and so many Commissions under the Great Seal of this Province, to the Members of the Executive Council thereof, His Majesty's Chief Justice of the said Province, and the Justices

Preamble.

(See 48 Geo. III. Ch. 10.
52 Geo. III. Ch. 9;
56 Geo. III. Ch. 21;
59 Geo. III. Sess. 2. Ch. 15;
4 Geo. IV. Sess. 1. Ch. 7;
10 Geo. IV. Ch. 4.)

Commissioners to be appointed.

(See 48 Geo. III. Ch. 10.
Sec. 5.)

of the Court of Kings Bench therein, for the time being, as he shall think fit, which said Commissioners, or any three of them, of whom the said Chief Justice, or one of the said Justices shall be one, in cases brought before them as such Commissioners, respecting lands within the said Province, where the nominee or nominees of the Crown to these lands, is or are dead, without having obtained His Majesty's Letters Patent for the same, in his, her, or their life times, shall, by and under the authority of such Commission or Commissions, have full power and authority in manner herein after mentioned, to ascertain, determine and declare, who is or are the heir or heirs, devisee or devisees, of the said nominee or nominees of the Crown to such lands.

Commissioners to ascertain who are the heirs or devisees of the nominees of the Crown to lands.

Documents and evidences to be produced before the Commissioners.

II. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for all and every person or persons claiming any lot or lots of land within this Province, as being the heir or heirs, devisee or devisees, of the nominee or nominees of the Crown to such lands, for which said lot or lots, parcel or parcels of land, His Majesty's Letters Patent have not been obtained, to come, either personally or by agent, duly authorised, before and produce to such Commissioners, or any three of them, whereof the said Chief Justice, or some one of the said Justices shall be one, all such documents and evidences as he, she or they, may possess, for the purpose of satisfying such Commissioners of the validity of such claim or claims; for which purpose such Commissioners, or any one of them are, and is hereby authorised and empowered to administer such oath or oaths, either to the party or parties claiming to be heir or heirs, devisee or devisees, of the nominee or nominees of the Crown, to the said lot or lots, parcel or parcels of land as aforesaid, or to the witness or witnesses appearing in support of such claim or claims, as shall be judged proper and expedient; and also by summons, under the signature of any one of them the said Commissioners, to require the attendance of all and every such person or 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 or 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 or persons to whom the same shall be directed, is and are hereby required to obey, upon being duly served therewith, under the penalty of twenty pounds of lawful money of this Province, to be recovered in like manner as the costs and expenses of witnesses are by this Act hereinafter directed to be recovered: *Provided always nevertheless,* and it is hereby declared, that the said Commissioners, acting under such authority as aforesaid, are hereby authorised and empowered to receive such written or oral testimony as may be produced to them, whether the same be or be not consistent with the rules of evidence laid down 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.

Commissioners to administer oaths to the parties, and to summon witnesses.

Penalty for not obeying the summons.

Nature of the testimony to be received.

III. *And be it further enacted by the authority aforesaid,* That after the said Commissioners shall, by virtue of the said Commission or Commissions, have examined such claim or claims as aforesaid, they shall be at liberty, and they are hereby authorised, either to reject such claim or claims, or to allow the same, as in their judgment the justice and equity of the case may require, without any regard to legal forms and solemnities whatsoever, and to report on the same accordingly, which said 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 it shall and may be lawful for the said Governor, Lieutenant Governor, or person administering the Government, in Council, to issue His Majesty's Letters Patent, under the Great Seal of this Province, for the lot or lots, parcel or parcels of land specified in said report, to or in trust for such person or persons, his, her or their, heirs and assigns, as are therein ascertained and declared by the said Commissioners to be the heir or heirs, devisee or devisees, of the nominee or nominees of the Crown to the said lot or lots, parcel or parcels of land respectively: *Provided nevertheless,* that the said Letters Patent so to be issued as aforesaid, shall have such and none other force, operation or effect, in law or in equity, touching and concerning any charge, incumbrance, lien, matter or thing, upon or relating to the said lot or lots, parcel or parcels of land, save and except the establishing the claim or claims of the person or persons, to, or in trust for, whom the said lot or lots, parcel or parcels of land, by the said Letters Patent, shall be granted and conveyed, to be the heir or heirs, devisee or devisees, of the nominee or nominees of the Crown to the same, than if His Majesty's Letters Patent had been obtained for the said lot or lots, parcel or parcels of land, by the said nominee or nominees, in his, her or their life times, any thing herein contained to the contrary notwithstanding: *Provided also,* that nothing herein contained shall extend, or be construed to extend, to the claim or claims of any person or persons, who shall be ascertained and declared by the said Commissioners to be the heir or heirs, devisee or devisees, of the nominee or nominees of the Crown, to any lot or lots, parcel or parcels of land within this Province, other than to such lot or lots, parcel or parcels of land, as shall by the said Commissioners be specified in their said report as aforesaid, and that all claims, of what nature or kind soever, to any lands within this Province, other than to such lands as shall be so specified and set forth by the said Commissioners, shall continue and remain as if this Act had never been made.

Commissioners to determine and report upon the claims.

Letters Patent to issue.

Effect of the Letters Patent to be issued.

IV. *And be it further enacted by the authority aforesaid,* That where any such nominee or nominees as aforesaid, in his, her or their life times, and under his, her or their, hand and seal, hands and seals, shall have executed any written instrument giving, or purporting to give, any charge, incumbrance or lien, on any such lot or lots, parcel or parcels of land, so claimed and allowed as aforesaid, it shall and may be lawful for the person or persons in whose behalf such instrument may have been executed, his, her, or their heirs, executors, administrators or assigns,

Instruments by which lands are charged to be registered.

to cause the same to be registered in the office or offices, of the Register or Registers, for the county or counties, in which any such lot or lots, parcel or parcels of land shall respectively lie or be situated; and such written instrument shall have the same (and no other) force, validity and effect, than if such nominee or nominees had at the time of executing the same been in possession of a Patent from the Crown for such lot or lots, parcel or parcels of land as aforesaid.

Commissioners to determine the claims of the heirs or devisees of persons allowed lands under former commissions, and report upon the same.

V. *And be it further enacted by the authority aforesaid,* That any person or persons, to whom any lands have been allowed by the Commissioners for the securing and ascertaining titles to lands in this Province, under and by virtue of certain Acts of the Legislature thereof, passed in the thirty-seventh, thirty-ninth, and forty-second years of His Majesty's reign, which said person or persons is or are dead, without having obtained His Majesty's Letters Patent for the same, may and shall, for the purposes of this Act, be considered as the nominee or nominees of such land, and the Commissioners to be appointed under and by virtue of this Act, may and are hereby authorised to examine the claim or claims brought before them, by or in behalf of the heir or heirs, devisee or devisees of such person or persons as last aforesaid; and to hear and determine such claim or claims, in like manner and under the same regulations, provisoes and restrictions, as are by this Act directed to be observed, with respect to the claim or claims brought before them, by the heir or heirs, devisee or devisees of any nominee or nominees of the Crown, and shall report thereon in like manner, and such report shall be final and conclusive, and have the same and no other force and effect; and it shall and may be lawful for the Governor, Lieutenant Governor, or person administering the Government, in like manner to issue His Majesty's Letters Patent for the lot or lots, parcel or parcels of land, specified in such last mentioned report, to or in trust for, such person or persons, his, her or their, heirs or assigns as are therein ascertained and declared by the said Commissioners, to be the heir or heirs, devisee or devisees, of the person or persons, to whom any lands may have been allowed by the Commissioners acting under and by virtue of any former Act or Acts of the Legislature of this Province, herein before mentioned.

Letters Patent to issue to said heirs or devisees.

Report obtained by surprise, when to be reheard, and new claims to be let in.

VI. *And be it further enacted by the authority aforesaid,* That in case the said Commissioners, or either of them, shall, during their sitting, or within thirty days after they shall have signed the said report or reports, and before His Majesty's Letters Patent shall have 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 said reports or either of them, so far as respects the allowance of the claim or claims, of any person or persons, to any lot or lots, parcel or parcels of land specified therein, as being the heir or heirs, devisee or devisees as aforesaid, have been obtained by surprise, or have been erroneously made, and that justice requires, so far as respects the said claim or claims, that the said reports, or either of them, should be staid, then and in such case, it

shall and may be lawful, to and for the said Commissioners, or any other Commissioners who may sit in the execution of the said Commission, or any subsequent Commission, to re-hear such claim or claims, or to let in any new claim or claims, of such other person or persons as may be, or pretend to be, such heir or heirs, devisee or devisees as aforesaid, to the said lot or lots of land; and upon such re-hearing, such Commissioners shall be at liberty to report upon the claim or claims thereupon re-heard, as if no report had before been made thereon, and such Commissioners shall be at liberty, if they shall judge it expedient to justice, to order such person or persons, at whose instance such re-hearing was obtained, to pay such sum or sums of money to the person or persons in whose favour a report shall have been first made, as they shall see just, to be recovered in like manner as the costs and expenses of witnesses are by this Act herein after directed to be recovered.

Costs to be allowed by the Commissioners.

VII. [Repealed by 52nd Geo. III. Ch. 9. Sec. 1.]

Place and time of sitting of the Commissioners.

VIII. *And be it further enacted by the authority aforesaid,* That the said Commissioners shall not proceed to examine any such claim or claims as aforesaid, unless 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 the concession or concessions, with the name or names of the township or townships, in which the lands so claimed do lie, be put up in some conspicuous part of the office of the Clerk of the Peace for the District in which any such lot or lots may be respectively situated, and until a certificate shall be produced to the said Commissioners, under the hand of the Clerk of the Peace of such District, that such notice hath been so put up, for at least thirty days before the said claim or claims shall come to be heard before the said Commissioners; and for putting up such claim, and giving such certificate, it shall and may be lawful for the Clerks of the Peace to ask and receive the sum of two shillings and six pence, and no more.

Notices to be put up in the Offices of the Clerks of the Peace, and produced to the Commissioners.

IX. *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.

Proceedings of the Commissioners upon adverse claims.

X. *And be it further enacted by the authority aforesaid,* That the said Commissioners, or any three of them, of whom the said Chief Justice, or one of the said Justices shall be one, shall have power and authority, when and so often as the nature and circumstances of the case shall require it,

Commissions when to be issued for the examination of witnesses.

to issue one or more commission or commissions, for the examination of witnesses, touching any such claim or claims as aforesaid, as may be brought before them.

Penalty of swearing falsely before the Commissioners.

XI. *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 giving such evidence, he, she or they, shall incur the like pains and penalties, as would have been incurred upon a conviction of 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,

Costs to be allowed by the Commissioners to witnesses, and how to be recovered.

XII. *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 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 expenses, such sum or sums of money as the said Commissioners in their judgment shall deem equitable and just, which order the party or parties, upon whom the same shall be made, is and are, and he, she and they, is and are hereby required and enjoined to obey, and such sum or sums of money, shall and may be recovered and recoverable, under and by the 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.

Clerk to be appointed by the Commissioners.

(See 59 Geo. III. Sess. 2. Ch. 18. Sec. 2.)

Fees allowed to the Clerk.

XIII. *And be it further enacted by the authority aforesaid,* That the said Commissioners shall have power and authority to employ some fit and proper person as Clerk to the said Commission, and that such Clerk shall be authorised to ask and receive for setting down, for hearing any claim, and for making up a report of the same, the sum of five shillings.—For a copy of the order respecting each claim, two shillings and six pence.—For every summons signed by one or more Commissioner or Commissioners for the attendance of any witness or witnesses, two shillings and six pence.—For every Commission for the examination of witnesses, twenty shillings.

Act to be read at the General Quarter Sessions of the Peace.

XIV. *And be it further enacted by the authority aforesaid,* That this Act shall be read by the Clerk of the Peace, at the opening of every General Quarter Sessions of the Peace, which shall be held in each and every District of this Province, during the term for which it shall continue to be in force.

Continuance of the Act. This Act intended, after several continuing Acts, to be made perpetual by 59 Geo. III. Sess. 2. Ch. 18.

XV. *And be it further enacted by the authority aforesaid,* That this Act shall continue and remain in force until the first day of April, in the year of our Lord one thousand eight hundred and eight, and no longer.

CHAP. III.

AN ACT to regulate the trial of Controverted Elections, or Returns of Members to serve in the House of Assembly.

[Passed 2nd March, 1805.]

[REPEALED BY 4TH GEORGE IV. SESS. 2. CH. 4.]

CHAP. IV.

AN ACT to ratify and confirm certain Provisional Articles of Agreement, entered into by the respective Commissioners of this Province and Lower Canada, at Montreal, on the fifth day of July, one thousand eight hundred and four, 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, and continued by an Act passed in the forty-first year of His Majesty's reign.

[Passed 2nd March, 1805.]

[EXPIRED.—See 58th George III. Ch. 13.]

CHAP. V.

AN ACT to alter certain parts of an Act, passed in the forty-second year of His Majesty's reign, intituled, "An Act to provide for the Administration of Justice, in the District of Newcastle."

[Passed 2nd March, 1805.]

[TEMPORARY.]

CHAP. VI.

AN ACT to make provisions for further appointments of Parish and Town Officers throughout this Province.

[Passed 2nd March, 1805.]

[REPEALED BY 5TH WM. IV. CH. 8; 1ST VIC. CH. 21.]

CHAP. VII.

AN ACT for the Relief of Insolvent Debtors.

[Passed 2nd March, 1805.]

Preamble.

(See 2 Geo. IV. Sect. 2.
Ch. 8;
8 Geo. IV. Ch. 8;
11 Geo. IV. Ch. 4;
4 Wm. IV. Ch. 3;
5 Wm. IV. Ch. 3;
3 Vic. Ch. 6.)

WHEREAS no special provision has been made by law, since the division of the Province of Quebec, for the support of Insolvent Debtors, detained in execution; *And whereas* it is inexpedient that the support of such, should depend upon the District, or the precarious charity of individuals, *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 prisoner, in execution for debt, shall apply to the Court, whence such execution issued, and make oath that he or she is not worth five pounds, the plaintiff, at whose suit he or she is detained, shall be ordered by the said Court, by rule, to be served on the plaintiff or the attorney, to pay to the defendant in execution, the sum of five shillings, weekly maintenance, so long as he or she shall be detained in prison, at the suit of the plaintiff, and that such payment shall be made in advance, to the prisoner or gaoler, for his or her use, *on Monday in every week*; on failure of which, the Court from whence the execution issued, shall order the defendant to be released: *Provided always*, That the plaintiff shall not be obliged to make such payment, if he can prove, to the satisfaction of the Court, that the defendant has secreted, or conveyed away, his or her effects, to defraud his or her creditors.

Prisoner in execution for debt, not worth five pounds, shall receive from the plaintiff five shillings weekly, so long as he shall be detained in prison for such debt.

(See 8 Geo. IV. Ch. 8.)

CHAP. VIII.

AN ACT to regulate the Curing, Packing, and Inspection of Beef and Pork.

[Passed 2nd March, 1805.]

Preamble.

(See 3 Vic. Ch. 25.)

WHEREAS by a law of the Province of Lower Canada, it has become necessary for such persons in this Province, as may deem it proper to cure and pack Beef and Pork, for foreign markets, to have the same cured and Packed, under the authority of a law 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 it shall and may be lawful, for the Governor, Lieutenant Governor, or person administering the Government, from time to time, as to him may seem reasonable, to appoint one or more capable persons in each of the Districts of this Province, to be Inspector, or Inspectors, of Beef and Pork, who shall thereupon be the Inspector, or Inspectors, for putting this Act in execution, with all the powers, and subject to all the penalties herein after described; and each of the Inspectors, before he enters upon the execution of his office, shall take and subscribe an oath before one of His Majesty's Justices of the Peace, in and for the District in which he shall reside, which oath the said Justice is hereby authorised to administer, in the words following, viz:—

Appointment of Inspectors of Beef and Pork.

"I do solemnly swear, that I will faithfully, truly and impartially, to the best of my judgment, skill and understanding, execute, do and perform, the office and duty of an Inspector, packer and re-packer, of Beef and Pork, according to the true intent and meaning of an Act, intituled, 'An Act to regulate the curing, packing, and inspection of Beef and Pork,' and that I will not, directly or indirectly, brand or suffer any cask of Beef or Pork to be branded, but what shall be sound and good."

Oath of the Inspectors.

Which oath he shall file, or cause to be filed, in the office of the Clerk of the Peace for the District in which he shall be appointed Inspector; and the Inspector or Inspectors of each and every District in this Province, in the month of June in every year, shall make a return to the Governor, Lieutenant Governor, or person administering the Government of this Province, of the whole number of barrels of beef and pork inspected by him or them, according to the direction of this Act, during the year preceding, designating the different sorts of beef and pork, and the District in which the same was inspected.

II. *Provided always, and be it further enacted by the authority aforesaid,* That no person to be hereafter appointed an Inspector of beef or of pork, under the authority of this Act, shall deal in, buy, barter or exchange, any beef or pork, by him inspected or to be inspected, under pain of the commission under which he acts being null and void, except such beef or pork as may be necessary for the consumption of his own family.

Inspector not to be a dealer in beef or pork.

III. *And be it further enacted by the authority aforesaid,* That no beef shall be hereafter packed or re-packed in barrels, for foreign markets, unless it be of fat cattle, not under three years old, and that all such beef shall be cut in square pieces, as near as may be, not exceeding twelve pounds weight, nor less than four pounds weight; and that all beef which

Quality of the beef to be packed.

Manner of sorting it.

the said Inspectors shall find, on examination, to have been killed at a proper age, to be fat and merchantable, shall be sorted and divided in three different sorts, for packing and re-packing in barrels, to be denominated mess, prime and cargo; mess beef shall consist of the choicest pieces of oxen, cows or steers, well fattened; the shin, shoulder and neck, shall be taken from the fore quarters, and the legs and leg rounds from the hind quarters; and each barrel containing beef of this description, shall be branded on one of the heads with the words, *Mess Beef*; that prime beef shall consist of choice pieces of oxen, steers, cows and heifers, amongst which there shall not be more than half a neck and one shank, with the hock cut off; and one of the heads of all barrels containing beef of this description, shall be branded with the words *Prime Beef*; that cargo beef shall consist of fat cattle of all descriptions, of three years old and upwards, with not more than half a neck, and three shanks without the hocks in each barrel, and shall be otherwise merchantable, and such barrel shall be branded on one of the heads with the words *Cargo Beef*; and every barrel of beef shall be well salted, with not less than forty pounds of clean Saint Ubes, Isle of May, Lisbon, Turk's Island salt, or other salt of equal quality, exclusive of a pickle, made as strong as salt will make it, and to each barrel of beef shall be added not less than two ounces of saltpetre.

Barrels to be branded.

Mode of pickling of beef.

Quality and size of the barrels for packing of beef.

IV. *And be it further enacted by the authority aforesaid*, That from and after the passing of this Act, every barrel, in which beef shall be packed or re-packed, shall be made of good seasoned white oak staves and heading, free from every defect, and shall contain two hundred pounds weight of beef, and shall not be of a larger gauge than thirty gallons, and shall be hooped with fourteen good ash, hickory or oak hoops, the heads to be made of good thick stuff, the hoops to be well set and drove.

Manner in which barrels of beef and pork shall be branded.

V. *And be it further enacted by the authority aforesaid*, That one head of every barrel, in which beef or pork is packed or re-packed for foreign market, shall be branded with the weight it contains, the Inspector's name who shall have inspected the same, with the name of the District where it was inspected, and also the addition of Upper Canada, in legible letters.

No Inspector to act out of his District.

VI. *And be it further enacted by the authority aforesaid*, That no Inspector appointed by virtue of this Act, shall inspect or brand any cask of beef or pork, out of the limit or District for which he shall be appointed, under the penalty of twenty shillings.

Penalty for refusing or neglecting to inspect.

VII. *And be it further enacted by the authority aforesaid*, That if any Inspector of beef or pork, not then employed in the inspection and examination of beef or pork, according to the duties prescribed by this Act, or who shall not be incapacitated by sickness, shall, on application, on lawful days and reasonable hours, to him made, for the examination of any beef or pork as aforesaid, refuse, neglect or delay, to proceed to such examination and inspection, for the space of two days after such applica-

tion so made to him, the Inspector so refusing, neglecting or delaying, to make such examination and inspection, shall, for each offence, forfeit the sum of forty shillings, current money of this Province, to the use of the person or persons injured by such delay.

VIII. *And be it further enacted by the authority aforesaid,* That every Inspector shall receive one shilling and six pence, current money of this Province, for each barrel of beef or pork he shall salt, pack, inspect and pickle, exclusive of cooerage; and for every mile the said Inspector shall travel, he shall be entitled to receive the sum of six pence, all which salting, packing, inspecting, pickling and travelling, shall be paid by the person or persons by whom he shall be employed. Fees of the Inspector.

IX. *And be it further enacted by the authority aforesaid,* That if any of the Inspectors appointed by virtue of this Act, shall be guilty of any neglect or fraud, in inspecting any beef or pork, contrary to the true intent and meaning of this Act, or shall brand any cask containing beef or pork, which has not been actually inspected agreeable to this Act, he or they shall, for every such offence, forfeit a sum not exceeding forty shillings, current money of this Province, in case of neglect, and shall forfeit the sum of twenty pounds of like money, and be dismissed from his office, in case of fraud. Penalty for negligence or fraud in inspecting.

X. *And be it further enacted by the authority aforesaid,* That if any person or persons shall intermix, take out or shift, any beef or pork, out of any cask inspected or branded, as by this Act is required, or put in any other beef or pork for sale, contrary to the intention of this Act, the person or persons so offending, shall, for every such offence, forfeit the sum of ten pounds, current money of this Province. Penalty for intermixing beef or pork after branded

XI. [Repealed by 3 Vic. Chap. 25.] Penalty for counterfeiting brand marks.

XII. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, every barrel, in which pork shall be packed or re-packed for foreign markets, shall be made of good seasoned white oak staves and heading, free from every defect, and each barrel shall contain two hundred pounds weight of pork, and shall not be of a larger gauge than thirty gallons, and the said barrels, in every respect, shall be hooped and made in the same manner, as in this Act provided for barrels for packing and re-packing beef. Quality and size of the barrels for packing of Pork.

XIII. [Repealed by 3rd Vic. Chap. 25.] Quality of the pork to be packed, and manner of sorting it. Manner of pickling it.

XIV. *And be it further enacted by the authority aforesaid,* That for all beef and pork, that shall be inspected in this Province, the Inspector who shall have inspected the same, shall give unto the owner, or his agent, a certificate, under his hand and seal, certifying that such beef or pork is Certificates to be given by the Inspector.

in every respect packed and branded agreeable to the laws of the Province of Upper Canada, which certificate may be in the following form :

“ I do hereby certify, that I——have inspected——barrels of Cargo, Mess or Prime Beef, or Mess or Prime Pork, (as the case may be,) the property of——and that the said Mess, Prime or Cargo Beef, Mess or Prime Pork, is in every respect packed and branded agreeable to the laws of the Province of Upper Canada.

No person compelled to have his beef or pork inspected.

XV. *And be it further enacted by the authority aforesaid,* That nothing in this Act shall extend or be construed to extend, to compel any person or persons, who may export beef or pork from this Province, to have the same inspected, unless he or they shall think proper so to do.

Fines and forfeitures under this Act, how recoverable, and in what manner disposed of.

XVI. *And be it further enacted by the authority aforesaid,* That all the fines and forfeitures, by this Act imposed, shall be recoverable with costs, in a summary way, to be proceeded upon, and be examined into, heard, adjudged and determined, by the Magistrates in Quarter Sessions assembled, and in order thereto, it shall and may be lawful to and for any one of His Majesty's Justices of the Peace, within the District wherein the offence has been committed, to summon any person or persons to appear at the next General Quarter Sessions of the Peace, to be holden in and for such District, and the Magistrates in Quarter Sessions assembled are hereby fully authorised, empowered and required, upon the appearance or default of such person or persons, so to be summoned, to examine into the cause of such complaint, and thereupon to proceed to give judgment, the one moiety of all such fines and forfeitures (except such as are hereinbefore otherwise applied) when recovered, shall be immediately paid into the hands of the Receiver General, for the use of His Majesty, towards the support of the Government of this Province, and 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, and the other moiety to the Inspector or person who shall sue for the same.

Limitation of time for commencing of actions for any thing done in pursuance of this Act.

XVII. *And be it further enacted by the authority aforesaid,* That if any action or suit shall be commenced against any person or persons, for any thing done in pursuance of this Act, such action or suit shall be commenced within the space of six calendar months next after the offence shall have been committed, and not afterwards; and the defendant or defendants may give this Act, and the special matter in evidence, at the trial to be had thereupon, and that the same was done in pursuance and by authority of this Act; and if it shall appear so to have been done, then the Court shall find for the defendant or defendants, and if the plaintiff shall be non-suited; or discontinue his action, after the defendant or defendants shall have appeared, or if judgment shall be given against the plaintiff, the defendant or defendants shall and may recover treble costs, and have the like remedy for the same as defendants have in other cases by law.

CHAP. IX.

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 Addresses.

[Passed 2nd March, 1805.]

[TEMPORARY.]

CHAP. X.

AN ACT to amend an Act, passed in the forty-fourth year of His Majesty's reign, intituled, "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 2nd March, 1805.]

[REPEALED BY 53RD GEO. III. CH. 7.]

STATUTES OF UPPER CANADA,

PASSED IN THE

SECOND SESSION OF THE FOURTH PROVINCIAL PARLIAMENT

OF UPPER CANADA:

MET AT YORK, ON THE FOURTH DAY OF FEBRUARY, IN THE FORTY-SIXTH YEAR OF THE REIGN
OF OUR SOVEREIGN LORD GEORGE THE THIRD, AND PROROGUED ON THE
THIRD DAY OF MARCH FOLLOWING.

ALEXANDER GRANT, ESQUIRE,
PRESIDENT.

ANNO DOMINI 1806.

CHAP. I.

AN ACT to make provision for certain Sheriffs in this Province.

[Passed 3rd March, 1806.]

[EXPIRED.—See 3rd Wm. IV. Chap. 9.]

CHAP. II.

*AN ACT to repeal an Act passed in the thirty-fifth year of His Majesty's
reign, intituled, "An Act to regulate the practice of Physic and
Surgery."*

[Passed 3rd March, 1806.]

[REPEALS 35TH GEO. III. CH. 1.]

CHAP. III.

AN ACT to procure certain Apparatus for the promotion of Science.

[Passed 3rd March, 1806.]

£400 appropriated for the purchase of instruments for illustrating the principles of natural philosophy, &c.

I. [TEMPORARY.]

II. *And be it further enacted by the authority aforesaid, That the Governor, Lieutenant Governor, or person administering the Government of this Province, is hereby authorised and empowered to deposit the said Instruments (under such conditions as he shall deem proper and expedient) in the hands of some person employed in the education of youth in this Province, in order that they may be as useful as the state of the Province will permit.*

Such instruments to be deposited in the hands of a person employed in the education of youth.

III. [TEMPORARY.]

Receiver General to account for the said sum of £400, &c.

CHAP. IV.

AN ACT to repeal an Act passed in the forty-fourth year of His Majesty's reign, 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 expenses of amending and repairing the Public Highways and Roads, laying out and opening new Roads, and building Bridges in the several Districts thereof;" and to make further provision for the opening and amending the said Roads.

[Passed 3rd March, 1806.]

[EXPIRED.]

CHAP. V.

AN ACT to alter and amend an Act passed in the thirty-third year of His present Majesty's reign, intituled, "An Act to provide for the nomination and appointment of Parish and Town Officers," and also to repeal certain parts of an Act passed in the thirty-third year of His present Majesty's reign, intituled, "An Act to authorise and direct the laying and collecting of Assessments and Rates in every District in this Province, and to provide for the payment of Wages to Members of the House of Assembly."

[Passed 3rd March, 1806.]

[Repealed by 5th Wm. IV Chap. 8.—Clauses 7, 8 & 10, having been previously repealed by 48th Geo. III. Chap. 14.]

CHAP. VI.

AN ACT to continue 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 3rd March, 1806.]

WHEREAS an Act of the Parliament of this Province, 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," which by experience hath been found beneficial and useful, will shortly expire; therefore for continuing 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 the said Act of the Parliament of this Province, passed in the forty-third year of His Majesty's reign, shall be and is hereby continued.

II. [Repealed by 48th Geo. III. Chap. 8.]

CHAP. VII.

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 several Addresses.

[Passed 3rd March, 1806.]

[TEMPORARY.]

in 1806.

3rd of George III. Ch. 9, continued.

in force for two years.

§ 495 Es. 541. to remunerate Commissioners, and defray contingent expenses of previous session

STATUTES OF UPPER CANADA,

PASSED IN THE

THIRD SESSION OF THE FOURTH PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT YORK, ON THE SECOND DAY OF FEBRUARY, IN THE FORTY-SEVENTH YEAR OF THE
REIGN OF OUR SOVEREIGN LORD GEORGE THE THIRD, AND PROROGUED ON THE
TENTH DAY OF MARCH FOLLOWING.

FRANCIS GORE, ESQUIRE,
LIEUTENANT GOVERNOR.

ANNO DOMINI 1807.

CHAP. I.

*AN ACT for the relief of Clerks to Attornies who may have served their
Clerkships, without being bound by contracts in writing.*

[Passed 10th March, 1807.]

[TEMPORARY.]

CHAP. II.

*AN ACT to repeal the several Acts now in force giving Bounties for
destroying Wolves.*

[Passed 10th March, 1807.]

[REPEALS 33RD GEO. III. CH. 11; 43RD GEO. III. CH. 6.]

CHAP. III.

*AN ACT to regulate the payment of certain debts due by the Eastern Dis-
trict before the establishment of the District of Johnstown.*

[Passed 10th March, 1807.]

[TEMPORARY.]

The Eastern District and District of Johnstown, respectively, to pay one half of the monies due upon orders of the Quarter Sessions of the Eastern District, made before the first day of January, 1800.

CHAP. IV.

AN ACT to revive and continue an Act passed in the forty-second year of His present Majesty, intituled, "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 10th March, 1807.]

[EXPIRED.]

Act of the 42nd of George III. revived and continued for two years.

CHAP. V.

AN ACT to authorise Practitioners in the Law in this Province, to take such a number of Clerks as is therein mentioned.

[Passed 10th March, 1807.]

Preamble.

*Supersedes 33 Geo. III.
Ch. 8.*

Persons authorised to
practice the law may have
four clerks at one time.

WHEREAS it is necessary to facilitate the education of youth in this Province to the profession of the law; *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 all and every person now authorised to practice the profession of the law in this Province, or who shall be hereafter duly authorised to practice as aforesaid, to take and have four Clerks at one time, and no more, any former law or regulation to the contrary notwithstanding.

CHAP. VI.

AN ACT to establish Public Schools in each and every District of this Province.

[Passed 10th March, 1807.]

MOST GRACIOUS SOVEREIGN:

WHEREAS it is considered expedient that some means be devised for the education of youth—May it therefore please your Majesty, that it 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 for the establishment of Public Schools in this Province, the sum of eight hundred pounds shall be annually paid, in manner herein after mentioned, out of any monies, which are now raised or levied, or which hereafter may be raised or levied, by authority of Parliament, to or for the uses of this Province.

Preamble.

(See 48 Geo. III. Ch. 16;
59 Geo. III. Sess. 2. Ch. 4;
2 Vic. Ch. 10.)

The sum of eight hundred pounds to be annually paid for the establishment of public schools.

II. *And be it further enacted by the authority aforesaid,* That there shall be one Public School in each and every District of this Province; and that out of the said sum of eight hundred pounds, annually so appropriated as aforesaid, the annual sum of *one hundred pounds* shall be paid to each and every Teacher, who shall be nominated and appointed to any of the said Public Schools in this Province, for the education of youth, in manner hereinafter mentioned.

One public school in every District. £100 to be paid annually to every teacher of such public school.

(See 59 Geo. III. Sess. 2. Ch. 4, Sec. 11.)

III. *And be it further enacted by the authority aforesaid,* That the public school for the Western District, shall be opened and kept in the Town of Sandwich, and the public school for the District of London, shall be opened and kept in the *Township of Townshend*, at such place as the Trustees, or the majority of them, shall think proper to appoint; and that the public school for the District of Niagara, shall be opened and kept in the Town of Niagara: and that the public school for the Home District, shall be opened and kept in the Town of York; and that the public school for the District of Newcastle, shall be opened and kept in the Township of Hamilton, at such place as the Trustees, or the majority of them, shall think proper to appoint; and that the public school for the Midland District, shall be opened and kept in the Town of Kingston; and that the public school for the District of *Johnstown*, shall be opened and kept in the Township of Augusta, at such place as the Trustees, or the majority of them, shall think proper to appoint; and that the public school for the Eastern District, shall be opened and kept in the Town of Cornwall.

Places where the said public schools are to be kept in each respective District.

(See 48 Geo. III. Ch. 16. Sec. 1.)

(See 59 Geo. III. Sess. 2. Ch. 4.)

The Governor, Lieutenant Governor, or person administering the government, to appoint Trustees in every District, for said schools.

Trustees to nominate a fit person as Teacher, and to report their nomination to the Governor, &c., who may either affirm or reject such nomination.

Trustees may remove any Teacher and nominate another, and report as aforesaid.

Governor &c., may either approve or disapprove of such last mentioned nomination.

Trustees authorised to make rules and regulations respecting said schools.

Mode of payment of the salaries of the said Teachers.

(See 53 Geo. III. Sess 2. Ch. 4.)

Continuance of this Act.

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 this Province, to appoint from time to time, not less than five fit and discreet persons in each and every District of this Province, Trustees to the said public schools, which said Trustees or the majority of them, shall have full power and authority to nominate a fit and discreet person as Teacher thereof, and to examine into the moral character, learning and capacity of such person so nominated; and being satisfied with the moral character, learning and capacity of such person, it shall and may be lawful for the said Trustees, or the majority of them, to report such their nomination to the Governor, Lieutenant Governor, or person administering the Government of this Province, either to affirm or disaffirm such nomination as aforesaid; *Provided always,* that the said Trustees, or the majority of them, shall have full power and authority, in their discretion, to remove such Teacher, from his public school, for any misdemeanor or impropriety of conduct; and that it shall and may be lawful for the said Trustees, or the majority of them, in each and every District of this Province, in case of the demise, dismissal or removal of any Teacher of the said public schools, to nominate and appoint, as often as the case may require, one other fit and discreet person, as a Teacher to the said public school, which Trustees, or the majority of them, previous to such nomination and appointment as aforesaid, shall examine into the moral character, learning and capacity of such Teacher, and being satisfied therewith, such appointment shall be immediately transmitted to the Governor, Lieutenant Governor, or person administering the Government of this Province; either to approve or disapprove of the same.

V. *And be it further enacted by the authority aforesaid,* That the Trustees appointed under and by virtue of this Act, in each and every District of this Province, or the majority of them, shall have full power and authority to make such rules and regulations for the good government and management of the said public schools, with respect to the Teacher, for the time being, and to the Scholars, as in their discretion shall seem meet.

VI. *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, from time to time, to issue his warrant to the Receiver General of this Province, for the payment of such yearly salary or salaries, half yearly, as shall or may from time to time be due to any Teacher or Teachers appointed under this Act, upon such Teacher or Teachers producing a certificate signed by the Trustees, or the majority of them, of the District in which he shall have so taught or educated youth, of his having faithfully demeaned himself in his office as a Teacher as aforesaid, for and during such time as he shall so require payment for his service.

VII. [Repealed by 48th Geo. III. Chap. 16.]

CHAP. VII.

AN ACT to repeal the several Acts now in force in this Province, relative to Rates and Assessments, and also to particularize the property, real and personal, which during the continuance thereof, shall be subject to rates and assessments, and fixing the several valuations at which each and every particular of such property shall be rated and assessed.

[Passed 10th March, 1807.]

[REPEALED BY 51ST GEO. III. CH. 8.]

CHAP. VIII.

AN ACT for applying certain sums of Money therein mentioned, to make good certain Monies issued and advanced by His Majesty, through his Honour Mr. President Grant, in pursuance of two Addresses.

[Passed 10th March, 1807.]

[TEMPORARY.]

£151 2s. 6d. to be issued from the Provincial Treasury, to make good a like sum paid in pursuance of Addresses of the Assembly.
How to be accounted for.

CHAP. IX.

AN ACT for granting to His Majesty, Duties on Licences to Hawkers, Pedlers and Petty Chapmen, and other Trading persons therein mentioned.

[Passed 10th March, 1807.]

[REPEALED BY 51ST GEO. III. CH. 2. SEC. 1.]

CHAP. X.

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 the United States of America into the Province of Lower Canada.

[Passed 10th March, 1807.]

[EXPIRED.]

CHAP. XI.

AN ACT to Establish the Fees of the Clerks of the Peace, and to regulate the Fees in the several Courts of Quarter Sessions throughout this Province.

[Passed 10th March, 1807.]

Preamble.

WHEREAS it is proper to establish the fees of the different Clerks of the Peace in this Province, and that provision be made for the payment of costs arising in the Courts of General Quarter Sessions: *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, the following fees shall be allowed to the different Clerks of the Peace in this Province; for drawing the precept and attending Commissioners to sign the same, and transmitting it to the Sheriff, one pound; attending each Quarter Session, one pound and ten shillings; making up the records of each session, two pounds and ten shillings; notice of every appointment, one shilling; list of Jurors, every one hundred names, two shillings and six pence; making up estreats of each session, and transmitting the same to the Inspector General, five shillings; to be paid out of the District Treasury:—every recognizance for the peace or good behaviour, to be paid by the party bound, five shillings; for discharging the same, two shillings and six pence; subpœna, two

Fees allowed to the Clerks of the Peace.

shillings and six pence; bench warrant, five shillings; drawing indictment, ten shillings; allowance of *certiorari*, to be paid by the person applying for the same, five shillings.

II. *And be it further enacted by the authority aforesaid*, That when any person or persons shall be convicted before any Court of Quarter Sessions in this Province, of any assault or misdemeanor, such person or persons so convicted, shall pay the costs of such conviction and prosecution, that shall be allowed and taxed by the said Court; and when such defendant or defendants shall be acquitted, the prosecutor, unless it shall appear to the said Court that there were reasonable grounds for prosecuting, to be certified by the Chairman, by indorsement on the back of the indictment, in open court, shall pay such costs of prosecution, as shall be allowed and taxed as aforesaid; *Provided nevertheless*, that when any defendant or defendants shall be tried on a presentment of the Grand Jury, and shall be acquitted, the costs shall be paid out of the District Treasury; *Provided nevertheless*, that nothing in this Act shall be construed to extend to deprive the Clerks of the Peace of such fees as are allowed by any Act of Parliament for other services.

Costs to be paid at the Quarter Sessions by persons convicted;

In what cases prosecutors shall pay costs;

When costs shall be paid by the District.

CHAP. XII.

AN ACT for the Preservation of Salmon.

[Passed 10th March, 1807.]

[REPEALED BY 2ND GEO. IV. CHAP. 10.]

STATUTES OF UPPER CANADA,

PASSED IN THE

FOURTH SESSION OF THE FOURTH PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT YORK, ON THE TWENTIETH DAY OF JANUARY, IN THE FORTY-EIGHTH YEAR OF THE
REIGN OF OUR SOVEREIGN LORD GEORGE THE THIRD, AND PROROGUED ON THE
SIXTEENTH DAY OF MARCH FOLLOWING.

FRANCIS GORE, ESQUIRE,
LIEUTENANT GOVERNOR.

ANNO DOMINI 1808.

CHAP. I.

AN ACT to explain, amend, and reduce to one Act of Parliament, the several Laws now in being for the Raising and Training the Militia of this Province.

[Passed 16th March, 1808.]

[REPEALED BY 1ST VIC. CH. 8; 2ND VIC. CH. 9.]

CHAP. II.

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 expenses of amending and repairing the Public Highways and Roads, laying out and opening new Roads, and building Bridges in the several Districts thereof.

[Passed 16th March, 1808.]

[TEMPORARY.]

CHAP. III.

AN ACT for granting to His Majesty an annual sum of Money for the purpose therein mentioned.

[Passed 16th March, 1808.]

[REPEALED BY 4TH GEORGE IV. SESS. 1. CH. 6.—See 2nd Vic. Ch. 69.]

CHAP. IV.

AN ACT for applying certain Sums of Money therein mentioned, to make good certain Monies issued and advanced by His Majesty, through the Lieutenant Governor, in pursuance of an Address.

[Passed 16th March, 1808.]

[TEMPORARY.]

CHAP. V.

AN ACT to continue an Act passed in the Thirty-third year of His Majesty's reign, intituled "An Act to provide for the appointment of Returning Officers of the several Counties within this Province.

[Passed 16th March, 1808.]

[TEMPORARY.]

CHAP. VI.

AN ACT for granting to His Majesty a certain sum of Money out of the Provincial Fund, to increase the Salary of the Clerk of the Legislative Council, and the Clerk of the House of Assembly.

[Passed 16th March, 1808.]

[SUPERSEDED BY THE ACT OF UNION.]

CHAP. VII.

AN ACT to extend the benefits of an Act passed in the thirty-seventh year of His Majesty's reign, intituled "An Act for the more easy Barring of Dover," and to repeal certain parts of the same.

[Passed 16th March 1808.]

WHEREAS by an Act passed in the thirty-seventh year of His Majesty's reign, intituled "An Act for the more easy barring of Dover," Preamble.

(See 37 Geo. III. Ch. 7;
50 Geo. III. Ch. 10;
3 Wm. IV. Ch. 10;
and as to deeds executed
after 11th May, 1839,
See 2 Vic. Ch. 6. sec. 3.)

Persons residing in Great
Britain, Ireland, in the
Colonies, or in the United
States of America, may
release their dower of
lands in this Province by
deed.

no provision is made to entitle any person, not residing in this Province, and who may be entitled to Dower of any lands or tenements situate therein, to release her right and title to 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 from and after the passing of this Act, it shall and may be lawful to and for any person within the United Kingdom of Great Britain and Ireland, or any of His Majesty's Colonies or Plantations, or within the United States of America, entitled to Dower of any lands or tenements within this Province, by any deed, executed either alone or jointly with other persons, to release all her right and title to the same, and such release shall be as valid and effectual to bar the person so executing the same, of her Dower of such lands and tenements, as if a fine had been levied thereof.

Persons entitled to dower
shall be examined by the
Mayor, &c., touching her
consent to release the
same. Such consent to
be certified by such
Mayor, &c., by endorse-
ment on the deed of
release.

II. *Provided nevertheless*, That no such release so executed shall have any force or effect to bar the person so entitled to Dower, unless such person shall come before the Mayor or Chief Magistrate of some city, borough or town corporate in the said United Kingdom, or before the Chief Judge, or any other Judge of the Supreme Court of the said Colony, Plantation or State, or before the Mayor or Chief Magistrate of any city, borough or town corporate, within the same, and shall have been examined by the said Mayor or Chief Magistrate, Chief Judge or Judge, touching her consent to be barred of Dower in the premises in the said deed of release mentioned, and unless she shall give her consent thereto, and it shall appear to the said Mayor, Chief Magistrate, Chief Judge or Judge, that such consent is free and voluntary, and not the effect of any coercion on the part of the husband or any other person, and unless the said Mayor, Chief Magistrate, Chief Judge or Judge, shall certify the same by endorsement on the said deed,

Verification of such
certificate.

III. *And be it further enacted by the authority aforesaid*, That for the purpose of verifying the said certificate, when the same shall be granted as aforesaid, by the Mayor or Chief Magistrate of any city, borough or town corporate, within the said United Kingdom, or within any of the said Colonies, Plantations or States, the common seal of such city, borough or town corporate, or the seal of office of such Mayor or other Chief Magistrate, shall be affixed thereto; and that when such certificate shall be granted by the Chief Judge, or Judge of the Supreme Court of any of His Majesty's Colonies or Plantations, or of any of the United States of America, the same shall be verified by the seal of the person administering the Government of such Colony, Plantation or State.

IV. *And be it further enacted by the authority aforesaid, That so much of the above mentioned Act, intituled, "An Act for the more easy barring of Dower," as relates to the registering of the certificate, required by the said Act, be and the same, is hereby repealed.*

So much of the 37th of Geo. III. as relates to the registering of the certificate, repealed.

CHAP. VIII.

AN ACT to repeal certain parts of an Act passed in the forty-sixth year of His Majesty's reign, intituled, "An Act to continue 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 16th March, 1808.]

[Repeals so much of 46th Geo. III. Ch. 6, as limits 43rd Geo. III. Ch. 9, to two years; and 43rd Geo. III. Ch. 9, made perpetual.]

CHAP. IX.

AN ACT for the further encouragement of the Growth and Cultivation of Hemp within this Province, and for the Exportation thereof.

[Passed 16th March, 1808.]

[TEMPORARY.]

CHAP. X.

AN ACT to continue an Act passed in the forty-fifth year of His Majesty's reign, intituled, "An Act to afford relief to those persons who may be entitled to claim Lands in this Province, as Heirs or Devisees of the nominees of the Crown, in cases where no Patent hath issued for such Lands," and further to extend the benefits of the said Act.

[Passed 16th March, 1808.]

WHEREAS an Act passed in the forty-fifth year of His Majesty's reign, intituled "An Act to afford relief to those persons who may be entitled to claim lands in this Province, as heirs or devisees of the nominees of

Preamble.

(See 45 Geo. III. Ch. 2)

the Crown, in cases where no Patent hath issued for such lands," will shortly expire, and it is expedient to continue the said Act, and further to extend the benefits 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 the said Act of the forty-fifth year of His Majesty's reign, and every part thereof, and every clause, matter and thing therein contained, shall be and the same is hereby continued.

45th of George III. Ch. 2, continued.

Persons who are entitled to bring their claims for lands before the Commissioners under this Act.

Commissioners under this Act to hear and determine claims, and to report thereupon, in like manner as directed by the 45th of Geo. III. Ch. 2.

Patents to issue to persons entitled under that report.

Provisions of 45th Geo. III. Ch. 2, extended to persons claiming under this Act.

A Commissioner to be appointed in every District to take testimony relative to claims under this Act.

II. *And be it further enacted by the authority aforesaid*, That the assignee or assignees, of the nominee or nominees of the Crown to lands in this Province, who is or are dead, or who have left this Province before the passing of this Act, without having obtained His Majesty's Letters Patent for such lands in his, her or their lifetimes, or before he, she or they, did leave this Province, may respectively bring their claim or claims for the said lands before the Commissioners hereinafter to be appointed; who shall and may, and they are hereby authorised, to hear and determine the claim or claims of such assignee or assignees, and to report thereupon to the Governor, Lieutenant Governor, or person administering the Government, in Council, in like manner, and under the like regulations and restrictions, as are in and by the said Act, passed in the forty-fifth year of His Majesty's reign, and hereby continued, directed to be observed respecting the claim or claims of the heir or heirs, devisee or devisees, of the nominee or nominees of the Crown to lands, brought before the Commissioners under that Act, and that it shall and may be lawful for the Governor, Lieutenant Governor, or person administering the Government, in Council, to issue His Majesty's Letters Patent for the lot or lots, parcel or parcels of land specified in the said report, to or in trust for such person or persons, his, her or their, heirs and assigns, as is or are therein declared, by the said Commissioners to be appointed under and by virtue of this Act, to be the assignee or assignees of the nominee or nominees of the Crown, as aforesaid, to such lot or lots, parcel or parcels of land; and that all and every the provisions, regulations, restrictions, matters and things, which in and by the said Act of the forty-fifth year of His Majesty's reign, are enacted and contained, of and concerning, or in any wise touching or relating to the claim or claims of the heir or heirs, devisee or devisees of the nominee or nominees of the Crown, mentioned in that Act, shall be and are hereby extended to the assignee or assignees of such nominee or nominees.

III. *And be it further enacted by the authority aforesaid*, That for the better procuring of evidence, to be laid before the Commissioners to be appointed under this Act, respecting any claim or claims that may be

brought before them by virtue thereof, it shall and may be lawful for the Governor, Lieutenant Governor, or person administering the Government of this Province, for the time being, to appoint some person in each and every District of this Province to be a Commissioner for taking upon oath (which oath the said Commissioners are hereby authorised to administer) the testimony of any person or persons relative to such claim or claims to be brought before the said Commissioners. (See 10 Geo. IV. Ch. 4.)

IV. *And be it further enacted by the authority aforesaid,* That if any person or persons shall forswear him, her or themselves, before any such Commissioner, he, she or they, shall on conviction thereof, be subject to all the pains and penalties of wilful and corrupt perjury. Penalty for swearing falsely before such commissioner.

V. *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, at any time during the continuance of this Act, to issue such and so many Commissions, under the Great Seal of this Province, to the Members of the Executive Council thereof, His Majesty's Chief Justice of the said Province, the Justices of the Court of King's Bench, and such and so many other persons as the said Governor, Lieutenant Governor, or person administering the Government, shall think fit, which said Commissioners, or any three of them, of whom the said Chief Justice, or one of the said Justices, shall be one, shall have full power and authority to carry into force and effect all and every the powers and provisions, matters and things, specified and contained in the said Act of the forty-fifth year of the reign of His present Majesty, and in this Act; and that the said Commissioners shall hold their sittings at the same place, and at the like times, and in like manner as are specified and declared by the said first mentioned Act, respecting the sittings of the said Commissioners therein mentioned, under and by virtue of the same. (See 52 Geo. III. Ch. 9.)

VI. *And be it further enacted by the authority aforesaid,* That the Clerk of the Peace in each and every District of this Province, shall once in every three months make a list of the claims set up in his office, specifying the name or names of the claimant or claimants, together with the number of the lot or lots, and the concession or concessions, with the name or names of the township or townships in which the lands so claimed do lie, and affix the said list on some conspicuous part of the Court House, or place where the Courts are usually held at each General Quarter Sessions.

VII. *And be it further enacted by the authority aforesaid,* That this Act shall be, and it is hereby declared to be in force, for and during the term of four years, and no longer. (See note to 45 Geo. III. Ch. 2.)

CHAP. XI.

AN ACT for the better Representation of the Commons of this Province in Parliament, and to repeal part of an Act passed in the fortieth year of His Majesty's reign, intituled, "An Act for the more equal representation of the Commons of this Province, and for the better defining the qualification of Electors.

[Passed 16th March, 1808.]

[REPEALED BY 4TH GEO. IV. SESS. 2. CH. 3.]

CHAP. XII.

AN ACT for the better regulating the Statute Labour in the Counties of Essex and Kent, in the Western District.

[Passed 16th March, 1808.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XIII.

AN ACT for the better regulation of Special Juries.

[Passed 16th March, 1808.]

Preamble.

WHEREAS the existing laws of this Province are found insufficient to give Special Juries in 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 the tenth, eleventh, twelfth and thirteenth clauses, of an Act passed in the thirty-fourth year of His present Majesty's reign, intituled, "An Act for the regulation of Juries," and the whole of an Act passed in the fortieth year of His present Majesty's reign, intituled, "An Act for the regulation of Special Juries," shall be and the same are hereby repealed.

Part of the 34th Geo. III. Ch. 1, and the whole of 40th Geo. III. Ch. 2, repealed.

II. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for His Majesty, by his Attorney General, or by any other person duly authorised in that behalf, or for any prosecutor or defendant in any indictment or information for any misdemeanor now pending, or hereafter to be brought or prosecuted in His Majesty's Court of King's Bench in this Province, or for any plaintiff or plaintiffs, defendant or defendants in any action, suit or cause whatsoever, now, pending or hereafter to be brought and carried on in the said Court, to have and obtain a Special Jury for the trial of such indictment, information, action, suit or cause, without any motion in Court.

Special jury may be obtained without any motion in Court.

III. *And be it further enacted by the authority aforesaid,* That the Clerk of the Peace of each and every District shall annually, on or before the fifteenth day of July, deliver, or cause to be delivered, to the Sheriff of the District, a list of such men throughout the District as shall be assessed on the several assessment rolls, for the sum of two hundred pounds and upwards; for which services the said Clerks of the Peace respectively shall be entitled to receive the sum of five shillings, by an order from the Justices in Quarter Sessions assembled, upon the District Treasurer.

Clerk of the Peace shall deliver to the Sheriff a list of persons assessed for £200 and upwards.

IV. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for His said Majesty, His Heirs and Successors as aforesaid, or for any prosecutor or defendant in any such indictment or information, or for any plaintiff or plaintiffs, defendant or defendants in any action, suit or cause, now pending, or hereafter to be brought and carried on in the said Court of King's Bench, for the purpose of having and obtaining a Special Jury for the trial of such indictment, information, action, suit or cause, by themselves or their Attornies respectively, to serve or cause to be served on the opposite party or parties, his, her or their Attorney or Attornies, a written notice, for him, her or them, to appear by themselves or their respective Attorney or Attornies, at the office of the Sheriff of the District in which the said indictment, information, action, suit or cause, is to be tried, on some certain day, which shall not be less than four days from the actual service of such notice, and such actual service shall be made either personally upon the opposite party or parties, his, her or their Attorney, or by a copy of such notice, to be left at the usual place of abode of the opposite party or parties, or at the usual place of abode of his, her or their Attorney.

Notice for appearance of the parties at the office of the Sheriff for the District

V. *And be it further enacted by the authority aforesaid,* That the name of each and every man assessed as aforesaid, shall be written on separate and distinct pieces of paper, being all as near as may be of equal size, and shall be put together in a box or glass to be provided for that purpose, from which the Sheriff, his Deputy, or any indifferent person appointed by the Court, may draw out forty of the said papers, and the said Sheriff or his Deputy, shall forthwith make a list of the names written upon the said forty papers; from which list each party, his, her or their Attorney or Attornies, shall and may alternately strike out twelve names; and the

Manner in which 40 names of the persons assessed shall be drawn.

Each party may strike out 12 out of the 40 names;

Remaining 16 persons shall be summoned by the Sheriff to appear the next assizes.

Sheriff shall summon, or cause to be summoned, the sixteen persons whose names shall remain on such list, to appear on the first day of the next ensuing Assizes, from whom a Special Jury shall be taken for the trial of the respective indictment, information, action, suit or cause.

If either of the parties do not appear to strike out the 12 names, Sheriff or his deputy shall do so for such party.

VI. *And be it further enacted by the authority aforesaid,* That if any party or parties, who shall be served with such written notice, or his, her or their Attorney, shall neglect to appear at the Sheriff's office at the said day appointed, it shall and may be lawful for the Sheriff or his deputy, in behalf of such party, to strike out of the said list, twelve names, in manner aforesaid.

Five shillings to be given to each special jurymen.

VII. *And be it further enacted by the authority aforesaid,* That every person who shall serve on a Special Jury as aforesaid, shall be entitled to receive the sum of five shillings.

Manner in which the fees for striking a special jury shall be paid.

VIII. *And be it further enacted by the authority aforesaid,* 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 expenses 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 entitled 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.

CHAP. XIV.

AN ACT for the better regulation of Parish and Town Officers throughout this Province.

[Passed 16th March, 1808.]

[REPEALED BY 5TH WM. IV. CH. 8; 1ST VIC. CH. 21.]

CHAP. XV.

AN ACT for Building a Court House and Gaol in the Township of Elizabethtown, in the District of Johnstown.

[Passed 16th March, 1808.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XVI.

AN ACT to amend an Act passed in the forty-seventh year of His Majesty's reign, intituled, "An Act to establish Public Schools in each and every District of this Province."

[Passed 16th March, 1808.]

WHEREAS an Act passed in the forty-seventh year of His Majesty's reign, intituled, "An Act to establish Public Schools in each and every District of this Province," requires to be amended; *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 the said Act as enacts, that the Public School for the District of London shall be opened and kept in the Township of Townsend, shall be, and the same is hereby repealed.

Preamble.

Such part of the 47th of Geo. III. Ch. 6, as respects the District of London, repealed.

II. [Superseded by 7th Wm. IV. Ch. 106.]

Place where the school for that District shall be opened and kept.

III. *And be it further enacted by the authority aforesaid,* That so much of the said Act as limits the duration of it to four years, and from thence to the end of the then next ensuing session of Parliament, shall be, and the same is hereby repealed.

Such part of the said 47th of Geo. III. as limits its duration repealed.

[REPEALED]

T

II

STATUTES OF UPPER CANADA,

PASSED IN THE

FIRST SESSION OF THE FIFTH PROVINCIAL PARLIAMENT OF UPPER CANADA:

Held AT YORK, ON THE SECOND DAY OF FEBRUARY, IN THE FORTY-NINTH YEAR OF THE REIGN
OF OUR SOVEREIGN LORD GEORGE THE THIRD, AND PROROGUED ON THE
NINTH DAY OF MARCH FOLLOWING.

FRANCIS GORE, ESQUIRE,
LIEUTENANT GOVERNOR.

ANNO DOMINI 1809.

CHAP. I.

AN ACT for the continuing for a limited time the provisional Agreement entered into between this Province and Lower Canada, at Montreal, on the fifth day of July, in the year one thousand eight hundred and four, relative to Duties; also for continuing for a limited time the several Acts of the Parliament of this Province now in force relating thereto.

[Passed 9th March, 1809.]

[EXPIRED.]

CHAP. II.

AN ACT for Quartering and Billeting on certain occasions His Majesty's Troops, and the Militia of this Province.

[Passed 9th March, 1809.]

WHEREAS the laws now in force for quartering and billeting His Majesty's Troops, and the Militia of this Province, are not sufficiently applicable to the situation 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

Printed

(See 27th Ch. 3)

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, when and as often as the said Troops or Militia shall be on a march within the said Province, each and every householder therein, shall furnish them when required, in manner hereinafter mentioned, with houseroom, fire and utensils for cooking, and in cases of emergency, by actual invasion or otherwise, it shall and may be lawful for the Officer commanding His Majesty's Troops or Militia, or in cases where orders cannot be received from him in due time, for the Officer commanding any regiment, battalion or detachment, of Troops or Militia, to direct and authorise any Officer of the same, having first obtained a warrant for such purpose from one of His Majesty's Justices of the Peace; to impress such horses, carriages and oxen, as the service may require, *for the use of which the owner or owners thereof shall be entitled to receive the sum of seven shillings and six pence per day, for every cart or carriage, with two horses or oxen, during such time as they shall be employed in such service, and when and so often as the owner of such team shall send a driver, he shall be allowed a further sum of two shillings and six pence per day.*

What shall be furnished to the Militia, when on a march;

In case of actual invasion or emergency, horses, carriages and oxen, to be impressed;

Hire to be allowed for such horses, carriages and oxen.

(Repeated by 2 Vic. Ch. 6. sec. 1.)

II. *And be it further enacted by the authority aforesaid, That when the said Troops or Militia, or any regiment, battalion or detachment of the same, are on a march as aforesaid, the Officer commanding such Troops or Militia, or any regiment, battalion or detachment thereof, shall present to one of His Majesty's Justices of the Peace, the order received by him from the Commander of the said Troops or Militia, authorising him, the said Officer commanding as aforesaid to make, and when upon extraordinary emergencies, such order cannot be obtained, it shall and may be lawful for him, the said Officer commanding as aforesaid, to make a requisition in writing to such Justice to billet, who shall immediately thereupon so billet the said Troops or Militia, as to facilitate their march, and in such manner as may be most commodious to the inhabitants, and that every inhabitant householder who shall refuse to receive the said Troops or Militia, so billeted on them as aforesaid, shall for every such offence forfeit and pay the sum of forty shillings.*

Militia to be billeted on their march.

III. *And be it further enacted by the authority aforesaid, That when the safety of this Province shall require that the said Troops or Militia, or any regiment, battalion or detachment of the same, should be cantoned in any part or parts of the said Province, then and in such case, it shall and may be lawful for one of His Majesty's Justices of the Peace, in the respective Districts where such Troops or Militia may be cantoned, upon receiving an order from the Commander of the said Troops or Militia, or by a requisition from the Officer commanding any such cantonment, to quarter and billet, and the said Justice is hereby required to quarter and billet the officers, non-commissioned officers and privates, of the said*

The mode of billeting the Militia when cantoned;

Troops or Militia, upon the several inhabitant householders, as near as may be to the place of cantonment, so that the said Troops or Militia billeted on each inhabitant householder shall not exceed six in number, avoiding as much as possible to incommode the said inhabitants, and taking due care to accomodate the said Troops or Militia; and if any inhabitant householder shall refuse to receive such Troops or Militia, so billeted on him as aforesaid, he shall for each and every offence forfeit and pay the sum of forty shillings; and if any inhabitant shall consider himself aggrieved by having a greater number of the said Troops or Militia billeted upon him, than he ought to bear in proportion to his neighbours, by the said Justice, on complaint being made to two or more Justices of the District where such Troops or Militia shall be cantoned, it shall and may be lawful for such Justices, and they are hereby authorised, to relieve such inhabitant, by ordering such and so many of the said Troops or Militia to be removed and quartered upon such other person or persons as they shall see cause, and such other person or persons shall be obliged under the penalty of forty shillings, to receive such Troops or Militia accordingly: *Provided* that no Justice or Justices of the Peace, having any Military Office or Commission in the said Troops or Militia, shall directly or indirectly, be concerned in the quartering or billeting of any officer, non-commissioned officer, soldier or soldiers, of the regiment, company or detachment, under the immediate command of such Justice or Justices.

Redress in case any person shall think himself aggrieved

Carriages to be furnished to the Militia when in cantonment;

IV. *And be it further enacted by the authority aforesaid,* That when the said Troops or Militia, or any part of them, shall be so cantoned as aforesaid, any one of His Majesty's Justices of the Peace, of and in the District where such cantonment is made, upon receiving an order from the Commander-in-Chief of said Troops or Militia in that behalf, or a requisition in writing from the Officer commanding that cantonment, for such and so many carriages as may be requisite and necessary for the said Troops or Militia, shall and may, and he is hereby required, to issue his warrant to such person or persons as may be possessed of carriages, within his jurisdiction, requiring him or them to furnish the same for the service aforesaid, at and after the rate of payment allowed to carriages furnished to the said Troops or Militia when on a march, *hereinbefore mentioned*, and if any such person or persons shall neglect or refuse, after receiving such warrant, to furnish his or their carriage or carriages for that service, each and every such person or persons shall forfeit and pay the sum of forty shillings: *Provided always*, that such carriage or carriages, horses or oxen, or the carriage or carriages mentioned in the first clause of this Act, shall not be compelled to proceed more than thirty miles, unless in cases where other carriages, horses or oxen, cannot immediately be had to replace them.

Rate of payment to be allowed for such carriages; distance to which they are to proceed;

(See 2 Vic. Ch. 9, sec. 37.)

Boats or other craft to be furnished in cases of emergency.

V. *And whereas* in cases of emergency it may sometimes become necessary to provide proper and speedy means for the conveyance by water of the said Troops or Militia, and also of their ammunition, pro-

visions and baggage: *Be it therefore further enacted by the authority aforesaid,* That any one of His Majesty's Justices of the Peace, of and in the District where such Troops or Militia may be either on a march or in cantonment, upon receiving an order from the Commander-in-Chief of the said Troops or Militia in that behalf, or a requisition in writing from the officer commanding any regiment or detachment of the same, for such boats or other craft as may be requisite for the conveyance of the said Troops or Militia, and their ammunition, provisions and baggage, shall and may, and he is hereby required, to issue his warrant to such person or persons as may be possessed of such boats or other craft, within his jurisdiction, requiring him or them to furnish the same for that service, at and after the rate of payment to be allowed by the said Justice, not exceeding the usual rate of hire for such boats or other craft; and if any such person or persons shall neglect or refuse, after receiving such warrant, to furnish his or their boats or craft for that service, each and every such person or persons shall forfeit and pay the sum of five pounds.

VI. *And be it further enacted by the authority aforesaid,* That all penalties and forfeitures by this Act inflicted, or authorised to be imposed, shall be levied and recovered by distress and sale of the offenders goods and chattels, by warrant under the hand and seal of any Justice of the Peace, and such Justice is hereby empowered and required, to grant the same upon the confession of the party or parties, or upon the evidence of any one or more credible witness or witnesses, upon oath, and the overplus, if any, of the money arising by such distress and sale, shall be returned, upon demand, to the owner or owners of such goods and chattels, deducting therefrom the costs and charges of such distress and sale; one half of the said penalties and forfeitures shall be paid to the informer, the other half 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, and in such manner and form as it shall please His Majesty to direct.

Mode of recovering penalties under this Act.

VII. *And be it further enacted by the authority aforesaid,* That an Act or Ordinance of the late Province of Quebec, passed in the twenty-seventh year of His Majesty's reign, intituled, "An Ordinance for quartering the Troops upon certain occasions in the country parishes, and providing for the conveyance of effects belonging to the Government," be, and the same is hereby repealed.

Ordinance of Quebec, 27th George III, repealed

CHAP. III.

AN ACT to encourage the Destroying of Wolves in this Province.

[Passed 9th March, 1809.]

[REPEALED BY 11TH GEO. IV. CH. 17; 6TH WM. IV. CH. 29.]

CHAP. IV.

AN ACT for the more effectual preventing of Frivolous and Vexatious Suits, and to authorise the Levying of Poundage upon Executions, in certain Cases, and to regulate the Sales by Sheriffs and other Officers.

[Passed 9th March, 1809.]

Preamble.

Circumstances under which defendant, when held to special bail, shall be entitled to costs of suit.

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 all actions to be brought in the Province of Upper Canada, from and after the passing of this Act, wherein the defendant or defendants shall be arrested and held to bail, and wherein the plaintiff or plaintiffs, shall not recover the amount of the sum for which the defendant or defendants in such action shall have been so arrested and held to special bail, such defendant or defendants shall be entitled to costs of suit, to be taxed according to the custom of the Court, in which such action shall have been brought; provided it shall be made appear, to the satisfaction of the Court in which such action is brought, upon motion to be made in Court for that purpose, and upon hearing the parties by affidavit, that the plaintiff or plaintiffs in such action, had not any reasonable or probable cause for causing the defendant or defendants to be arrested and held to special bail, in such amount as aforesaid; and provided, that such Court shall thereupon, by rule or order of the same Court, direct that such costs shall be allowed to the defendant or defendants, and the plaintiff or plaintiffs shall, upon such rule or order being made as aforesaid, be disabled from taking out any execution for the sum recovered in any such action, unless the same shall exceed, and then in such sum only, as the same shall exceed the amount of the taxed costs of the defendant or defendants in such action, and in case the sum recovered in any such actions shall be less than the amount of the costs of the defendant or defendants to be taxed as aforesaid, that then the defendant or defendants, shall be entitled, after deducting the sum of money recovered by the plaintiff or plaintiffs in such action, from the amount of his, her or their costs, to be taxed as aforesaid, to take out execution for such costs in like manner as a defendant or defendants may now by law have execution for costs in other cases.

In actions on judgments, plaintiff not entitled to costs, unless by rule of Court.

II. *And be it further enacted by the authority aforesaid,* That in all actions which shall be brought in the Province of Upper Canada, after the passing of this Act, upon any judgment recovered, or which shall be

recovered, in any Court of the said Province, the plaintiff or plaintiffs in such action, on the judgment, shall not recover or be entitled to any costs of suit, unless the Court in which such action on the judgment shall be brought, or some Judge of the same Court, shall otherwise order.

III. }
 IV. } [Repealed by 2nd Geo. IV. Sess. 2. Chap. 1.]

Plaintiffs may levy poundage and expense of execution beyond the judgment
 On mesne process after return thereof, defendants in custody may in vacation justify bail before one Justice.

V. *And be it further enacted by the authority aforesaid, That no Sheriff or other officer, in any District of this Province, shall proceed to the sale of any effects, taken by virtue of any Writ of Execution, until public notice in writing thereof is given, at least eight days previous thereto, at the most public place in the Town or Township where such effects may have been taken in execution, and of the time and place where such effects are to be exposed to sale.*

Eight days notice to be given of sale by Sheriff.

CHAP. V.

AN ACT for applying certain sums of Money therein mentioned, to make good certain Monies issued and advanced by His Majesty, through the Lieutenant Governor, in pursuance of several Addresses.

[Passed 9th March, 1809.]

[TEMPORARY.]

CHAP. VI.

AN ACT for the relief of Menonists and Tunkers in certain cases.

[Passed 9th March, 1809.]

WHEREAS the Religious Societies of the Menonists and Tunkers, from scruples of conscience against taking an oath, are subject to many inconveniences to themselves and families, as well as to others who may require their evidence; for remedy whereof, *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 pro-

Preamble.

(See 10 Geo. IV. Ch. 1.)

Menonists and Tunkers permitted to make the like affirmation with Quakers.

vision for the Government of the said Province," and by the authority of the same, That from and after the passing of this Act, every Menonist or Tunker, in any case in which an oath is required by law, or upon any lawful occasion wherein the affirmation or declaration of a Quaker will by law be admitted, shall be and is hereby permitted to make his or her affirmation or declaration, in the same manner and form as a Quaker by the laws now in force is required to do, having first made the following affirmation or declaration, that is to say:—"I, A. B., do solemnly, sincerely and truly affirm and declare, that I am one of the Society of Tunkers or Menonists," (as the case may be) which affirmation or declaration as aforesaid, of any Menonist or Tunker, except as hereinafter excepted, is hereby declared to be of the same force and effect, to all intents and purposes, in all Courts of Justice and other places where by law an oath is or shall be allowed; authorised, directed or required, as if such Menonist or Tunker had taken an oath in the usual form; and all and every person or persons who is or are or shall be authorised or required to administer any oath required by any law now in force or hereafter to be made, although no express provision is made for the purpose in any such law, shall be and is or are hereby required to administer such affirmation or declaration.

False affirmation subject to the like punishment with that of a false oath.

II. *And be it further enacted by the authority aforesaid,* That if any person making such affirmation or declaration shall be lawfully convicted of having wilfully, falsely and corruptly, affirmed and declared any matter or thing, which if the same had been deposed in the usual form upon oath, would have amounted to wilful and corrupt perjury, every such person so offending shall incur and suffer all the pains, penalties, forfeitures and disabilities, as by the laws now in force are to be inflicted on persons convicted of wilful and corrupt perjury.

Disabilities of Menonists and Tunkers.

III. *And be it further enacted by the authority aforesaid,* That no Menonist or Tunker shall by virtue of this Act be qualified or permitted to give evidence in any criminal cases, or to serve on juries in criminal cases, or to hold or enjoy any office or place in the Government in this Province, any thing herein contained to the contrary, notwithstanding.

CHAP. VII.

AN ACT for granting a sum of Money in aid of the Building a Bridge across the Grand River.

[Passed 9th March, 1809.]

[TEMPORARY.]

CHAP. VIII.

AN ACT to repeal and amend certain parts of an Act passed in the thirty-sixth year of His Majesty's reign, intituled, "An Act for the better regulation of certain Coins current in this Province," to equalize them to the standard weight and value of the like Coins in the Province of Lower Canada.

[Passed 9th March, 1809.]

[REPEALED BY 6TH WM. IV. CH. 27; AND 3RD VIC. CH. 15.]

CHAP. IX.

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 expenses of amending and repairing the Public Highways and Roads, opening new ones, and building Bridges in the several Districts thereof.

[Passed 9th March, 1809.]

[TEMPORARY.]

STATUTES OF UPPER CANADA,

PASSED IN THE

SECOND SESSION OF THE FIFTH PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT YORK, ON THE FIRST DAY OF FEBRUARY, IN THE FIFTIETH YEAR OF THE REIGN
OF OUR SOVEREIGN LORD GEORGE THE THIRD, AND PROROGUED ON THE
TWELFTH DAY OF MARCH FOLLOWING.

FRANCIS GORE, ESQUIRE,
LIEUTENANT GOVERNOR.

ANNO DOMINI 1810.

CHAP. I.

*AN ACT to provide for the laying out, amending and keeping in repair,
the Public Highways and Roads in this Province, and to repeal the
Laws now in force for that purpose.*

[Passed 12th March, 1810.]

Preamble.

See 52 Geo. III. Ch. 10;
50 Geo. III. Ch. 8;
4 Geo. IV. Sess. 2. Ch. 9
and 10;
Geo. IV. Ch. 14;
5 Wm. IV. Ch. 2;
1 Vic. Ch. 21;
1 Vic. Ch. 10 and 53.)

33 Geo. III. Ch. 4; 39 Geo.
III. Ch. 7, repealed

Surveyors of the High-
ways to be appointed by
the Quarter Sessions

WHEREAS the present mode of laying out, amending and keeping in repair, the Public Highways and Roads within this Province, and the method of performing Statute Labour thereon, is found 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 an Act passed in the thirty-third year of His present Majesty's reign, intituled, "An Act to regulate the laying out, amending and keeping in repair, the Public Highways and Roads within this Province"; and also an Act passed in the thirty-eighth year of His present Majesty's reign, intituled, "An Act to alter the method of performing Statute Duty on the Highways and Roads within this Province," shall be and the same are hereby repealed.

II. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for His Majesty's Justices of the Peace in General Quarter

Sessions assembled, in the month of April in each and every year, in the several Districts of this Province, except in the Districts of London and Johnstown, and in the District of London for His Majesty's Justices of the Peace so assembled, in the month of June, and in the District of Johnstown, for His Majesty's Justices of the Peace so assembled, in the month of May, in each and every year, or the majority of them, to appoint, as occasion may require, one or more Surveyor or Surveyors of Highways, in each and every County and Riding, throughout this Province, within their respective Districts, to lay out and regulate the Highways and Roads within such County or Riding, in manner herein after mentioned; and such Surveyor or Surveyors, before he or they shall enter upon their office, shall, before any Justice of the Peace, take and subscribe the following oath, which oath the said Justice is hereby authorised to administer:

"I, A. B., do swear, that I will faithfully and diligently discharge the duty of a Surveyor of Highways, agreeably to the provisions of an Act passed in the fiftieth year of His Majesty's reign, intituled, "An Act to provide for the laying out, amending and keeping in repair, the Public Highways and Roads in this Province, and to repeal the laws now in force for that purpose."

Oath of the Surveyors of the Highways

And if, on complaint made or otherwise, it shall appear to the Justices of the Peace in Quarter Sessions assembled, that any such Surveyor or Surveyors is or are incompetent to the discharge of his or their duty, or negligent in the performance thereof, it shall and may be lawful for the said Justices, so assembled, to remove the said Surveyor or Surveyors.

III. *And be it further enacted by the authority aforesaid.* That upon application in writing being made to any such Surveyor by twelve freeholders of any such County or Riding, stating that any public highway or road in the neighbourhood of the said freeholders now in use, is inconvenient and may be altered, so as better to accommodate His Majesty's subjects and others travelling thereon, or that it is necessary to open a new highway or road, it shall and may be lawful for such Surveyor, and he is hereby required, to examine the same, and report thereon in writing to the Justices at their next ensuing Quarter Sessions, describing particularly the alteration intended to be made, or new highway or road to be opened, giving at the same time public notice thereof, by affixing, or causing to be affixed, a copy of the said report in two or more of the most public places next adjacent to the place where the said alteration is intended to be made, or new highway or road to be opened; and if no opposition, as hereinafter mentioned, shall be made to such report, it shall and may be lawful for the said Justices, or the major part of them, and they are hereby required to confirm the said report, and to direct such alteration to be made, or such new highway or road to be opened accordingly: and when and so often as any application shall be made to the said Justices in Quarter Sessions assembled as aforesaid, in opposition to the said report, it shall and may be lawful for the said Justices, on its

The Surveyors, on application to alter or open a road, shall report thereupon to the Quarter Sessions; if no opposition, the report to be confirmed; if opposition, the report to be confirmed, annulled or modified, by a jury

(See 4 Geo. IV, Sess. 2. Ch. 10.)

being made to appear to their satisfaction that due notice hath been given to the Surveyor by whom such report as aforesaid was made, to direct a jury of twelve disinterested men to be empaneled out of the persons returned to serve as jurors at the said Sessions, who after hearing evidence upon oath, touching and concerning the said intended alteration, or new highway or road, shall upon their oath, either confirm or annul the said report, or so alter and modify the same as the exigency of the case may appear to require, and their verdict shall be final, and the said Justices shall direct such highway or road to be altered or opened accordingly : and such highway or road so altered or opened, shall be and is hereby declared to be a common and public highway : and the said report so confirmed or altered, shall remain as a record and description of the said highway or road, in the Office of the Clerk of the Peace, and a copy thereof shall be entered in a book to be by him kept for that purpose, and for every such entry, he shall be allowed the sum of five shillings, and no more, to be paid out of the Treasury of the District: *Provided always*, that it shall not be lawful to lay out or alter any public highway or road so as to lead the same through any orchard or garden, or to remove any building, without the consent of the owner first had and obtained, any thing in this Act contained to the contrary in any wise notwithstanding.

No highway to be altered so as to lead through any orchard, &c. or to remove any building without the consent of the owner

Quarter Sessions may order the Surveyor of Highways to employ a Surveyor of Lands

Pay of Surveyor of Lands (See 52 Geo. III. Ch. 10.)

Width of the roads

Width of the bridges and causeways, trees to be cut down for building of the same

Fences to be erected where there are waters or precipices

Pay to be allowed to the Surveyors of Highways

(See 52 Geo. III. Ch. 10.)

IV. *And be it further enacted by the authority aforesaid*, That when and so often as it shall appear to the Justices of the Peace in Quarter Sessions assembled, that it will be necessary or useful to employ a Surveyor of Lands, in laying out or altering any highway or road as aforesaid, it shall and may be lawful for them to order and direct any Surveyor of Highways of the County or Riding in which such highway or road is intended to be laid out or altered, to employ such Surveyor of Lands, who shall be paid out of the District Treasury, by an order of the said Justices, for the number of days in which he shall have been so employed, at the rate of ten shillings for each day.

V. [Repealed by 4th Geo. IV. Sess. 2. Chap. 10.]

VI. }
VII. } [Repealed by 5th Wm. IV. Ch. 8 ; and 1st Vic. Ch. 21.]

VIII. *And be it further enacted by the authority aforesaid*, That every such Surveyor of Highways as aforesaid, for the time being, shall be allowed seven shillings and six pence per day, for every day in which he shall be necessarily employed in carrying into effect the provisions of this Act, an account of which, such Surveyor shall present to the Justices of the Peace in Quarter Sessions assembled, for their inspection, who being satisfied that such account is proper and correct, shall order and direct the Treasurer of the District forthwith to pay the same.

IX. *And be it further enacted by the authority aforesaid*, That in all cases when it shall be found necessary to alter the direction of any such high-

way or road already laid out, so that the land through which it formerly passed shall become unnecessary for a public highway, that in such case it shall and may be lawful for any Surveyor or Surveyors, to be appointed under and by virtue of this Act, and he or they are hereby fully authorised and required to sell such land, and to grant the same under his hand and seal, or their hands and seals, to any purchaser, which sale and grant as aforesaid, shall convey a legal title to such purchaser; *Provided nevertheless*, that if the owner or owners of the land through which such new road may pass, shall be willing to accept the old road as a compensation, such owner or owners shall and may take the same, by a conveyance under the hand and seal of the Surveyor or Surveyors as aforesaid, which he or they are hereby fully authorised to give.

Surveyor to sell the land through which an old road formerly passed, unless the owners of the land through which the new road may pass, shall take the same as a compensation

(The Government allowance not to be sold. See 4 Geo. IV. Ch. 10. Sec. 7.)

X. *And be it further enacted by the authority aforesaid*, That when any sale shall take place as aforesaid, the money arising therefrom shall be given to the owner or owners of the land through which the new road may pass, as an indemnification for the same; and if such owner or owners shall not be satisfied therewith, it shall and may be lawful for him, her or them, to signify the same to the said Surveyor or Surveyors, who are hereby required to report the further claim for compensation of such owner or owners, to the Justices of the Peace at the next ensuing Quarter Session assembled, and to give notice to the said owner or owners to appear at the said Sessions, and the Justices so assembled, shall direct a jury of twelve disinterested men to be empaneled out of the persons returned to serve as jurors, at such Quarter Sessions, and the said jury shall upon their oaths determine whether any, and what further sum shall be allowed to such owner or owners as aforesaid, and their verdict shall be final; and in case such jury shall award any further sum to such owner or owners, the said Justices, so assembled as aforesaid, are hereby authorised and required to order and direct the Treasurer of the District forthwith to pay the same.

The price of the land sold, to be given to the owner of the land through which the new road may pass; if he is not satisfied with the same, a jury to determine what compensation he shall receive.

(See 4 Geo. IV. Sess. 2. Ch. 10.)

XI. [Repealed by 5th Wm. IV. Chap. 8; and 1st Vic. Ch. 21.]

Justices to ascertain the divisions which they shall allot to the overseers in Parishes, Townships, &c.; may give orders to the overseers. Duty of the overseer. Penalty for not obeying the summons and order of the overseer. Penalty if the overseer shall neglect to summon.

XII. *And be it further enacted by the authority aforesaid*, That all allowances for roads made by the King's Surveyors in any Town, Township or place already laid out, or which shall be made in any Town, Township or place within this Province; and also all roads laid out by virtue of any Act of the Parliament of this Province, or any roads whereon the public money hath been expended for opening said roads throughout this Province, or whereon the Statute Labour hath been usually performed, or any roads passing through the Indian Lands, shall be deemed common and public highways, unless any such roads have been already altered according to law, or until such road or roads shall be altered according to the provisions of this Act.

What shall be deemed a common and public highway.

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| XIII. | [Repealed by 5th Wm. IV. Ch. 8; and 1st Vic. Ch. 21.] | } | Penalty for stopping or incumbering roads, destroying fences and railing of bridges. |
| XIV. | | | Mode of appointing Overseers of the Highways. |
| XV. | | | List to be made of persons liable to work on the highways. Copy to be delivered to the Justices of the Peace. Overseers to collect compositions and forfeitures; to keep an account of the duty done, compounded or unperformed; also of such money as he shall have received by virtue of this Act, and have applied; also of what money is due; such account to be delivered to the Justices at special sessions. |
| XVI. | | | Persons who shall work on the highroads; to bring tools for that purpose. Hours of working. Manner of working. Penalty for negligence, &c. in working. |
| XVII. | | | Notice from the Overseer to work. Penalty for not working in pursuance of such notice, with cart, waggon, &c.; and also for not performing personal labour. Application of such forfeitures. Recovery of forfeitures before making up of accounts. |
| XVIII. | | | Roll of composition for labour. |
| XIX. | | | Composition money to be paid to Overseers. Application of the same. |

Surveyor, when money is wanting for any work of advantage on the public highways, to certify, &c.

Justices in Quarter Sessions, may order such work to be performed, and money, not exceeding £20, to be paid out of the District Treasury for performance of the same.

XX. *And be it further enacted by the authority aforesaid,* That when the said Surveyors of the Highways, or any of them, acting within their said Counties, shall be of opinion that a further sum will be wanting, to undertake any particular work of manifest general advantage, on the public highways, that he or they may and is and are hereby required to certify the same, by a writing under their hands, 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 required to complete such work; and if it shall appear to the majority of the said Justices, then and there assembled, that such proposed work is necessary, and that it is expedient to undertake the same, they may come to a resolution to such effect, and declare they will take the matter into consideration at the next ensuing General Quarter Sessions, advising such resolution in each respective District to which they may belong, and in case it shall be deemed advisable by the greater number of the Justices, at such subsequent Quarter Sessions assembled, upon further consideration, that such resolution should be confirmed, it shall and may be lawful for the said Justices to order and direct such work to be performed, and when performed, to order and direct the Treasurer of the District to pay the amount of the same, (provided it do not exceed fifty pounds) out of the District Treasury.

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| XXI. | [Repealed by 5th Wm. IV. Ch. 8; and 1st Vic. Ch. 21.] | } | Trees cut down or falling out of enclosed lands, across the highway, shall be removed by the owner of such lands. Penalty for neglecting to remove. |
| XXII. | | | Mode of recovering forfeitures under this Act. Application of the same. |
| XXIII. | | | Overseer neglecting to apply composition money to the use of the highways, or refusing to account for the same, liable to imprisonment, &c. until he shall render an account, and pay over to the Justices that money. |
| XXIV. | | | Such money to be paid by the Justices to the Overseer for the ensuing year, to be applied as other composition money. |
| XXV. | | | Swearing falsely liable to the punishment of wilful perjury. |
| XXVI. | | | Seasons in the year in which no statute labour is to be performed. |
| XXVII. | | | Duty of Overseers in case any highways shall be obstructed by snow. |

XXVIII.

XXIX.

XXX.

XXXI.

XXXII.

XXXIII.

Repealed by 5th Wm. IV.
Ch. 8; & 1st Vic. Ch. 21.

Stakes and beacons to be stuck on each side of the roads and over frozen waters when necessary. Penalty for neglect.

Special Sessions may be held for the purpose of this Act, by two or more Justices.

Persons shall be liable to work on the highways in proportion to the assessment of their real and personal property. The number of days on which labour is to be performed on the highways ascertained according to such assessment.

If the name of any person is omitted in the assessment roll through mistake, he shall nevertheless be liable to work.

When the whole of the statute labour not required, Justices may lessen the same.

Protection of Overseers in the discharge of their duty.

XXXIV. *Provided always, and be it further enacted by the authority aforesaid,* 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 the 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 nonsuit or discontinue his, her or their action, after the defendant or defendants have appeared, the defendant or defendants, shall and may recover treble costs, and have the like remedy for the recovery thereof, as in any other cases by law.

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

Plaintiff to pay treble costs on nonsuit or discontinuance.

XXXV. *And be it further enacted by the authority aforesaid,* That when any highway or road shall be altered, amended or laid out, under the provisions of this Act, that the soil and freehold of such highway or road, shall be thereby vested in His Majesty, His Heirs and Successors.

Soil and freehold of roads under the provisions of this Act, vested in His Majesty, his Heirs and Successors.

CHAP. II.

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 expenses of amending and repairing the Public Highways and Roads, laying out and opening new Roads, and building Bridges in the several Districts thereof.

[Passed 12th March, 1810.]

[TEMPORARY.]

CHAP. III.

AN ACT to extend the provisions of an Act passed in the forty-seventh year of His Majesty's reign, intituled, "An Act for the preservation of Salmon."

[Passed 12th March, 1810.]

[REPEALED BY 2ND GEO. IV. CHAP. 10.]

CHAP. IV.

AN ACT for preventing the Forging and Counterfeiting of Foreign Bills of Exchange, and of Foreign Notes and Orders for the payment of Money.

[Passed 12th March, 1810.]

Preamble.

(See 3 Wm. IV. Ch. 4;
7 Wm. IV. Ch. 6.)

Persons forging, &c. foreign Bills of Exchange, &c. or uttering the same, guilty of Felony;—punished by fine or imprisonment, not exceeding two years, &c. corporeal punishment or banishment, or by one or more of the said punishments, at the discretion of the Court.

WHEREAS it is expedient that effectual provision should be made to prevent Forging and Counterfeiting of foreign Bills of Exchange, foreign Promissory Notes and foreign orders for the payment of Money within 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 if any person from and after the passing of this Act, shall within this Province, falsely make, forge or counterfeit, or cause or procure to be falsely made, forged or counterfeited, or knowingly aid or assist in the false making, forging or counterfeiting, any Bill of Exchange or Promissory Note, undertaking or order for the payment of Money, purporting to be the Bill of Exchange, Promissory Note, undertaking or order for the payment of Money, of any foreign Prince, State or Country whatsoever, or of any Minister, or Officer intrusted by, or employed in the service of any foreign Prince, State or Country, or of any person or company of persons resident in any foreign State or Country, or of any body Corporate and Politic, or body in the nature of a body Corporate and Politic, created or constituted by any foreign Prince or State, with intent to deceive, or to defraud His Majesty, His Heirs and Successors, or any such foreign Prince, State or Country, or with intent to deceive or defraud any person or company

of persons whomsoever, or any body Corporate or Politic, or body in the nature of a body Corporate and Politic whatsoever, whether the same be respectively resident carrying on business, constituted or being in any part of this Province, or in any foreign State or Country, or if any person from and after the passing of this Act, shall within any part of this Province, tender in payment or in exchange, or otherwise utter or publish as true, any such false, forged or counterfeited Bill of Exchange, Promissory Note, undertaking or order, knowing the same to be false, forged or counterfeited, with intent to deceive or defraud His Majesty, His Heirs and Successors, or any foreign Prince, State or Country, or any person or company of persons, or any body Corporate and Politic, or in the nature of a body Corporate and Politic as aforesaid; then every person so offending, shall be deemed and taken to be guilty of Felony, and being thereof lawfully convicted, shall be punished by fine or imprisonment, not exceeding two years, or by other corporal punishment, not extending to life or loss of member, and also by banishment from this Province, or by one or more of the said punishments, at the discretion of the Court.

II. *And be it further enacted by the authority aforesaid,* That no person, after the passing of this Act, shall within any part of this Province, engrave, cut, etch, scrape, or by any other means or device, make, or knowingly aid or assist in the engraving, cutting, etching, scraping or by any other means or device making, in or upon any plate whatsoever, any Bill of Exchange, or Promissory Note, or undertaking, or order for the payment of money, purporting to be the Bill of Exchange, Promissory Note, or undertaking, or order of any foreign Prince, State or Country, or of any Minister or Officer intrusted by, or employed in the service of any foreign State or Country or of any person or company of persons resident or being in any foreign State or Country, or of any body Corporate and Politic, or in the nature of a body Corporate and Politic, or constituted by any foreign Prince or State, or any part of such Bill of Exchange, Promissory Note, undertaking or order, without an authority in writing for that purpose, from such foreign Prince, State or Country, Minister or Officer, person, company of persons, or body Corporate and Politic, or body in the nature of a body Corporate and Politic, or from some person duly authorised to give such authority, or shall in any part of this Province, without such authority as aforesaid, by means of any such plate, or by any other device or means, make or print any such foreign Bill of Exchange, Promissory Note, undertaking, or order for the payment of money, or any part thereof, or knowingly, wilfully, and without lawful excuse, (the proof whereof shall lie upon the party accused,) have in his or her custody, any such plate or device, or any impression taken from the same; and if any person shall offend in any of the cases aforesaid, he shall be deemed and taken to be guilty of a misdemeanor, and being thereof convicted according to law, shall be liable for the first offence, to be imprisoned for any time not exceeding six months, or to be fined, or to be publicly or privately whipped, or to suffer one or more of the said punishments; and for the

No person shall engrave plates for foreign Bills of Exchange, &c. nor print them without written authority, or have the same in his custody without lawful excuse.

For the first offence punishment of imprisonment, not exceeding six months, fine, publicly or privately whipped, or one or more of the said punishments.

For second offence, fine, imprisonment, not exceeding two years, or by other corporal punishment, banishment, or by one or more of the said punishments, at the discretion of the Court.

This Act not to alter the laws in force against forgery.

Persons indicted shall not be allowed to traverse to a subsequent assizes.

Certificates of former convictions shall be evidence in trial for second offences.

Houses and other premises of suspected persons may be searched, and counterfeit bills of exchange, &c. and tools, &c. seized and carried to a Justice of the Peace; to be produced in evidence against the person or persons to be prosecuted for said offences.

second offence, shall be punished by fine or imprisonment, not exceeding two years, or by other corporal punishment, not extending to life or loss of member, and also by banishment from the said Province, or by one or more of the said punishments, at the discretion of the Court: *Provided always*, that nothing in this Act contained shall extend, or be construed to extend in any manner whatsoever, to repeal or alter any law or statute now in force for the prevention and punishment of the crime of forgery in any respect whatsoever, within any part of the said Province.

III. *And be it further enacted by the authority aforesaid*, That no person against whom any bill of indictment shall be found at any Assizes for any offence against this Act, shall be entitled to traverse the same to any subsequent Assizes, but the Court at which such bill of indictment shall be found, shall forthwith proceed to try the person or persons against whom the same shall be found, unless he, she or they, shall shew good cause, to be allowed by the Court, why his, her or their, trial should be postponed.

IV. *And be it further enacted by the authority aforesaid*, That if any person shall be convicted of any offence against this Act, and shall afterwards be guilty of the like offence in any other District within this Province, the Clerk of the Crown where such former conviction shall have been had, shall at the request of the prosecutor, or any other on His Majesty's behalf, certify the same by a transcript in few words, containing the effect and tenor of such conviction, for which certificate, two shillings and sixpence, and no more, shall be paid; and such certificate being produced in Court, and the hand writing of such Clerk of the Crown thereto being proved, shall be sufficient evidence of such former conviction.

V. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for any one Justice of the Peace, on complaint made before him upon the oath of one credible person, that there is just cause to suspect that any one or more person or persons is, or are, or hath, or have been concerned in the making, forging or counterfeiting, such foreign Bills of Exchange, Promissory Notes, undertakings, or orders for the payment of money as aforesaid, or in engraving, cutting, etching, scraping, or by any other means or device making upon any plate whatsoever, any of the said foreign Bills of Exchange, Promissory Notes, undertakings, or orders for payment of money as aforesaid, or by means of any such plate, or by any other device or means, of making or printing the same, or that the said suspected person or persons hath, or have in his, her or their, custody any such plate or device for the purpose aforesaid, or any impression taken from such plate, or otherwise, printed or made, of the said foreign Bills of Exchange, Promissory Notes, undertakings, or orders for the payment of money, by warrant under the hand and seal of the said Justice, to cause the dwelling house, room, workshop, out-house, or other building, yard, garden, or other place belonging to such suspected person or persons, or where any such person or persons shall be suspected to carry on any such making, forging, counterfeiting, engraving, cutting, etching,

scraping or printing as aforesaid, to be searched for any such false, forged, and counterfeited foreign Bills of Exchange, Promissory Notes, undertakings, or orders for the payment of money, and for the tools, plates, or devices for the making, forging, printing, or counterfeiting of the same; and if any such tools, plates, implements or devices, shall be found in any place so searched, or in the custody of any person or persons whomsoever, not having the same by some lawful authority, it shall and may be lawful to and for any person or persons whatsoever discovering the same, to seize, and he or they are hereby authorised and required to seize, such false, forged, and counterfeited foreign Bills of Exchange, Promissory Notes, undertakings, or orders for the payment of money, tools, plates, implements and devices, and to carry the same forthwith before a Justice of the Peace of the District where the same shall be seized, who shall cause the same to be secured, and produced in evidence against any person or persons who shall or may be prosecuted for any of the offences aforesaid, and after the same shall have been so produced in evidence, they shall forthwith, by order of the Court where such offender or offenders shall be tried, or by order of some Justice of the Peace, in case there shall be no trial, be defaced or destroyed, or otherwise disposed of, as such Court or such Justice shall direct.

VI. *And be it further enacted by the authority aforesaid,* That if any action or suit shall be brought or commenced against any person or persons for any thing done in pursuance of this Act, such action or suit shall be commenced within three months next after the matter or thing done, and not afterwards; and the defendant or defendants in such action or suit, may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon; and if afterwards, judgment shall be given for the defendant or defendants, or the plaintiff or plaintiffs shall become non-suited, or discontinue his, her or their, action or suit after the defendant or defendants shall have appeared, then such defendant or defendants shall have treble costs awarded to him, her or them, against such plaintiff or plaintiffs, and have the like remedy for the same as any defendant or defendants hath or have in other cases, to recover costs at law.

Limitation for matters done under this Act, three months.

General issue.

Treble costs.

CHAP. V.

AN ACT to declare the Common Gaols in the several Districts of this Province to be Houses of Correction for certain purposes.

[Passed 12th March 1810.]

WHEREAS it is expedient that until Houses of Correction shall be erected in the several Districts of this Province, that the Common Gaol in each and every of the said Districts shall be held and taken to be for cer-

Preamble.

(See 32 Geo. III. Ch. 2;
1 Vic. Ch. 5;
3 Vic. Ch. 14.)

tain purposes, a House of Correction; *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 until such Houses of Correction shall be erected as aforesaid, the Common Gaol in each of the said several Districts respectively shall be, and the same is hereby constituted a House of Correction; and that all and every idle and disorderly person, or rogues and vagabonds, and incorrigible rogues, or any other person or persons who may by law be subject to be committed to a House of Correction, shall be committed to the said Common Gaols in the said Districts respectively, any law or usage to the contrary in any wise notwithstanding.

And houses of correction shall be erected, the common gaols in each respective District are constituted houses of correction.

CHAP. VI.

AN ACT for granting to His Majesty a Duty upon Billiard Tables.

[Passed 12th March, 1810.]

MOST GRACIOUS SOVEREIGN:

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, a Duty on Billiard Tables; 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 twenty-ninth day of September 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 and every person or persons having in his, her or their possession, custody or power, any Billiard Table set up for hire or gain, directly or indirectly, whether such person or persons shall use, or permit the same to be used or not, the sum of forty pounds.

Preamble.

(See 31st Ge. Ch. 20, sec. 10.)

Every person having a Billiard Table in this Province, set up for hire or gain, shall pay yearly the sum of £40 for keeping of the same.

II. *And be it further enacted by the authority aforesaid,* That after the said twenty-ninth day of September next, it shall not be lawful for any person or persons to have in his, her or their possession, custody or power, any Billiard Table set up for hire or gain, directly or indirectly, unless a Licence shall have been obtained for such Billiard Table, as under-mentioned :

Licence to A. B. to keep one Billiard Table for the space of one year only from the date hereof, he having paid forty pounds, by virtue of an Act of the Provincial Parliament of the Province of Upper Canada, intituled, "An Act for granting to His Majesty a Duty upon Billiard Tables," dated this——day of——.

Form of a Licence to be obtained for setting up such Billiard Table.

III. *And be it further enacted by the authority aforesaid,* That every person desirous of obtaining such Licence as aforesaid, shall on or before the twenty-ninth day of September in this present year, and on or before the twenty-ninth day of September in each and every subsequent year, deliver to the Inspector of the District, where such Billiard Table is set up and kept, a requisition in writing in the following form :

"I do hereby require a Licence to be granted to me for keeping one Billiard Table, in the Town or Township of——in the County of——and in the District of——, for which I am ready to pay the sum of forty pounds Provincial Currency ; dated the——day of——."

Form of a requisition to the Inspector of the District for the obtaining of a Licence for setting up such Billiard Table.

And shall pay unto such Inspector, the sum of forty pounds, on receipt of which, the said Inspector shall deliver to the said person such licence ; and if any person or persons, after the twenty-ninth day of September next, shall have in his, her or their possession, custody or power, any Billiard Table set up for hire or gain, directly or indirectly, without first having obtained such licence, such person or persons shall forfeit and pay the sum of one hundred pounds, to be recovered by action of debt, bill, plaint or information, in His Majesty's Court of King's Bench in this Province.

IV. *And be it further enacted by the authority aforesaid,* That all such licences to be granted for the purposes aforesaid, after the said twenty-ninth day of September next, shall be dated on the twenty-ninth day of September in the year in which they are to be issued, and shall expire on the twenty-eighth day of September next ensuing the date thereof ; and that it shall and may be lawful for the said Inspector, and he is hereby authorised to receive from every person requiring such licence, the sum of five shillings for receiving such application for a licence, and also the sum of five shillings, and no more, as his fee for issuing the same.

The date and expiration of such Licences.

Fee to the said Inspector for issuing of the same.

V. *And be it further enacted by the authority aforesaid,* That all monies which shall be received by the said Inspector of each District, under and by virtue of this Act, except what he shall be entitled to receive for his own benefit under the authority of the same, shall be paid by the said Inspector into the hands of the Receiver General of this Province, on or

Time when the monies received for the said Licences shall be paid by the Inspector to the Receiver General.

One half of the fines and forfeitures incurred by this Act shall be paid to the Receiver General for the uses of the Province, and accounted for to His Majesty, through the Lords of the Treasury, the other half shall be paid to the person who shall sue for the same.

before the thirty-first day of December in each and every year, to and for the uses aforesaid, and that one moiety of all fines, forfeitures and penalties, that shall be incurred under this Act, shall be immediately paid into the hands of the Receiver General, for the use of His Majesty, His Heirs and Successors, towards the support of the Civil Government of this Province, and 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 please to direct, and the other moiety to the person who shall sue for the same.

CHAP. VII.

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 several Addresses of this House.

[Passed 12th March, 1810.]

[TEMPORARY.]

CHAP. VIII.

AN ACT to amend an Act passed in the forty-fourth year of His Majesty's reign, intituled "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 12th March, 1810.]

[TEMPORARY.]

CHAP. IX.

AN ACT to repeal an Act passed in the forty-fourth year of His Majesty's reign, intituled, "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 authorise His Majesty's Court of King's Bench in this Province, to regulate certain Fees, Costs and Charges, therein mentioned."

[Passed 12th March, 1810.]

[Repeals 44th Geo. III. Chap. 3.]

CHAP. X.

AN ACT further to extend the benefit of an Act passed in the thirty-seventh year of His Majesty's reign, intituled, "An Act for the more easy Barring of Dower."

[Passed 12th March, 1810.]

WHEREAS by an Act passed in the thirty-seventh year of His Majesty's reign, intituled, "An Act for the more easy Barring of Dower," it is enacted, that no release of dower by any deed executed in manner therein mentioned, of any land, tenements or hereditaments, shall have any force or effect to barr the person so entitled 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 in which she shall reside, and shall have been examined by the said Chief Justice, or Justice, or by the Chairman or presiding Magistrate of such Quarter Sessions, touching her consent to be barred of dower: *And whereas*, much inconvenience has arisen to His Majesty's subjects thereby: *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 any person entitled to dower, to appear before the Judge of the District Court, or the Chairman of the Quarter Sessions of the District in which the party resides, and being privately examined by the said Judge or Chairman, touching her consent to be barred of dower; it shall and may be lawful for the said Judge or Chairman to certify the same in like manner as the same may at present be certified by the Chief Justice, or any Justice of the Court of King's Bench, and the said certificate shall have the same force and effect and be as valid in law as if the person had been examined by the Chief Justice, or Justice, or Court of Quarter Sessions, any law or usage to the contrary in any wise notwithstanding.

Preamble.

(See 3 Wm. IV. Ch. 10; Superseded after 11th May, 1839, by 2 Vic. Ch. 6. sec. 3 & 4.)

Dower may be barred before Judge of the District Court or Chairman of the Quarter Sessions, in like manner as before the Chief Justice or any of the Justices of the Court of King's Bench, or before the Court of Quarter Sessions.

II. *And be it further enacted by the authority aforesaid*, That the Judge of the District Court, or Chairman aforesaid, or their Clerk, respectively, shall be entitled to receive the sum of five shillings for such certificate, and no more.

Fee to be paid for obtaining such certificate.

CHAP. XI.

*AN ACT for the Relief of Minors of the Societies of Menonists and
Tunkers.*

[Passed 12th March, 1810.]

[REPEALED BY 1ST VIC. CH. 8; 2ND VIC. CH. 9.]

CHAP. XII.

*AN ACT to authorise the Inhabitants of the County of Haldimand, to hold
Annual meetings for the purpose of Electing Town and Parish Officers.*

[Passed 12th March, 1810.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XIII.

*AN ACT for granting an additional sum of money for erecting a Bridge
across the Grand River.*

[Passed 12th March, 1810.]

[TEMPORARY.]

STATUTES OF UPPER CANADA,

PASSED IN THE

THIRD SESSION OF THE FIFTH PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT YORK, ON THE FIRST DAY OF FEBRUARY, IN THE FIFTY-FIRST YEAR OF THE REIGN
OF OUR SOVEREIGN LORD GEORGE THE THIRD, AND PROROGUED ON THE
THIRTEENTH DAY OF MARCH FOLLOWING.

FRANCIS GORE, ESQUIRE,
LIEUTENANT GOVERNOR.

ANNO DOMINI 1811.

CHAP. I.

AN ACT for granting to His Majesty a certain sum of Money, out of the Funds applicable to the use of this Province, to defray the expenses of amending and opening the Public Highways and Roads, and Building of Bridges in the several Districts thereof.

[Passed 13th March, 1811.]

[TEMPORARY.]

CHAP. II.

AN ACT to repeal an Act passed in the forty-seventh year of His Majesty's reign, intituled, "An Act for granting to His Majesty, Duties on Licences to Hawkers, Pedlers and Petty Chapmen, and other Trading Persons therein mentioned," and further, for granting to His Majesty, Duties on Licences to Hawkers, Pedlers and Petty Chapmen, and other Trading Persons therein mentioned.

[Passed 13th March, 1811.]

[EXPIRED.]

CHAP. III.

AN ACT to extend Personal Arrest to the sum of Forty Shillings, and otherwise to regulate the Practice in cases of Personal Arrest.

[Passed 13th March, 1811.]

[REPEALED BY 2ND GEO. IV. SESS. 2. CHAP. 1.]

CHAP. IV.

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 of this House.

[Passed 13th March, 1811.]

[TEMPORARY.]

CHAP. V.

AN ACT to amend and continue, for a limited time, an Act passed in the forty-ninth year of His Majesty's reign, intituled, "An Act for continuing for a limited time the Provisional Agreement entered into between this Province and Lower Canada, at Montreal, on the fifth day of July, one thousand eight hundred and four, relative to Duties; also for continuing, for a limited time, the several Acts of the Parliament of this Province, now in force relating thereto."

[Passed 13th March, 1811.]

[EXPIRED.]

CHAP. VI.

AN ACT to amend the Process of the District Courts, and also further to Regulate the Proceedings of Sheriffs in the Sale of Goods and Chattels, taken by them in Execution.

[Passed 13th March, 1811.]

[REPEALED BY 2ND GEO. IV. SESS. 2. CH. 2.]

CHAP. VII.

AN ACT to amend an Act passed in the forty-eighth year of His Majesty's reign, intituled, "An Act to explain, amend and reduce, to one Act of Parliament, the several Laws now in being, for the raising and training the Militia of this Province."

[Passed 13th March, 1811.]

[SUPERSEDED BY 2ND VIC. CH. 9. SEC. 52.]

I. Preamble; 47th Section of the 48th of George III. in part recited; If the levy by distress and sale shall exceed the exemption money of any Quaker, the overplus shall remain as future exemption money, and shall be paid to the Treasurer of the District, &c.; Penalty for not so paying the said overplus; Mode of recovering the said penalty: No sale without eight days previous notice. II. Repeal of such part of the 48th George III. as relates to the returning of the overplus of the exemption money to Quakers; If the overplus of the exemption money shall not be equal to the exemption money of the succeeding year, the residue to be paid shall be levied by distress, &c. III. Regulations in taking distress under this Act; Penalty for transgressing the same; IV. Fines and forfeitures to whom paid, and how applied and recovered; V. Justices to direct the summons, &c. to a Constable in the Township, or if none, to a Constable living nearest the person to be so summoned.

CHAP. VIII.

AN ACT to repeal an Act passed in the forty-seventh year of His Majesty's reign, intituled, "An Act to repeal the several Acts now in force in this Province, relative to Rates and Assessments, and also to particularize the Property, real and personal, which during the continuance thereof shall be subject to Rates and Assessments, and fixing the several Valuations at which each and every particular of such Property shall be Rated and Assessed, and to make further provision for the same."

[Passed 13th March, 1811.]

[REPEALED BY 59TH GEO. III. SESS. 2. CH. 7; 5TH WM. IV. CH. 8;
1 VIC. CH. 21.]

CHAP. IX.

AN ACT to repeal an Ordinance of the Province of Quebec, passed in the seventeenth year of His Majesty's reign, intituled, "An Ordinance for Ascertaining Damages on Protested Bills of Exchange, and fixing the rate of Interest in the Province of Quebec;" also to ascertain Damages on Protested Bills of Exchange, and fixing the Rate of Interest in this Province.

[Passed 13th March, 1811.]

WHEREAS an Ordinance passed in the Province of Quebec, in the seventeenth year of His Majesty's reign, intituled, "An Ordinance for ascertaining damages on Protested Bills of Exchange, and fixing the Preamble.

rate of Interest in the Province of Quebec," is in part inapplicable to 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 the said Ordinance, as far as it relates to or affects this Province, be and the same is hereby repealed.

Ordinance passed in the 17th of Geo. III. in the Province of Quebec, for ascertaining damages on Protested Bills of Exchange, and fixing the rate of interest in that Province, repealed.

Damages and Interest on Protested Bills of Exchange drawn in this Province on Europe or the West Indies.

II. *And be it further enacted by the authority aforesaid*, That from and after the passing of this Act, all Bills of Exchange drawn, or hereafter to be drawn by any person or persons residing in this Province, upon any person or persons in Europe or the West Indies, that may return under Protest for non-payment thereof, shall be subject to ten per cent. damages, and six per cent. per annum interest, upon the principal sum furnished here from the day of the date of the Protest to the time of payment, which said principal sum shall be reimbursed to the holder of the bill at the par of exchange, that is to say, at the rate of one hundred and eleven pounds and one ninth currency, for one hundred pounds sterling.

Damages and Interest on Protested Bills of Exchange drawn in this Province on North America, the West Indies excepted
(See 7 Wm. IV. Ch. 6)

III. *And be it further enacted by the authority aforesaid*, That all and every Bill or Bills of Exchange drawn, or hereafter to be drawn by any person or persons residing in this Province, on any person or persons in North America, the West Indies excepted, and shall be returned protested, shall be subject to four per cent. damages, and six per cent. per annum interest upon the principal sum furnished here, from the day of the date of the protest to the time of payment.

Interest on Protested Bills, Orders or Mandates, drawn in this Province on persons living therein, and on Notes of Hand given in this Province.
(See 7 Wm. IV. Ch. 3; Sec. 23.)

IV. *And be it further enacted by the authority aforesaid*, That all bills, orders or mandates, drawn after the passing hereof, by any person or persons residing in this Province, on any person or persons living in the same, and notes of hand given in this Province, if protested for non-payment, shall be subject to six per cent. per annum interest, from the date of the protest to the time of payment.

Expense of Noting and Prototyping, by whom to be paid.

V. *And be it further enacted by the authority aforesaid*, That in all the said cases of protest, the expense of noting and protesting the bill, and the postages thereby incurred, shall be allowed and paid to the holder, over and above the said interest and damages.

Interest for the loan of any monies, &c. shall not be taken above the rate of six pounds per centum for a year.

VI. *And be it further enacted by the authority aforesaid*, That it shall not be lawful upon any contract to take, directly or indirectly, for loan of any monies, wares, merchandize, or other commodities whatsoever, above the value of six pounds for the advance or forbearance of one hundred

pounds for a year; and so after that rate for a greater or less sum or value, or for a longer or shorter time; and the said rate of interest shall be allowed and recovered in all cases where it is the agreement of the parties that interest shall be paid; and all bonds, contracts and assurances whatsoever, whereupon or whereby a greater interest shall be reserved and taken, shall be utterly void; and every person who shall either directly or indirectly take, accept and receive, a higher rate of interest, shall forfeit and lose for every such offence, treble of the value of the monies, wares, merchandize and other things lent or bargained for, to be recovered by action of debt in the Court of King's Bench in this Province, a moiety of such forfeiture shall be paid into the hands of His Majesty's Receiver General, for the use of His Majesty, His Heirs and Successors, towards the support of the Civil Government of this Province, and 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 please to direct, and the other moiety to him or them that shall sue for the same.

All bonds, contracts, &c. whereupon a greater interest shall be reserved shall be void.

Penalties for receiving a higher rate of interest. How recovered.

STATUTES OF UPPER CANADA,

PASSED IN THE

FOURTH SESSION OF THE FIFTH PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT YORK, ON THE THIRD DAY OF FEBRUARY, IN THE FIFTY-SECOND YEAR OF THE REIGN
OF OUR SOVEREIGN LORD GEORGE THE THIRD, AND PROROGUED ON THE
SIXTH DAY OF MARCH FOLLOWING.

ISAAC BROCK, ESQUIRE,
PRESIDENT.

ANNO DOMINI 1812.

CHAP. I.

*AN ACT to prevent Desertion from His Majesty's Regular Forces, by
granting a Bounty for Apprehending Deserters in this Province.*

[Passed 6th March, 1812.]

[EXPIRED.]

CHAP. II.

*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 expenses of
amending and repairing the Public Highways and Roads, and building
Bridges in the several Districts thereof.*

[Passed 6th March, 1812.]

[REPEALED BY 52ND GEO. III. SESS. 2. CH. 2.]

CHAP. III.

*AN ACT to extend the Provisions of an Act passed in the forty-eighth
year of His Majesty's reign, intituled, "An Act to explain, amend and
reduce to one Act of Parliament, the several Laws now in being for the
Raising and Training the Militia of this Province."*

[Passed 6th March, 1812.]

[EXPIRED.]

CHAP. IV.

AN ACT to prevent Damage to Travellers on the Highways in this Province.

[Passed 6th March, 1812.]

WHEREAS evil disposed persons travelling the Highways in this Province, with sleds or other carriages, frequently do injury to His Majesty's Preamble. subjects, whom they do meet on the Highways aforesaid, by not giving an equal half of the width of the Road, or beaten track, or any part thereof, for the conveniency of passing each other; for remedy thereof, and to put an end to such evil practices, *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 be the duty of every person or persons travelling the Highways, with sleds or other carriages as aforesaid, when, and as often as they do meet each other, for each person or persons so meeting, to turn out to the right hand with their sleds or other carriages, and give one equal half of said road, highway or beaten track, for the more easy passing each other, without doing damage to either party's team, sled, or other carriage as aforesaid. All persons travelling on the highway, and meeting sleds, &c. to turn out to the right hand and give half the road.

II. *And be it further enacted by the authority aforesaid,* That if any persons travelling as aforesaid, with sleds or other carriages, do meet each other on the roads, and shall refuse or neglect to give the one to the other the one half of the width of the road, highway or beaten track as aforesaid, the party so refusing, shall forfeit and pay the sum of Ten Shillings, with reasonable costs, to be recovered before any one of His Majesty's Justices of the Peace within the District where such offence may be committed, on confession of the party so refusing or neglecting as aforesaid, or on the conviction thereof, by the Oath of any one credible witness; which Oath the said Justice of the Peace, is hereby authorized to administer, to be levied by distress and sale of the offender or offender's Goods and Chattels; and for want of sufficient distress to satisfy such fine and costs, it shall be the duty of such Justice before whom the cause may be tried, to commit such offender or offenders to the common Gaol of the District, for any time not exceeding three days, unless such fine and costs shall be sooner by him or them paid. Penalty for disobedience of this Act. How recovered.

III. *And be it enacted by the authority aforesaid,* That from and after the first day of December next ensuing, every person or persons travelling with sleighs on any road, highway or beaten track in this Pro- Two or more bells to be affixed to the harness of every sleigh.

Penalty for neglect.

vince, shall have affixed two or more bells to the harness thereof, and any person neglecting so to do, shall on conviction thereof, by confession or by the oath of one credible witness, before any of His Majesty's Justices of the Peace within the District where such offence may be committed, which oath the said Justice is hereby authorised to administer, shall forfeit and pay the sum of Ten Shillings, to be levied by distress and sale of the offender or offenders goods and chattels.

How fines to be accounted for and disposed of.

IV. [Repealed by 56th Geo. III. Chap. 11.]

Complaints under this Act to be made within ten days.

V. *And be it further enacted by the authority aforesaid,* That all complaints to be made under and by virtue of this Act, shall be made within ten days after the offence has been committed, and not afterwards.

Act in force for four years

VI. [See 56 Geo. III. Chap. 11. ; 59 Geo. III. Chap. 17.]

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 an Address of the House of Assembly.

[Passed 6th March, 1812.]

[TEMPORARY.]

CHAP. VI.

AN ACT for granting to His Majesty a sum of Money for the use of the Militia of this Province.

[Passed 6th March, 1812.]

[TEMPORARY.]

CHAP. VII.

AN ACT to extend the Provisions of an Act passed in the forty-fourth year of His Majesty's reign, intituled, "An Act for granting to His Majesty a certain sum of money for the purposes therein mentioned."

[Passed 6th March, 1812.]

[TEMPORARY.]

CHAP. VIII.

AN ACT for granting to His Majesty a certain sum of Money, further to encourage the Growth and Cultivation of Hemp in this Province, and for other purposes.

[Passed 6th March, 1812.]

[REPEALED BY 53RD GEO. III. CH. 7.]

CHAP. IX.

AN ACT to amend an Act passed in the forty-eighth year of His Majesty's reign, intituled, "An Act to continue an Act passed in the forty-fifth year of His Majesty's reign, intituled, 'An Act to afford Relief to those persons who may be entitled to claim Lands in this Province, as heirs or devisees of the nominees of the Crown, in cases where no Patent hath issued for such Lands,' and further to extend the benefits of the said Act," and to continue part of the same.

[Passed 6th March, 1812.]

WHEREAS an Act passed in the forty-eighth year of His Majesty's reign, intituled, "An Act to continue an Act passed in the forty-fifth year of His Majesty's reign, intituled, 'An Act to afford relief to those persons who may be entitled to claim lands in this Province, as heirs or devisees of the Nominees of the Crown, in cases where no Patent hath issued for such Lands,' and further to extend the benefits of the said Act," will shortly expire, and it is expedient to amend the said Act, and to continue part 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 such part of the said Act, passed in the forty-eighth year of His Majesty's reign, as requires that the Commissioners therein mentioned, shall hold their sittings at the Town of York twice in the year, shall be, and the same is hereby repealed.

Preamble.

Part of 48 Geo. III. Ch. 10.
repealed.

Times and place of sitting
of the Commissioners.

II. *And be it further enacted by the authority aforesaid*, That from and after the passing of this Act, the sittings of the said Commissioners shall be holden *in this present year during the first ten days next succeeding the present Session of the Legislature of this Province, and also* during fifteen days, to commence on the first Monday of July next, and in each and every other year, during the continuance of this Act, the said sittings of the Commissioners shall be holden at the said Town of York once in the year, to wit, during fifteen days, to commence on the first Monday of July: *Provided always nevertheless*, that when the said Commissioners shall have good reason to believe that there will not be sufficient business to require their daily attendance throughout the term limited for their sittings as last aforesaid, they may be at liberty to adjourn for any time within the same, that may be consistent with the dispatch of such business as may be brought before them.

Act of 48 Geo. III. Ch. 10
(except such part as is by
this Act repealed) is
continued.

III. *And be it enacted by the authority aforesaid*, That the said Act of the forty-eighth year of His Majesty's reign, and every matter and thing therein contained, except such part thereof as is hereby altered and amended, shall be and is hereby continued.

Continuance of this Act.
(See note to 45 Geo. III.
Ch. 2.)

IV. *And be it further enacted by the authority aforesaid*, That this Act shall be, and it is hereby declared to be in force for and during the space of four years, and no longer.

CHAP. X.

AN ACT to amend an Act passed in the fiftieth year of His Majesty's reign, intituled, "An Act to provide for laying out, amending and keeping in repair the Public Highways and Roads in this Province, and to repeal the Laws now in force for that purpose."

[Passed 6th March, 1812.]

Preamble.

WHEREAS by the eighth clause of an Act passed in the fiftieth year of His Majesty's reign, intituled, "An Act to provide for the laying out, amending and keeping in repair the Public Highways and Roads in this Province, and to repeal the Laws now in force for that purpose," it is provided, that all Surveyors of Highways, when employed to act as such, shall be paid out of the District Treasury; and also, by the fourth clause of the above recited Act, the Surveyors of Land, when directed by the Justices in Quarter Sessions assembled, and employed to survey any road or roads, are directed to be paid out of the District Treasury; *And whereas* it is found from experience, that many roads are unnecessarily laid out; for remedy thereof, *Be it enacted* by the King's most Excellent Majesty, by and with the advice and consent of the Legis-

lative 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 any roads shall be hereafter laid out under the authority of the above recited Act, that shall not be confirmed by the Justices in General Quarter Sessions, then and in that case the expense or charge of any Surveyor or Surveyors, at the rate and proportion as described in the above recited Act, shall be paid by the party applying for such survey, any law to the contrary notwithstanding.

When any road shall be laid out and not confirmed by the Justices in Quarter Sessions, the party applying for the survey shall pay the charge and expense of the Surveyors.

CHAP. XI.

AN ACT further to continue an Act passed in the thirty-third year of His Majesty's reign, intituled, "An Act to provide for the appointment of Returning Officers of the several Counties within this Province.

[Passed 6th March, 1812.]

[TEMPORARY.]

STATUTES OF UPPER CANADA,

PASSED IN THE

FIRST SESSION OF THE SIXTH PROVINCIAL PARLIAMENT OF UPPER CANADA;

MET AT YORK, ON THE TWENTY-SEVENTH DAY OF JULY, IN THE FIFTY-SECOND YEAR OF THE REIGN
OF OUR SOVEREIGN LORD GEORGE THE THIRD; AND PROROGUED ON THE
FIFTH DAY OF AUGUST FOLLOWING.

ISAAC BROCK, ESQUIRE,
PRESIDENT.

ANNO DOMINI 1812.

CHAP. I.

*AN ACT to repeal part of the Laws now in force for Raising and Training
the Militia of this Province, and to make further Provision for the
Raising and Training of the said Militia.*

[Passed 5th August, 1812.]

[EXPIRED.]

CHAP. II.

*AN ACT to repeal an Act passed in the fifty-second year of His Majesty's
reign, 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 expenses of Amending and Repairing the Public Highways and
Roads, and building Bridges in the several Districts thereof."*

[Passed 5th August, 1812.]

[Repeals 52nd Geo. III. Sess. 1. Chap. 2.]

I. Preamble; 52 George III. Ch. 2. repealed; II Commissioners under 52 George III. to pay to the Receiver General the Monies in their hands unexpended, together with a statement on Oath of such Monies as they have laid out; said Commissioners may retain all such Monies as they have obliged themselves to pay for labour performed on the highways, or for labour already begun but not completed.

CHAP. III.

AN ACT to provide for the Defence of this Province.

[Passed 5th August, 1812.]

[EXPIRED]

CHAP. IV.

AN ACT to repeal an Act passed in the forty-fourth year of His Majesty's reign, intituled, " An Act appropriating a certain sum of Money annually, to defray the expenses of erecting Public Buildings, to and for the uses of this Province.

[Passed 5th August, 1812.]

[Repeals 44th Geo. III. Chap. 9.]

CHAP. V.

AN ACT for granting a certain sum of Money to make good certain sums of Money issued and advanced by His Majesty, through His Honour the President, in pursuance of an Address of the House of Assembly.

[Passed 5th August, 1812.]

[TEMPORARY.]

STATUTES OF UPPER CANADA,

PASSED IN THE

SECOND SESSION OF THE SIXTH PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT YORK, ON THE TWENTY-FIFTH DAY OF FEBRUARY, IN THE FIFTY-THIRD YEAR OF THE REIGN
OF OUR SOVEREIGN LORD GEORGE THE THIRD, AND PROROGUED ON THE
THIRTEENTH DAY OF MARCH FOLLOWING.

ROGER HALE SHEAFFE, ESQUIRE,
PRESIDENT.

ANNO DOMINI 1813.

CHAP. I.

*AN ACT to facilitate the circulation within this Province of Army Bills,
issued by authority of the Province of Lower Canada.*

[Passed 13th March, 1813.]

[EXPIRED.]

CHAP. II.

*AN ACT to repeal and amend certain parts of the Militia Law, and also
for the Transporting Naval and Military Stores.*

[Passed 13th March, 1813.]

[EXPIRED.]

CHAP. III.

*AN ACT to authorise the Governor, Lieutenant Governor or Person
administering the Government of this Province, to prohibit the Exporta-
tion of Grain and other Provisions, and also to restrain the Distillation
of Spirituous Liquors from Grain.*

[Passed 13th March, 1813.]

[EXPIRED.]

CHAP. IV.

AN ACT to provide for the maintainance of persons Disabled, and the Widows and Children of such persons as may be Killed in His Majesty's Service.

[Passed: 13th March, 1813.]

MOST GRACIOUS SOVEREIGN:

WHEREAS it is deemed expedient to provide means for the support of such Officers, non-commissioned Officers and Private militia-men as may be disabled in His Majesty's Service, and to provide for the support of the Widows and Children of such Officers, non-commissioned Officers and Private militia-men as may be killed on such service: *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 if any Officer, non-commissioned Officer or Private militia-man, shall in any engagement with an enemy, or by any accident or casualty which may occur while performing any duty on actual service, be killed and leave a widow, child or children, lawfully begotten, his widow shall be entitled to receive, during her widowhood, and in case of the death or marriage of such widow, then the eldest child or guardian, for the use of such child or children of such Officer, non-commissioned Officer or Private Militia-man, until the youngest thereof shall have attained the age of sixteen years, an annuity of Twenty Pounds, lawful money of this Province.

II. }
III. } [Repealed by 55th Geo. III. Ch. 6. and by 56 Geo. III. CH. 17.]

IV. *And be it further enacted by the authority aforesaid*, That the thirty-eighth clause of an Act passed in the fifty-second year of His Majesty's Reign, intituled "An Act to repeal part of the Laws now in force for raising and training the Militia of this Province, and to make further provision for the raising and training the said Militia," shall be repealed, and the same is hereby repealed accordingly. *Provided always*, that nothing herein contained, shall prevent or be construed to prevent the persons who have been wounded or disabled before the passing of this Act, or the widow or child or children of such person or persons as have been killed on actual service, from receiving the annuity heretofore by law allowed to them.

Preamble.

(See 2 Geo. IV. Ch. 4;
7 Geo. IV. Ch. 7;
11 Geo. IV. Ch. 23;
5 Wm. IV. Ch. 36;
7 Wm. IV. Ch. 109;
1 Vic. Ch. 43;
3 Vic. Ch. 27 and 28.)

Pension to be paid to the Widows and Children of officers, non-commissioned officers and militia men, killed in actual service.

Pension to officers, non-commissioned officers or militia men disabled on service, and having wife or child; and in case of death before recovering from such incapacity to his widow or children.

Pension to be paid to officers, &c. disabled, not having a wife or child.

38 Sec. of 52 Geo. III. Ch. 1. repealed.

Nothing herein to prevent payment of pensions heretofore allowed.

How annuities to be paid.
(Sec 2 Geo. IV. Ch. 4
Sec. 12.
7 Geo. IV. Ch. 6 Sec. 5.)

May be paid in advance.
&c.

V. *And be it further enacted by the authority aforesaid*, That the said several annuities herein granted shall be paid by the Receiver General of this Province, out of any monies that now are or which may hereafter come into his hands, subject to the disposition of the Parliament of this Province, and in discharge of such Warrant or Warrants as may be issued by the Governor, Lieutenant Governor or Person Administering the Government of this Province; and it shall and may be lawful for the Governor, Lieutenant Governor or Person Administering the Government, to order and direct that the said annuities herein granted and allowed shall be paid either in advance or by *quarterly or half yearly payments*, as to him shall seem proper; and the said several sums of money when so paid shall be accounted for to His Majesty, His Heirs or Successors, through the Lords Commissioners of His Majesty's Treasury, in such manner and form as His Majesty, His Heirs and Successors may please to direct.

CHAP. V.

AN ACT to prohibit the Sale of Spirituous Liquors to Indians within this Province.

[Passed 13th March, 1813.]

[EXPIRED.]

CHAP. VI.

AN ACT to continue an Act passed in the fifty-second year of His Majesty's reign, intituled "An Act to provide means for the Defence of this Province," and to make further provision for the same.

[Passed 13th March, 1813.]

[EXPIRED.]

CHAP. VII.

AN ACT to repeal an Act passed in the forty-fourth year of His Majesty's reign, intituled, "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;" as also an Act passed in the fifty-second year of His Majesty's reign, intituled, "An Act for granting to His Majesty a certain sum of money further to encourage the growth and cultivation of Hemp in this Province, and for other purposes."

[Passed 13th March, 1813.]

[REPEALS 44th GEO. III. CH. 11; AND 52nd GEO. III. SESS. 1. CH. 8.]

CHAP. VIII.

AN ACT to continue for a limited time the Provisional agreement entered into with Lower Canada, at Montreal, on the fifth day of July, one thousand eight hundred and four, relative to Duties, also for continuing, for a limited time, the several Acts of the Parliament of this Province now in force relating thereto.

[Passed 13th March, 1813.]

[EXPIRED.]

CHAP. IX.

AN ACT to alter and amend an Act passed in the forty-eighth year of His Majesty's reign, intituled, "An Act for the better regulation of Parish and Town Officers throughout this Province."

[Passed 13th March, 1813.]

[Repealed by 5th Wm. IV. Chap. 8. 1st Vic. Ch. 21.]

CHAP. X.

AN ACT to amend an Act passed in the forty-ninth year of His Majesty's reign, intituled, "An Act for Quartering and Billeting, on certain occasions, His Majesty's Troops and the Militia of this Province," and to repeal a part of the same.

[Passed 13th March, 1813.]

[Repealed by 1st Vic. Chap. 8. Sec. 54.]

CHAP. XI.

AN ACT for granting a certain sum of money to make good certain sums of money issued and advanced by His Majesty, through His Honour the President, in pursuance of an Address of the House of Assembly.

[Passed 13th March, 1813.]

[TEMPORARY.]

STATUTES OF UPPER CANADA,

PASSED IN THE

THIRD SESSION OF THE SIXTH PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT YORK, ON THE FIFTEENTH DAY OF FEBRUARY, IN THE FIFTY-FOURTH YEAR OF THE
REIGN OF OUR SOVEREIGN LORD GEORGE THE THIRD, AND PROROGUED ON THE
FOURTEENTH DAY OF MARCH FOLLOWING.

GORDOND RUMMOND, ESQUIRE,
PRESIDENT.

ANNO DOMINI 1814.

CHAP. I.

*AN ACT to repeal part of the Laws now in force for Raising and Training
the Militia of this Province, and to make further and more effectual
provision for the same.*

[Passed 14th March, 1814.]

[EXPIRED.]

CHAP. II.

*AN ACT to provide for the issuing and circulation of Government Bills
in this Province.*

[Passed 14th March, 1814.]

[EXPIRED.]

CHAP. III.

*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 expenses
of amending and repairing the Public Highways and Roads, and
building Bridges in the several Districts thereof.*

[Passed 14th March, 1814.]

[TEMPORARY.]

CHAP. IV.

AN ACT to repeal and amend part of an Act passed in the thirty-fifth year of His Majesty's reign, intituled, "An Act to ascertain the eligibility of persons to be returned to the House of Assembly."

[Passed 14th March, 1814.]

[REPEALED BY 58th. GEO. III. CH. 9; and 4th. GEO. IV. SESS. 2. CH. 3.]

CHAP. V.

AN ACT to repeal part of an Act, and to amend and continue an Act passed in the fifty-first year of His Majesty's reign, intituled, "An Act to repeal an Act passed in the forty-seventh year of His Majesty's reign, intituled, 'An Act for granting to His Majesty duties on Licences to Hawkers, Pedlers, and Petty Chapmen, and other trading persons therein mentioned, and further for granting to His Majesty duties on Licences to Hawkers, Pedlers and Petty Chapmen, and other trading persons therein mentioned.'"

[Passed 14th March, 1814.]

[EXPIRED.]

CHAP. VI.

AN ACT to empower His Majesty, for a limited time, to secure and detain such persons as His Majesty shall suspect of a treasonable adherence to the enemy.

[Passed 14th March, 1814.]

[EXPIRED.]

CHAP. VII.

AN ACT laying an additional Duty on Stills, within this Province.

[Passed 14th March, 1814.]

[EXPIRED.]

CHAP. VIII.

AN ACT to continue and amend an Act passed in the fifty-third year of His Majesty's reign, intituled, "An Act to authorise the Governor, Lieutenant Governor, or person administering the Government of this Province, to prohibit the exportation of Grain and other provisions, and also to restrain the Distillation of Spirituous Liquors from Grain."

[Passed 14th March, 1814.]

[EXPIRED.]

CHAP. IX.

AN ACT to declare certain persons, therein described, Aliens, and to vest their estates in His Majesty.

[Passed 14th March, 1814.]

WHEREAS many persons, inhabitants of the United States of America, claiming to be subjects of His Majesty, and renewing their allegiance as such by oath, did solicit and receive grants of Lands from His Majesty, or became seized of Lands by inheritance or otherwise, within this Province, which persons since the declaration of War by the said United States of America against His Majesty, and his subjects of the United Kingdom of Great Britain and Ireland, have voluntarily withdrawn themselves from their said allegiance; and the defence 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 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 such persons as aforesaid, who having received grants of Land, or may have become seized of Lands within this Province, by inheritance or otherwise, as shall have voluntarily withdrawn themselves from this Province into the United States of America, since the first day of July, one thousand eight hundred and twelve, or who may hereafter during the present war, voluntarily withdraw themselves from this Province into the said United States, without licence granted under the authority of the Governor, Lieutenant Governor, or person administering

Preamble.
(See 9 Geo. IV, Ch. 1.)

Persons who having come from the United States of America, and received grants of land in this Province, representing themselves to be British subjects, and having taken the oath of allegiance, who, after 1st July 1812, shall have voluntarily left this Province and gone into the U. S. of America without licence, or may hereafter go thither during the present war with America, without such licence, shall be deemed aliens, and incapable of holding lands in this Province.

the Government of this Province, shall be taken and considered to be aliens born, and incapable of holding Lands within this Province.

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, by Commission under the Great Seal of this Province, to authorise any Sheriff, Coroner or other person or persons in the several Districts of this Province, to inquire by the oath of twelve good and lawful men of their respective Districts, and by inquisition indented under the hands and Seals of the said Jurors, and of the said Commissioner or Commissioners, to return to His Majesty's Court of King's Bench all such persons as aforesaid, who seized of Land in the respective Districts, shall have voluntarily withdrawn from the Province into the United States of America since the said first day of July, and before the conclusion of the existing war with those States, without Licence granted under the authority of the Governor, Lieutenant Governor, or person administering the Government, and from and after the said finding by such inquisition, His Majesty shall become seized of the Lands so found to have been in the seisin of such person on the said first day of July: *Provided always,* that nothing in this Act contained shall be construed to prevent any persons interested in the said Lands from traversing any inquisition or office respecting the same, at any time within one year after the peace shall be established between His Majesty and the United States of America, or within one year after the finding of such inquisition.

Governor &c. may authorise, by commission under the seal of the Province, any Sheriff, Coroner or other person, in the several Districts of this Province, to inquire of such persons, by a jury, and also what lands they were seized of, and after such inquisition such lands shall revert to his Majesty;

Persons interested in the said lands may traverse such inquisition within one year after peace with America, or after finding of the said inquisition.

III. *Provided always,* That nothing in this Act shall extend, or be construed to extend, to affect the claim of any bona fide creditor, or to defeat any just lien or security of or upon any Lands, Tenements, or Hereditaments whatsoever:

This Act not to affect the claim of bona fide creditors, or defeat any just lien, or claim on such lands.

(See 59 Geo. III. Ch. 12;
3 Geo. IV. Ch. 6;
9 Geo. IV. Ch. 1;
10 Geo. IV. Ch. 10.)

CHAP. X.

AN ACT to grant to His Majesty an additional Duty on Shop and Tavern Licences.

[Passed 14th March, 1814.]

[EXPIRED]

CHAP. XI.

AN ACT for the more impartial and effectual trial and punishment of High Treason, and Misprision of High Treason, and Treasonable practices, in this Province.

[Passed 14th March, 1814.]

[EXPIRED.]

CHAP. XII.

AN ACT for applying a certain sum of Money to make good certain Monies issued and advanced by His Majesty, through His Honour Sir Roger Hale Sheaffe, Baronet, President, in pursuance of an Address of the House of Assembly.

[Passed 14th March, 1814.]

[TEMPORARY.]

CHAP. XIII.

AN ACT to supply, in certain cases the want of County Courts in this Province.

[Passed 14th March, 1814.]

[REPEALED BY 55TH GEO. III. CH. 2.]

CHAP. XIV.

AN ACT to repeal so much of an Act passed in the seventh year of the reign of Queen Anne, and also so much of an Act passed in the seventeenth year of the reign of His late Majesty King George the Second, as puts an end to the forfeiture of inheritance upon attainder of Treason, after the death of the Pretender and His Sons.

[Passed 14th March, 1814.]

Preamble.

7th Anne, chap. 21, in part recited;

WHEREAS an Act was passed in the seventh year of the reign of Her late Majesty Queen Anne, intituled, "An Act for improving the Union of the two Kingdoms, whereby amongst other things it was provided and enacted, that after the decease of the person who pretended to be Prince of Wales, during the life of the late King James, and since pretends to be King of Great Britain; and at the end of the term of three years after the immediate succession to the Crown, upon the demise of Her said late Majesty, should take effect, no attainder for Treason should extend to the disinheriting of any heirs, nor to the prejudice of the right or title, of any person or persons, other than the right or title of the offender or offenders, during his, her or their, natural lives only; and that it should and might be lawful for every person or persons, to whom the right or interest of any lands, tenements or hereditaments, after the death of any

such offender should or might have appertained, if no such attainder had been, to enter the same: *And whereas* by another Act passed in the seventeenth year of the reign of His late Majesty King George the Second, intituled, "An Act to make it High Treason to hold correspondence with the Sons of the Pretender to His Majesty's Crown, and for attainting them of High Treason, in case they should land or attempt to land in Great Britain, or any of the Dominions thereunto belonging, and for suspending the operation and effect of a clause in the Act of the seventh year of the late Queen Anne, for improving the Union of the two Kingdoms, relating to forfeitures for High Treason until after the decease of the Sons of the Pretender," after reciting so much of the aforesaid Act as is herein before recited, it was further enacted, that the said provision, so made by the aforesaid Act, should not take place, nor have any operation, force or effect whatsoever, until after the deceases, not only of the said Pretender, but also of his eldest Son, and all and every other Son and Sons: *And whereas* it is expedient that the said provisions in the two several Acts contained and herein before recited, should be repealed. *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 provisions in the said two several Acts contained, and herein before recited, shall be and the same are hereby repealed.

17th Geo. II. chap. 29,
recited.

Certain provisions in the
said Acts contained,
repealed by this Act.
(See 3 Wm. IV. Ch. 5.)

CHAP. XV.

AN ACT to empower the Commissioners of the Peace for the Home District, in their Court of General Quarter Sessions assembled, to establish and regulate a Market in and for the Town of York, in the said District.

[Passed 14th March, 1814.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XVI.

AN ACT to facilitate the circulation, within this Province, of Army Bills, issued by authority of the Province of Lower Canada.

[Passed 14th March, 1814.]

[EXPIRED.]

CHAP. XVII.

AN ACT for granting to His Majesty, His Heirs and Successors, a sum of Money towards defraying the expense attending the Defence of this Province.

[Passed 14th March, 1814.]

[TEMPORARY.]

CHAP. XVIII.

AN ACT to continue, for a limited time, the provisional Agreement entered into between this Province and Lower Canada, at Montreal, on the fifth day of July, one thousand eight hundred and four, relative to Duties, also for continuing, for a limited time, the several Acts of the Parliament of this Province relating thereto.

[Passed 14th March, 1814.]

[EXPIRED.]

CHAP. XIX.

AN ACT to continue an Act passed in the forty-sixth year of His Majesty's reign, intituled, "An Act to make provision for certain Sheriffs in this Province."

[Passed 14th March, 1814.]

[EXPIRED.]

STATUTES OF UPPER CANADA,

PASSED IN THE

FOURTH SESSION OF THE SIXTH PROVINCIAL PARLIAMENT OF UPPER CANADA;

MET AT YORK, ON THE FIRST DAY OF FEBRUARY, IN THE FIFTY-FIFTH YEAR OF THE REIGN
OF OUR SOVEREIGN LORD GEORGE THE THIRD; AND PROROGUED ON THE
FOURTEENTH DAY OF MARCH FOLLOWING.

GORDON DRUMMOND, ESQUIRE,
PRESIDENT.

ANNO DOMINI 1815.

CHAP. I.

*AN ACT to grant to His Majesty a sum of money to provide for amending
and repairing the Public Highways in this Province.*

[Passed 14th March, 1815.]

[TEMPORARY.]

CHAP. II.

*AN ACT to repeal an Act passed in the fifty-fourth year of His Majesty's
reign, intituled, "An Act to supply, in certain cases, the want of County
Courts in this Province," and to make further provision for proceeding
to outlawry, in certain cases therein mentioned.*

[Passed 14th March, 1815.]

WHEREAS doubts have arisen respecting the construction of an Act
of the Legislature of this Province, passed in the fifty-fourth year of His
Majesty's reign, intituled, "An Act to supply, in certain cases, the want of
County Courts in this Province": *Be it therefore enacted* by the King's
most Excellent Majesty, by and with the advice and consent of the Legis-
lative Council and Assembly of the Province of Upper Canada, consti-
tuted and assembled by virtue of and under the authority of an Act passed

Preamble.

(Sec 1 Vic. Ch. 9.)

Such part of the Act passed in the 54th of the King as provides, that it shall be lawful for the Court of King's Bench on the usual return of "non est inventus," to the alias and pluries writs of capias, to issue a writ of exigent, &c. shall be considered to mean where by law they are required.

By the law of England.

Nothing herein contained shall extend to make void any proceedings had under the said Act.

(54 Geo. III. Ch. 13. repealed.)

The Courts of General Quarter Sessions of the Peace in the several Districts, declared to be in the stead of Sheriff's County Courts of England, as far as respects outlawry.

The process upon every indictment shall be a capias, issued from the Court before whom the said indictment shall be found, directed to the Sheriff of the District wherein the said Court shall be sitting; and if the person cannot be taken during the sitting of the said Court, then so soon after as he shall be taken, cause him to be brought before some Justice of the Peace of said District, to be dealt with according to law. Capias to be returnable in King's Bench on the first day of the term after the sitting of the said Court; and if upon the return of the said writ, Sheriff returns "non est," then an alias to issue, tested of the first day of

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 Act as provides, that it shall and may be lawful for the Court of King's Bench in this Province, on the usual return of "non est inventus" to the alias and pluries writs of capias, to issue a writ of exigent, and award a writ of proclamation as therein is set forth, shall in all cases that have arisen or may hereafter arise, be taken and considered to mean that such alias and pluries writs of capias must be taken out and returned as aforesaid, when by law they are usually required, before the writ of exigent or proclamation shall issue or be awarded in manner aforesaid; but that the said Act shall not extend, or be construed to extend, to make necessary alias or pluries writs of capias, or any more or other writs of capias, before the issuing of the exigent and awarding proclamation, than are required in similar cases by the law of England: *And whereas* it is expedient that some further and more particular provision be made respecting process of outlawry in this Province, *be it therefore enacted by the authority aforesaid*, that the said Act of the Parliament of this Province, passed in the fifty-fourth year of His Majesty's reign, intituled, "An Act to supply, in certain cases, the want of County Courts in this Province." be and the same is hereby repealed: *Provided always nevertheless*, that nothing in this Act contained, shall extend to make void any proceedings heretofore had or made under the provisions and authority of the said Act.

II. *And be it further enacted by the authority aforesaid*, That from and after the passing of this Act, the Courts of General Quarter Sessions of the Peace in the several Districts of this Province, shall be and they are hereby declared to be in the place and stead of the Sheriff's County Courts of England, as far as respects any purpose of outlawry, or any proceedings therein.

III. *And be it further enacted by the authority aforesaid*, That after the passing of this Act, the process upon every indictment to bring the person indicted into Court, shall be a capias, in the usual form, issued from the Court before whom the said indictment shall be found, directed to the Sheriff of the District wherein the said Court shall be then sitting, commanding to take the person so indicted and bring him before the said Court: and if the person cannot be taken during the sitting of the said Court, that then so soon after as he shall be taken, he do bring or cause him to be brought, before some Justice of the Peace of the said District, to be dealt with according to law; which said capias shall be made returnable in the Court of King's Bench, on the first day of the term next after the sitting of the said Court before which the said indictment shall have been found as aforesaid; and if upon the return of the said writ, the Sheriff of the said District shall return that the person therein named, is not to

be found in his District, then an alias writ of *capias* shall issue from the Court of King's Bench, under the seal of the said Court, tested of the first day of the term, if in term time, or on the last day of the preceding term, if in vacation, returnable before the said Court of King's Bench on the first day of the term next ensuing that in which the alias *capias* shall be so issued.

the term, if in term time, or last day of the term, if in vacation, returnable first of ensuing term.

IV. *And be it further enacted by the authority aforesaid,* That if to the said writ of alias *capias*, the Sheriff shall return that the person therein named is not to be found in his District, then upon motion in Court, or before a Judge in vacation, a writ of exigent shall issue under the seal of the said Court, tested on the first day of the term, if in term time, or on the last day of the preceding term, if in vacation, and directed to the Sheriff of the District into which the said writs of *capias* shall have issued; which writ of exigent shall be returnable on the first day of the fifth term from that in which the same shall be awarded, and may be in the form following, that is to say:—

If to the writ of alias *capias* the Sheriff returns "non est inventus," then upon motion in Court, a writ of exigent shall issue, directed to the Sheriff of the District into which the *capias* shall have issued.

Returnable on the first day of the fifth term from that in which the same shall be awarded.

George the Third, by the grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith.

Form of writ of exigent.

To the Sheriff of the District, Greeting:

We command you, that you cause A. B. late of to be demanded from General Quarter Sessions, to General Quarter Sessions in your District, until, according to the law of this Province, he be outlawed if he doth not appear, and if he doth appear, then that you take him and cause him to be safely kept, so that you may have his body before us on the day of term next, (the return of the writ) where we shall then be, in Upper Canada, to answer to a certain bill of indictment found against him for (whatsoever the crime may be) and have then there this writ.

Witness, the Honorable Chief Justice, at York,
this day of in the year
of our reign.

V. *And be it further enacted by the authority aforesaid,* That the Sheriff to whom the said writ of exigent shall issue, shall at three successive Courts of General Quarter Sessions of the Peace, to be holden in and for his District, before the return of the said writ, in open Court, immediately after the commission of the peace for the District shall have been read, make or cause to be made proclamation of all and every the persons named in the said exigent, requiring them to render themselves to answer to the said indictment.

Sheriff at three successive Courts of General Quarter Sessions of the Peace to make proclamation of the persons named in the exigent, requiring them to render themselves to answer indictment.

VI. *And be it further enacted by the authority aforesaid,* That if the person or persons so demanded do not appear, the Sheriff to whom the said writ of exigent is directed, shall indorse upon the said writ of exigent a return in the following form:

If the person demanded, does not appear, Sheriff to indorse the writ as follows.

"By virtue of the within writ, to me directed, at the Court of General

Form of return.

Quarter Sessions of the Peace, held at _____ in and for the District of _____ on _____ the _____ day of _____ in the year within written, the within named A. B. was a first time demanded, and did not appear: And at the Court of General Quarter Sessions of the Peace, held at _____ aforesaid, for the District aforesaid, on _____ the _____ day of _____ in the year aforesaid, (or as it may be) the said A. B. was a second time demanded, and did not appear: And at the Court of General Quarter Sessions of the Peace held at _____ aforesaid, for the District aforesaid, on _____ the _____ day of _____ in the year aforesaid, (or as it may be) the said A. B. was a third time demanded, and did not appear, therefore the said A. B. according to the law of this Province is outlawed.

The answer of

C. D. Sheriff.

In all cases wherein any writ of exigent shall be awarded against any person described in the indictment as being lately conversant in any other District than that in which the exigent shall be awarded, a writ of proclamation shall be awarded with the same teste and return as the writ of exigent, directed to the Sheriff of the District in which the person indicted shall in the said indictment be described as having been lately conversant.

VII. *And be it further enacted by the authority aforesaid,* That in all criminal cases wherein any writ of exigent shall be awarded under and by virtue of this Act, against any person or persons described in the indictment, ~~as~~ being lately conversant in any other District of this Province than that in which the said exigent shall be so awarded, a writ of proclamation shall be awarded and made out of the same Court, or by order of a Judge in vacation, having day of test and return as the writ of exigent shall have, and shall be directed and delivered to the Sheriff of the District in which the person or persons indicted shall in the said indictment be described as having lately been conversant, which writ of proclamation may be in the following form:

Form of writ of proclamation.

George the Third, &c. &c. &c.

To the Sheriff of the _____ District, Greeting:

Whereas by a writ, we lately commanded our Sheriff of the District of _____ that he should cause A. B. late _____ to be demanded from General Quarter Sessions, to General Quarter Sessions, until, according to the law of this Province, he should be outlawed if he did not appear, and if he did appear, then that he should take him and cause him to be safely kept, so that he might have his body before us on the _____ day of _____ term then next, wheresoever we should then be, in Upper Canada, to answer to a certain bill of indictment found against him for _____; therefore we command you, that in pursuance of the Act of the Parliament of this Province, passed in the fifty-fifth year of our reign, you cause the said A. B. to be proclaimed upon three several days according to the form of the said Statute, that he render himself to our Sheriff of _____ so that he may have his body before us, at the time aforesaid, wheresoever we shall then be, in Upper Canada, to answer to the said indictment, and have there then this writ.

Witness, the Honorable _____ at York, this
day of _____ in the _____ year of our reign.

And that the Sheriff to whom the said writ of proclamation shall issue, shall at three successive Courts of General Quarter Sessions of the Peace before the return of the said writ, in open Court, on the first day of the said Court, make or cause to be made proclamation of all and every the persons named in the said writ of proclamation, according to the command of the said writ.

Sheriff at three successive Courts of General Quarter Sessions before the return of the writ, to make proclamation according to the command of the said writ.

VIII. *And be it further enacted by the authority aforesaid,* That when the said writ of proclamation shall have been executed as aforesaid, the Sheriff to whom the same shall be directed, shall indorse thereon a return in the following form:—

When the writ of proclamation shall have been executed, the Sheriff shall return the same.

“By virtue of the within writ to me directed, I caused the within named J. A. B. to be proclaimed three several days, according to the effect of the within mentioned Statute, as it is within commanded me.

Form of return.

The answer of C. D. Sheriff.”

IX. *And be it further enacted by the authority aforesaid,* That after the return of the said writ of exigent, and of the writ of proclamation, when required to be issued in manner aforesaid, the person or persons against whom the same shall have issued, shall in default of appearance, incur and suffer the same forfeiture and disabilities, and the like process shall be had thereupon as in cases of outlawry for the same offences by the criminal law of England, as it stood on the seventeenth day of September, in the year of Lord one thousand seven hundred and ninety-two.

After the return of the exigent and proclamation, the person or persons against whom they shall have issued, shall in default of appearance, incur the same forfeiture, &c. as in cases of outlawry by the law of England as it stood 17th Sept. 1792.

X. *And whereas,* by reason of the disturbed state of this Province, and the want in some cases of General Courts of Quarter Sessions of the Peace being held as heretofore, it may have been impracticable to proceed regularly to outlawry in all such cases as may have arisen: *be it therefore further enacted by the authority aforesaid,* That in all cases where the Sheriff has made to the first writ of capias to him directed, the usual return of “non est inventus,” upon which a second capias ought to issue; and also in all cases where writs of exigent have been awarded, but have not yet been issued or acted upon by reason of the difficulties above recited, it shall and may be lawful to continue the proceedings therein, according to the provisions of this Act, as if no lapse of time had intervened since the last proceedings in any such case, and to prosecute the parties to outlawry in like manner as if the capias had been returned according to this Act, or the exigent had been awarded immediately before the next proceeding that shall be had therein; and that no chasm of time before the continuance of such proceedings in the cases before mentioned, shall be deemed in law a discontinuance, or shall vitiate or render null the process to outlawry therein, any law to the contrary notwithstanding.

In all cases where the Sheriff has made to the first writ of capias, the usual return of “non est inventus” upon which a second writ of capias ought to issue, and in all cases where writs of exigent have been awarded but have not yet been issued, it shall be lawful to continue the proceedings according to the provisions of this Act, as if no lapse of time had intervened. No chasm of time before the continuance of such proceedings, to be deemed a discontinuance.

XI. *And be it further enacted by the authority aforesaid,* That this Act shall continue and remain in force for and during the term of two years, and from thence to the end of the next ensuing Session of Parliament, and no longer.

Continuance of this Act. (Continued by 58 Geo. III. Chap. 11, 2 George IV. Chap. 9, 3 Wm. IV. Ch. 6; Made perpetual by 2 Vic. Ch. 7.)

CHAP. III.

AN ACT to afford relief to Barristers and Attornies, and to provide for the admission of Law Students within this Province, and for other purposes therein mentioned.

[Passed 14th March, 1815.]

Preamble.

WHEREAS the glorious and honourable defence of this Province, in the war with the United States of America, hath necessarily called from their usual occupations and professions most of the inhabitants of the said Province, and amongst them very many Barristers, Students at Law, Attornies, and articled Clerks of Attornies within the same, whereby the regular meetings of the Benchers of the Law Society of the said Province being for many terms past interrupted, several young gentlemen have been prevented from making due application for admission on the books of the said Society as Students at Law, and several Students at Law have in like manner been prevented from being duly called to the Bar of the said Province, to their manifest and great injury: *And whereas* to obviate this evil, as far as in them lay, at a meeting of the said Law Society held as of Hilary Term, in the fifty-fifth year of His present Majesty's reign, the Benchers of the said Law Society did enter upon their books the names of several persons who have been prevented in manner aforesaid, from obtaining their due admission as Students and Barristers as aforesaid, therefore to remove all doubts as to the legality of such entry or entries: *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 those persons whose names are now entered upon the books of the Law Society, as Students at Law and Barristers, shall be deemed and held to be legally and regularly entered on the said books, and are hereby declared to be Students of Law and Barristers within this Province, and of such standing as to time, as is now allowed to each respectively upon the books of the society.

All those persons whose names are entered upon the books of the law society as students at law and barristers, shall be deemed legally entered on the said books.

It shall be lawful for the benchers of the law society in Michaelmas term next, to make a further entry of the names of other students or barristers; and all such persons so entered in Michaelmas term, shall be held to be legally entered;

II. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Benchers of the said Law Society, or a quorum thereof, in Michaelmas term next, to make a further entry upon the books of the said Society, of the names of other Students or Barristers who may have been, and still continue to be, prevented by the causes aforesaid, from making their proper application in due time for their respective admissions, and that all such persons so to be entered upon the said books in Michaelmas term next, shall be held to be legally and regularly

entered on the said books, and shall in like manner be considered and held as to term and degree as Students and Barristers, according to the tenor of such entry so to be made in Michaelmas term next as aforesaid: *Provided*, that nothing herein contained shall be construed to be compulsory upon the said Society to make such admissions, but that the same and every of them to be made by virtue of this Act, shall be so entered and made only upon the approbation and unanimous vote of a legal quorum of the said Benchers.

Nothing herein contained to be compulsory upon the said society to make such admissions.

III. *And be it further enacted by the authority aforesaid*, That all those persons whose names are now entered upon the rolls of the Court of King's Bench, as Attornies thereof, and who have by military or other public duty, been interrupted in their regular service, limited in their respective articles of Clerkship, are hereby declared to be regularly entered and admitted as such Attornies, any defect in such entry or entries as to the time of service, notwithstanding.

All persons now entered upon the rolls of the court of K. B. as attornies, &c. are declared to be regularly entered.

IV. *And be it further enacted by the authority aforesaid*, That in all future admissions of Attornies' Clerks, who have been bona fide articulated as such, before the passing of this Act, and who for any portion or portions of time, within the period limited in their respective articles of Clerkship, have been withdrawn from the service of their masters, by any military or any civil or public duty, or by any other matter, cause or circumstance occasioned by the war, and preventing such regular service, it shall and may be lawful for the Court of King's Bench to admit such articulated Clerks to be Attornies of the said Court at the end of five years from the date of their respective indentures, without the usual affidavit of service, and that all such Attornies so to be entered, shall be considered and held as Attornies of the said Court legally admitted, any defect by reason of interrupted service, for the causes aforesaid, notwithstanding.

In all future admissions of attornies' clerks who have been articulated as such before the passing of this Act, and who for any portion of time during their clerkship, have been withdrawn from the service of their masters by any military or civil duty &c.

To be admitted without the usual oath of service.

CHAP. IV.

AN ACT for granting a Compensation to Thomas Merrit, Esquire, Shériff of the District of Niagara, for certain extraordinary Services performed by him.

[Passed 14th March, 1815.]

[TEMPORARY.]

CHAP. V.

AN ACT to continue and amend an Act passed in the fifty-first year of His Majesty's reign, intituled, "An Act to repeal an Act passed in the forty-seventh year of His Majesty's reign, intituled, 'An Act to repeal the several Acts now in force in this Province relative to rates and assessments, and also to particularise the property, real and personal, which, during the continuance thereof, shall be subject to rates and assessments, and fixing the several valuations at which each and every particular of such property shall be rated and assessed," and to make further provision for the same.

[Passed 14th March, 1815.]

[REPEALED BY 59TH GEO. III. SESS. 2. CH. 7.]

CHAP. VI.

AN ACT to explain and amend an Act passed in the fifty-third year of His Majesty's reign, intituled, "An Act to provide for the maintenance of persons disabled, and the widows and children of such persons as may be killed, in His Majesty's Service."

[Passed 14th March, 1815.]

[REPEALED BY 2ND GEO. IV. SESS. 1. CHAP. 4.]

CHAP. VII.

AN ACT to exonerate Isaac Swayze, Esquire, from the payment of certain monies therein mentioned.

[Passed 14th March, 1815.]

[TEMPORARY.]

CHAP. VIII.

AN ACT to provide for the re-building and repair of certain Gaols and Court Houses in this Province.

[Passed 14th March, 1815.]

[TEMPORARY.]

I. Preamble. £6000 appropriated for building Gaols in the Niagara, London and Western Districts, viz: £2000 Western District; £2000 London District; £2000 District of Niagara. II. How money hereby granted to be paid and accounted for.

CHAP. IX.

AN ACT to amend an Act, intituled, "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 relative to the Administration of Justice, done in the several Districts of this Province, and also to fix the time of holding the Courts of General Quarter Sessions of the Peace in and for the same."

[Passed 14th March, 1815.]

[Repealed by 7th Wm. IV. Chap. 11.]

CHAP. X.

AN ACT to Licence Practitioners in Physic and Surgery throughout this Province.

[Passed 14th March, 1815.]

[Repealed by 59th Geo. III. Chap. 13.]

CHAP. XI.

AN ACT granting relief to certain Inspectors of Districts within this Province.

[Passed 14th March, 1815.]

[TEMPORARY.]

CHAP. XII.

AN ACT to provide for the accommodation of the Provincial Legislature, at its next Session.

[Passed 14th March, 1815.]

[TEMPORARY.]

C H A P. XIII.

AN ACT granting to His Majesty a certain sum of Money for the uses of the Incorporated Militia of this Province, and other purposes therein mentioned.

[Passed 14th March, 1815.]

MOST GRACIOUS SOVEREIGN :

WE Your Majesty's dutiful and loyal subjects, the Commons of Upper Canada, in Provincial Parliament assembled, being desirous of manifesting the high sense entertained of the important and meritorious services of the Incorporated Militia of this Province, during the late war with the United States of America, and being desirous of rewarding them, to the extent of our means, beseech Your Majesty that it may be enacted, &c.

Preamble. £6000, granted, viz.; £3833 6 8, to be applied as follows :—To the officers, non-commissioned officers and privates of the Incorporated Militia, six month's pay, £4594 15 2. To the officers and non-commissioned officers of the line attached to the incorporated Militia, the next pay of their respective ranks in the said corps £1000. To the officers and non-commissioned officers and privates of the Incorporated Militia Artillery, six month's pay, £288 11 6. To the Speaker of the House of Assembly to purchase a sword, to be presented to Col. Robinson, late of the Incorporated Militia, £100 guineas.

C H A P. XIV.

AN ACT for applying a certain sum of Money therein mentioned, to make good certain Monies advanced by His Majesty, through His Honour the President, in pursuance of several Addresses of this House.

[Passed 14th March, 1815.]

[TEMPORARY.]

C H A P. XV.

AN ACT to provide for the erection of a monument to the Memory of the late President, Major General Sir Isaac Brock.

[Passed 14th March, 1815.]

MOST GRACIOUS SOVEREIGN :

WHEREAS at the Declaration of War by the United States of America against Great Britain, the Government of this Province was administered with great uprightness and ability by the late Major General Sir Isaac Brock; *And whereas* by the wisdom of his councils, the energy of his character, and the vigor with which he carried all his plans into effect, the inhabitants of this Province, at a time when the country was almost destitute of regular troops, were inspired with the fullest confidence in him and in themselves, and were thereby induced most cordially to unite with and follow him in every operation which he undertook for their defence; *And whereas* after having achieved the most brilliant success, and performed the most splendid actions, that truly illustrious

commander, contending at the head of a small body of regular troops and militia, against a very superior force of the enemy, devoted his most valuable life; *And whereas* the inhabitants of this Province, reverencing his character, feel it a tribute due to his memory to express the same by a public and lasting testimonial, &c.

Preamble. £1000 granted for the constructing a monument to the memory of Major Gen. Sir Isaac Brock. II. How to be accounted for.

[See 7 Geo. IV. Chap. 30.]

CHAP. XVI.

AN ACT to repeal part of, and to amend an Act of the Parliament of this Province, passed in the forty-first year of His Majesty's reign, intituled, "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 relative to the administration of Justice, done in the several Districts of this Province, and also to fix the time of holding the Courts of General Quarter Sessions of the Peace in and for the same," and to make further provision for the same.

[Passed 14th March, 1815.]

[Repealed by 7 Geo. IV. Chap. 13.]

CHAP. XVII.

AN ACT to grant a sum of Money to His Majesty, to enable the Honourable James Baby to pay for a certain quantity of Hemp, delivered to him, as Commissioner for the purchase of Hemp in the Western District of this Province.

[Passed 14th March, 1815.]

[TEMPORARY.]

CHAP. XVIII.

AN ACT to Incorporate the Midland District School Society

[Passed 14th March, 1815.]

[See Local and Private Acts, in 2nd Volume.]

STATUTES OF UPPER CANADA,

PASSED IN THE

FIFTH SESSION OF THE SIXTH PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT YORK, ON THE SIXTH DAY OF FEBRUARY, IN THE FIFTY-SIXTH YEAR OF THE REIGN
OF OUR SOVEREIGN LORD GEORGE THE THIRD, AND PROROGUED ON THE
FIRST DAY OF APRIL FOLLOWING.

FRANCIS GORE, ESQUIRE,
LIEUTENANT GOVERNOR.

ANNO DOMINI 1816.

CHAP. I.

AN ACT to alter the time of holding the Courts of General Quarter Sessions of the Peace, in the London and Johnstown Districts of this Province.

[Passed 22nd March, 1816.]

[Repealed by 7th Wm. IV. Chap. 11.]

CHAP. II.

AN ACT to repeal part of an Act of the Parliament of this Province, passed in the thirty-eighth year of His Majesty's reign, intituled, "An Act for the better division of this Province," and more effectually to provide for the administration of Justice, by constituting the Counties of Prescott and Russell, under certain modifications, a separate District."

[Passed 22nd March, 1816.]

[See Local and Private Acts, in 2nd Volume.]

C H A P. III.

AN ACT to repeal part of, and to amend the laws now in force for the better collection of His Majesty's Revenue in this Province, and to make further and more effectual provision for the same.

[Passed 22nd March, 1816.]

MOST GRACIOUS SOVEREIGN:

WHEREAS the provisions of an Act of the Parliament of this Province, 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;" and also of a certain other Act of the Parliament of this Province, passed in the forty-fifth year of His Majesty's reign, intituled, "An Act for altering the time of issuing licences for the keeping a house or any other place of public entertainment, or for the retailing of wine, brandy or any other spirituous liquors, or for the having and using of stills for the purpose of distilling spirituous liquors; and for repealing so much of an Act passed in the forty-third year of His Majesty's reign, as relates to the periods of paying into the hands of the Receiver General, the monies collected by the Inspector of each and every District throughout this Province for such licences," have not been found fully to answer the intended purposes; *And whereas*, it has become necessary that more effectual provision be made for the same; we 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 the fifth clause of the first recited Act, and also the fourth clause of the last recited Act, be and the same are hereby repealed.

Fifth clause 43d Geo. 3rd & the 4th clause 45th Geo. 3rd repealed.

Each Inspector in this Province is required to render within a month after the 5th of Jan'y in every year during the continuance of this Act, a just account of the monies he may have received; Such Inspectors shall pay such monies unto the Receiver General within two months thereafter. Every such Inspector to transmit a true account quarterly of all monies he may receive; And in one month subsequent thereto to pay the same to the Receiver General.

II. }
 III. } [Superseded by 3rd Vic. Ch. 9. Sec 4.]

IV. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful, and every Inspector is hereby required, to furnish quarterly, on the first day of the General Quarter Sessions, to the Clerk of the Peace, an accurate list of all *still, shop and tavern* licences, issued by him during the preceding quarter, in order that the same may be laid before the Justices in Quarter Sessions, in their respective Districts assembled.

The said Inspectors to furnish on the first day of General Quarter Sessions, to the Clerk of the Peace, a list of all licences issued. (See 6 Wm. IV. Ch. 4. Sec. 8; 3 Vic. Ch. 19 Sec. 10.)

The Clerk of the Peace in each District, on the 1st of May and 20th of February in every year, to transmit to the Inspector General a certified copy of such list as aforesaid, for which the said Clerk of the Peace shall receive £2.

(See 6 Wm. IV. Ch. 3 Sec. 10;
3 Vic. Ch. 19, Sec 10.)

V. *And be it further enacted by the authority aforesaid, That the Clerk of the Peace in each and every District within this Province, shall on or before the first day of May, and the twentieth day of February, in each and every year, transmit to the Inspector General of this Province, a certified copy of such lists as aforesaid, to be laid before the House of Assembly of this Province; for which the said Clerk of the Peace shall be entitled to receive the sum of two pounds, to be paid out of the rates and assessments levied, or hereafter to be levied, raised and collected within such District.*

Every Inspector who shall not make the said returns or pay over the money as aforesaid shall forfeit £100;

(Appears to be superseded by 3 Vic. Ch. 9; Sec 4.)

VI. *And be it further enacted by the authority aforesaid That if any Inspector as aforesaid, shall neglect to transmit such account, or to pay over to the Receiver General as aforesaid, such monies so by him received and collected at the different periods, and in such manner as by this Act is required, he shall for every such neglect forfeit and pay the sum of one hundred pounds, lawful money 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, wherein no essoin, protection, wager of law, or more than one imparlance shall be allowed; one moiety of which sum shall be paid to the person who shall sue for the same, and the other into the hands of the Receiver General of this Province, to the use of the King's Majesty, His Heirs and Successors, for the public uses of this 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, His Heirs and Successors, shall be graciously pleased to direct.*

A moiety to be paid to the person suing for the same and the other to the Receiver General;

How to be accounted for.

CHAP. IV.

AN ACT further to continue an Act passed in the thirty-third year of His Majesty's reign, intituled, "An Act to provide for the appointment of Returning Officers of the several Counties within this Province."

[Passed 22th March, 1816.]

[EXPIRED.]

CHAP. V.

AN ACT to extend the Jurisdiction of the Court of Requests.

[Passed 22nd March, 1816.]

[REPEALED BY 3rd Wm. IV. CH. 1.]

CHAP. VI.

AN ACT to provide, for a limited time, for the appointment of a Provincial Aid-de-Camp within this Province.

[Passed 22nd March, 1816.]

[EXPIRED]

CHAP. VII.

AN ACT for making further and more ample provision for the Adjutant General, of the Militia of this Province.

[Passed 22nd March, 1816.]

[EXPIRED.—See 4th. GEO. IV. SESS. 1. CH. 6; 2nd VIC. CH. 69.]

CHAP. VIII.

AN ACT to revive and continue an Act passed in the forty-second year of His Majesty's reign, intituled "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 Collectors at the same respectively."

[Passed 22nd March, 1816.]

[EXPIRED.]

CHAP. IX.

AN ACT to provide for the remuneration of the Honourable William Dummer Powell, Esquire, for certain services rendered to this Province.

[Passed 22nd March, 1816.]

Preamble. £1000 granted to His Majesty, to be appropriated in remunerating the Hon. W. D. Powell, for services rendered this Province as Commissioner for ascertaining titles to lands within the same; II. The said £1000 shall be paid by the Receiver General, in discharge of any warrant issued by the Governor, Lieutenant-Governor, &c. for that purpose; And shall be accounted for to His Majesty, through the Lords Commissioners of His Treasury, in such manner as His Majesty shall direct.

CHAP. X.

AN ACT to repeal part of, and to continue and amend an Act, passed in the fifty-fourth year of His Majesty's reign, intituled, "An Act for granting to His Majesty an additional duty on shop and tavern Licences."

[Passed 22nd March, 1816.]

[REPEALED BY 59th. GEO. III. SESS. 1. CH. 2.]

CHAP. XI.

AN ACT to continue and amend an Act passed in the fifty-second year of His Majesty's reign, intituled, "An Act to prevent damage to travellers on the highways in this Province."

[Passed 22nd March, 1816.]

Preamble.

WHEREAS an Act of the Parliament of this Province, passed in the fifty-second year of His Majesty's reign, intituled, "An Act to prevent damage to Travellers on the Highways in this Province," will shortly expire; *And whereas* it is found expedient to continue and amend the said Act; *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 recited Act of the Parliament of this Province, and every clause, matter and thing, therein contained, other than the fourth and sixth clauses thereof hereinafter repealed, is hereby continued and declared to be in full force and effect.

52nd Geo. III. to remain in full force, other than the 4th and 6th clauses.

4th and 6th clauses of 52nd Geo. III. repealed.

II. And be it further enacted by the authority aforesaid, That from and after the passing of this Act, the said fourth and sixth clauses of the said recited Act of the Parliament of this Province, and every matter and thing in such clauses contained, shall be repealed, and the same are repealed accordingly.

Penalties how to be paid and accounted for.

III. And be it further enacted by the authority aforesaid, That one moiety of all fines, forfeitures and penalties, levied and collected under

and by virtue of such part of the said recited Act as is hereby continued, shall be paid to the person informing, and the other moiety to the Receiver General of this Province, on or before the first day of October in each and every year, for the support of the Civil Government thereof; to 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 be graciously pleased to direct.

[IV. Repealed by 59th Geo. III. Sess. 2 Ch. 17.]

Continuance of this Act
for four years.

CHAP. XII.

AN ACT granting relief to Catharine McLeod.

[Passed 22nd March, 1816.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XIII.

AN ACT granting relief to Charlotte Overholt.

[Passed 22nd March, 1816.]

Preamble.—£20 per annum granted to Charlotte Overholt, to commence from the death of her husband Abm. Overholt until his child attains the age of 16 years.

[EXPIRED.]

CHAP. XIV.

AN ACT to extend the Limits of the Town of Niagara, in the District of Niagara.

[Passed 22nd March, 1816.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XV.

AN ACT to provide for the Contingent Expenses of both Houses of Parliament during the last Session, and for other purposes therein mentioned.

[Passed 22nd March, 1816.]

[TEMPORARY.]

CHAP. XVI.

AN ACT to afford Relief to Persons holding or possessing Lands, Tenements or Hereditaments, in the District of Niagara,

[Passed 22nd March, 1816.]

[See Local and Private Acts in 2nd Volume.]

CHAP. XVII.

AN ACT to repeal part of, and to alter and amend the Laws now in force for granting Pensions to Persons disabled in the Service and the Widows and Children of Persons who may have been killed in the Service, and to extend the Provisions of the same.

[Passed 22nd March, 1816.]

[REPEALED BY 2ND GEO. IV. SESS. 1. CHAP. 4.]

CHAP. XVIII.

AN ACT to authorise and provide for the building a Gaol and Court House in the Town of York, in the Home District within this Province.

[Passed 22nd March, 1816.]

1. Preamble—Gaol and Court House to be erected in the Town of York. 2.—Justices of the Peace authorised to procure different plans to be laid before them for the purpose of determining on one. 3.—Two or more Justices to contract with any person who shall be desirous of erecting said Gaol and Court House; Public Notice to be given to all persons willing to contract;—Persons contracting to enter into sufficient security, to be approved by the Justices;—Persons contracting, shall engage to complete the building within 24 months after the Contract. 4.—All unappropriated sums that are now or may hereafter come into the hands of the Treasurer of the said Home District, to be applied by the Justices in discharge of the expenses of erecting said Gaol and Court House; 5.—12th clause of 32d Geo. 3d. repealed.

CHAP. XIX.

AN ACT to erect and form a new District out of certain parts of the Home and Niagara Districts, to be called the District of Gore.

[Passed 22nd March, 1816.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XX.

AN ACT granting relief to several Inspectors within this Province.

[Passed 1st April, 1816.]

[TEMPORARY.]

CHAP. XXI.

AN ACT to revive and continue an Act passed in the fifty-second year of His Majesty's Reign, intituled "An Act to continue and amend an Act passed in the forty-eighth year of His Majesty's Reign, intituled 'An Act to continue an Act passed in the forty-fifth year of His Majesty's Reign, intituled, 'An Act to afford relief to those Persons who may be entitled to Claim Lands in this Province, as Heirs or Devizees of the Nominees of the Crown, in cases where no Patent hath issued for such Lands, and further to extend the benefit of the said Act, and to continue part of the same."

[Passed 1st April, 1816.]

WHEREAS, an Act passed in the fifty-second year of His Majesty's Reign, intituled, "An Act to amend an Act, passed in the forty-eighth year of His Majesty's Reign, intituled, 'An Act to continue an Act passed in the forty-fifth year of His Majesty's Reign, intituled, 'An Act to afford relief to those Persons who may be entitled to Claim Lands in this Province, as Heirs or Devizees of the Nominees of the Crown, in cases where no Patent hath issued for such Lands, and further to extend the benefits of the said Act, and to continue part of the same," hath expired; *And whereas*, it is necessary 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

Preamble.
(See 52 Geo. III. Ch. 9;
59 Geo. III. Sess. 2,
Ch. 18.)

52nd George III. Chap. 9
revived, and to continue
in force four years, and
from thence to the end of
the ensuing Session of
Parliament.

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 fifty-second year of His Majesty's Reign, and every part thereof, is hereby revived, and shall continue and be in force for and during the space of four years, and from thence to the end of the then next ensuing Session of the Provincial Parliament, and no longer.

CHAP. XXII.

AN ACT to Increase the Salaries of certain Officers of the Legislative Council and House of Assembly.

[Passed 1st April, 1816.]

[EXPIRED.]

CHAP. XXIII.

AN ACT granting to His Majesty a sum of Money, to remunerate certain Commissioners of Highways in this Province, for certain sums advanced by them towards the Repair of sundry Highways within the same.

[Passed 1st April, 1816.]

[TEMPORARY.]

CHAP. XXIV.

AN ACT to appropriate a sum of Money for providing a Library for the use of the Legislative Council and House of Assembly, of this Province.

[Passed 1st April, 1816.]

[TEMPORARY.]

CHAP. XXV.

AN ACT to continue an Act passed in the fifty-third year of His Majesty's Reign, intituled "An Act to facilitate the circulation within this Province of Army Bills issued by authority of the Province of Lower Canada," and also to continue a certain other Act, passed in the fifty-fourth year of His Majesty's Reign, intituled "An Act to facilitate the circulation within this Province of Army Bills issued by authority of the Province of Lower Canada."

[Passed 1st April, 1816.]

[EXPIRED.]

CHAP. XXVI.

AN ACT for granting to His Majesty a sum of Money towards defraying the Expenses of the Civil Administration of the Government of this Province.

[Passed 1st April, 1816.]

[REPEALED BY 1ST WM. IV. CHAP. 14.]

Preamble.—£2500 granted annually for the support of the Civil Government of this Province. To be paid by the Receiver General in discharge of any Warrant issued by the Governor for that purpose. And to be accounted for through the Lords Commissioners of the Treasury.

CHAP. XXVII.

AN ACT to increase the Salary of the Speaker of the House of Assembly, and to remunerate the present Speaker for past Services.

[Passed 1st April, 1816.]

[REPEALED BY 2ND GEO. IV. SESS. I. CHAP. 27.]

CHAP. XXVIII.

AN ACT for making temporary provision for the Regulation of Trade, between this Province and the United States of America, by Land or Inland Navigation.

[Passed 1st April, 1816.]

[EXPIRED.]

CHAP. XXIX.

AN ACT to continue for a limited time the Provisional Agreement entered into between this Province and Lower Canada, at Montreal, on the fifth day of July, one thousand eight hundred and four, relative to Duties ; also for continuing for a limited time, the several Acts of the Parliament of this Province relative thereto.

[Passed 1st April, 1816.]

[REPEALED BY 58TH GEO. III. CH. 13]

CHAP. XXX.

AN ACT to appropriate a sum of Money for the remuneration of Elizabeth Wright.

[Passed 1st April, 1816.]

[TEMPORARY.]

CHAP. XXXI.

AN ACT to amend an Act passed in the forty-eighth year of His Majesty's reign, intituled, " An Act to explain, amend and reduce to one Act of Parliament, the several Laws now in being, for the raising and training the Militia of this Province."

[Passed 1st April, 1816.]

[REPEALED BY 1st VIC. .CH. 8 SEC. 54; 2nd VIC. CH. 9]

CHAP. XXXII.

AN ACT granting to His Majesty a sum of Money, to be applied for the encouragement of the Cultivation of Hemp within this Province.

[Passed 1st April, 1816.]

[REPEALED BY 58 GEO. III. CHAP. 7.]

CHAP. XXXIII.

AN ACT to regulate the Police, within the Town of Kingston.

[Passed 1st April, 1816.]

[REPEALED BY 4th. GEO. IV. SESS. 2. CH. 30.]

CHAP. XXXIV.

AN ACT for granting to His Majesty, Duties on Licences to Hawkers, Pedlers and Petty Chapmen, and other Trading Persons therein mentioned.

[Passed 1st April, 1816.]

MOST GRACIOUS SOVEREIGN :

WHEREAS, it is necessary to grant to His Majesty, certain Duties on Licences to Hawkers, Pedlers, Petty Chapmen and other Trading Persons, within this Province, We, your Majesty's dutiful and loyal Subjects, the Commons of Upper Canada, in Provincial Parliament assembled, 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 :

Preamble.
(See 58 Geo. III. Ch. 5;
4 Geo. IV. Sess 1, Ch. 18;
9 Geo. IV. Ch. 8;
3 Wm. IV. Ch. 45;
2 Vic. Ch. 23;
3 Vic. Ch. 9, Sec 6;
3 Vic. Ch. 19, Sec 13.)

Licences to be taken out by Hawkers, Pedlers, and other trading persons, such person having taken the oath of Allegiance to His Majesty;

The sums to be paid for such Licences;

Every person, as aforesaid, not being a British subject, to pay for such Licence, as aforesaid, the sum of £30.

Times for taking out such Licences, as aforesaid.

[Repealed by 58th Geo. III. Chap. 5.]

II. [Repealed by 58th Geo. III. Chap. 5.]

III. *And be it further enacted by the authority aforesaid*, That nothing in this Act shall extend, or be construed to extend to prohibit any person or persons, being British born subjects, or subjects become such by naturalization, or by conquest, from selling Leather, Hollow Ware, Farming Utensils, or any Printed Papers, published by Authority, they being the growth, produce or manufacture of this Province, nor to hinder any person or persons, who are the real makers of any Goods, Wares or Merchandize, of the manufactory of this Province, or his, her or their children, apprentices, agents or servants, to such real workers or makers

Cases to which this Act does not extend.

of such Goods, Wares or Manufactories, (they being subjects as above) only from carrying abroad, exposing to sale, or selling by retail or otherwise, any of the said Goods, Wares or Manufactories, of his, her or their own making, in any part of this Province; nor any Tinkers, Coopers, Glaziers, Harness menders, or any other persons, usually trading in mending kettles, tubs, household goods or harness whatsoever, from going about and carrying with him, her or them, proper materials for mending the same, without having a Licence as aforesaid, they being subjects as before recited; *Provided also*, that this Act shall not be construed to extend to prohibit Hucksters or Persons having Stalls or Stands in the Markets, in the Towns within this Province, from selling or exposing to sale, without having a Licence as aforesaid, any Fish, Fruit, Victuals or Goods, Wares and Mechandize, in such stall or stands, they being British subjects as aforesaid, and complying with such Rules and Regulations of Police, as by the Justices in their General Quarter Sessions of the Peace, or by any other authority, are or may be established in such Towns, respecting such stalls and stands.

Licences to be granted by Governor, Lieutenant-Governor, &c. See 3d Vic. Chap. 9 Sec's. 5 & 6. Sums to be paid for said Licences.

IV. *And be it further enacted by the authority aforesaid, That the Licences herein before mentioned, shall be granted by the Governor, Lieutenant Governor or Person administering the Government of this Province; and for every such Licence that shall be delivered, there shall be paid by the person or persons applying for the same, to the Collector, the sum of three shillings and nine pence, current money, and no more, for issuing the same.*

Oath to be taken by the Collectors. Security to be given by said Collectors.

V. }
VI. } [See 3 Vic. Chap. 9. Sec's 5 and 6.]

Collectors to account with the Inspector General every three months; and pay the money collected twice in every year. Compensation to Collectors; The money how to be paid and accounted for. Penalty for Hawkers, Pedlers, &c. trading without Licence.

VII. }
VIII. } [Repealed by 58 Geo. III. Chap. 5.]

No person to sell Wine, Brandy, &c. without first having taken out a Licence for the sale thereof, agreeably to the laws of this Province.

IX. *And be it further enacted by the authority aforesaid, That nothing in this Act shall be construed to permit any person or persons whatsoever, to sell any Wine, Brandy, Rum, or other Spirituous Liquors, without first having taken out a Licence for the sale thereof, agreeably to the Laws of this Province.*

Suits to recover penalties under this Act, to be commenced within 12 months after the offence committed.

X. *Provided always, and be it further enacted by the authority aforesaid, That no Suit or Action shall be brought or commenced against any person or persons, for any Penalty by this Act imposed, that shall not be brought or commenced within twelve months after the offence or offences respectively committed.*

XI. *And be it further enacted by the authority aforesaid, That if any person or persons shall be summoned, as a witness or witnesses, to give evidence before any Justice of the Peace, touching any of the matters relative to this Act, and shall neglect or refuse to appear at the time and place for that purpose appointed, without reasonable excuse for such neglect or refusal, to be allowed of by the said Justices of the Peace, before whom the prosecution shall be depending, that then every such person shall forfeit for every such offence, the sum of ten pounds, current money aforesaid, with costs, to be levied, recovered and paid, in such manner and by such means, as are herein-before directed; and for want of sufficient distress, the offender or offenders shall be sent by such Justices of the Peace, to the nearest Gaol, for such time, not exceeding two months, nor less than one month, as such Justices of the Peace shall think they merit.*

Penalty for refusing to appear or to be examined as a witness.
(See 3 Vic. Chap. 19, Sec. 13.)

XII. *And be it further enacted by the authority aforesaid, That the moiety of every pecuniary penalty or satisfaction by this Act imposed, shall belong to His Majesty, His Heirs and Successors, and shall also be paid by the person or persons, respectively, receiving the same, into the hands of the Receiver General, to and for the uses 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 Lords Commissioners of His Majesty's Treasury, for the time being, in such manner as it shall please His Majesty to direct; and the other moiety thereof, shall belong to the person or persons who shall sue for the same.*

Penalties by this Act imposed, how to be paid and accounted for.
(See 3 Vic. Ch 19, Sec 14.)

XIII. *And be it further enacted by the authority aforesaid, That if any Action or Suit, shall be brought or commenced against any person or persons, for any thing done in pursuance of this Act, such Action or Suit shall be commenced within six months next after the matter or thing done, and not afterwards; and the defendant or defendants, in such Action or Suit may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon; and if afterwards Judgment shall be given to the defendant or defendants, or the plaintiff or plaintiffs shall become nonsuited, or discontinue his, her or their Action or Suit, after the defendant or defendants shall have appeared, then such defendant or defendants, shall have treble costs awarded to him, her or them, against such plaintiff or plaintiffs, and have the like remedy for the same as any defendant or defendants hath or have in other cases, to recover costs at law.*

Limitation of actions for any thing done in pursuance of this Act.

Pleading and costs.

XIV. *Provided always, and be it further enacted by the authority aforesaid, That nothing in this Act contained, shall extend or be construed to extend, to authorise any person or persons, who shall or may be Licenced as aforesaid, to offer and expose to Sale, any Goods, Wares or Merchandise, which shall not be bona fide the property of such person so Licenced as aforesaid.*

Cases to which this Act does not extend.

Cases where no Licence is necessary.

XV. Provided nevertheless, That nothing in this Act shall extend, or be construed to extend, to compel any person or persons, to take out Licence as aforesaid, who may only import into this Province the following articles, viz: Wheat, Flour, Peas, Beans, Oats, Barley, Indian Corn and Meal, Rye, Staves and Heading, Oak, Pine and Fir Timber, and other Lumber, Pot and Pearl Ashes, Furs and Skins not dressed, Beef, Pork, Sheep, Swine and Live Cattle, Cheese, Butter, and all other articles of Provisions; all or any of which articles shall be discharged and disposed of at the Port at which such persons shall make Entry.

Continuance of this Act. (Made perpetual by 2 Vic. Chap. 23.)

XVI. And be it further enacted by the authority aforesaid, That this Act shall be in force, for and during the space of two years.

CHAP. XXXV.

AN ACT for granting to His Majesty a sum of Money, and to Provide for the Appointment of a Provincial Agent for this Province.

[Passed 1st April, 1816.]

[REPEALED BY 2ND GEO. IV. SESS. 2. CHAP. 10.]

CHAP. XXXVI.

AN ACT granting to His Majesty a sum of Money, to be applied to the use of Common Schools throughout this Province, and to provide for the Regulations of said Common Schools.

[Passed 1st April, 1816.]

Preamble.

(See 60 Geo. III. Ch. 7 & 4 Geo. IV. Sess. 2, Ch. 8.)

£6000 to be annually paid for the establishment of common schools, in manner following:
 Hono District £600.
 Newcastle District £400.
 Midland District £1000.
 Johnstown District £600.
 Eastern District £800.
 District of London £600.
 District of Gore £600.
 Niagara District £600.
 Western District £600.
 District of Ottawa £200.

MOST GRACIOUS SOVEREIGN:

WHEREAS it would be conducive to the happiness of the Inhabitants, and general prosperity of this Province, to encourage the Education of youth in Common Schools:

[Repealed by 60th Geo. III. Chap. 7.]

Inhabitants of any Town, &c. to meet to make arrangements for common Schools.

II. And be it further enacted by the authority aforesaid, That from and after the passing of this Act, it shall and may be lawful, for the Inhabitants of any Town, Township, Village or place, to meet together for the purpose of making arrangements for Common Schools in such Town,

Township, Village or place, on or before the first day of June in the present year, and on the first day of June in each and every year, during the continuance of this Act.

III. *And be it further enacted by the authority aforesaid,* That so soon as a competent number of persons as aforesaid, shall unite and build or provide a School-House, engage to furnish twenty Scholars or more, and shall in part provide for the payment of a Teacher, it shall and may be lawful for such persons as aforesaid, or the majority of them, giving eight days previous notice thereof, to meet at some convenient place appointed for that purpose, and it shall and may be lawful for such persons as aforesaid, and they are hereby required, to appoint three fit and discreet persons Trustees to the said Common School, who shall have power and authority to examine into the moral character and capacity of any person willing to become Teacher of such Common School, and being satisfied of the moral character and capacity of such Teacher, to nominate and appoint such person as the Teacher of said Common School.

When a competent number of persons shall unite and build a School House, furnish twenty Scholars, and in part provide for the payment of a Teacher, such persons giving eight days notice, to meet and appoint three fit persons, Trustees to the said School, who have power to appoint a Teacher of said Common School

IV. *Provided always nevertheless, and be it enacted by the authority aforesaid,* That no person shall be appointed Teacher to such Common School unless such person is a Natural Born Subject of His Majesty, or a Subject of His Majesty naturalized by Act of the British Parliament, or a Subject of His Majesty having become such by the conquest and cession of the Province of Quebec, or by having taken the Oath of Allegiance to His Majesty.

No person to be appointed a Teacher, unless a natural born Subject, &c. and having taken the oath of Allegiance.

V. *And be it further enacted by the authority aforesaid,* That the said Trustees, or the majority of them, shall have power and authority, under the provisions hereinafter-mentioned for that purpose, in their discretion to remove such Teacher, as aforesaid, from his School, for any misdemeanor or impropriety of conduct; and it shall and may be lawful for the said Trustees, or the majority of them, in case of demise, dismissal or removal, of any Teacher, as aforesaid, to nominate and appoint, as often as the case may require, one other fit and discreet person as aforesaid, to become such Teacher, as aforesaid: *Provided always nevertheless,* that no Teacher of any Common School, under the provisions of this Act, shall be removed or dismissed from his said School, unless the Board of Education herein-after appointed in each and every District of this Province, sanction the removal or dismissal.

Trustees have power to remove Teacher for any impropriety of conduct,

and appoint another person;

No Teacher to be removed unless the Board of Education sanction the removal.

VI. *And be it further enacted by the authority aforesaid,* That the Trustees appointed, under and by virtue of this Act, to any Common School, as aforesaid, or the majority of them, shall have power and authority to make Rules and Regulations for the good government of the said Common Schools, with respect to the Teacher, for the time being, and to the Scholars, as in their discretion shall seem meet; and that it shall and may be lawful for the said Trustees, and they are hereby required, to report to the District Board of Education, hereinafter to be appointed, the Books used, with the Rules and Regulations used in the said Schools,

Trustees have power to make Rules for the Government of the Schools;

Trustees to report to the Board of Education, the books used in the said Schools, once in three months;

Board of Education to order books not to be used; and to rescind Rules if deemed expedient.

once in every three months: *Provided always*, that it shall and may be lawful for the said District Board of Education, on such report as aforesaid, being received, to order and direct such Books, or any of them, not to be used in the said Schools, and to rescind the said Rules and Regulations, or any part of them, if it should be deemed expedient, giving sufficient notice thereof to the said Trustees, who shall warn the Subscribers to the said School to provide other Books for the tuition of the said Scholars, and to make such other alterations, rules or regulations, in the said Schools as they shall deem necessary, in order that there may be a more uniform system of Education throughout the Province.

All engagements entered into by Subscribers, shall be liable to be sued for their subscription.

VII. *And be it further enacted by the authority aforesaid*, That all engagements, contracts or subscriptions, entered into by the Subscribers to any Common Schools, in any District of the Province, with any person or persons, for the erecting, building or keeping in repair, any School House for the purpose aforesaid, or the payment of the Teacher thereto; such Subscriber or Subscribers, shall be liable to be sued for their subscription by the said Trustees to such Common Schools, or their successors in office, in any Court of this Province having competent jurisdiction.

Trustees once a year to report to the Board of Education the state of the Schools, &c. in order that the Board may report to the Governor, that the same may be laid before the Legislature.

VIII. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the Trustees of the Common Schools in each and every District of this Province, and they are hereby required, once in each and every year, to report to the Board of Education, for that purpose herein after appointed, in each and every District of this Province, the state of the Common Schools, which such Trustees, aforesaid, shall have the direction of, the number of Scholars, the state of Education, with the different branches taught in the said School, and all other matters and things that may tend to cherish the prosperity of the said Common Schools, or that may in any wise benefit the same, in order that the said Board of Education may report the state of the District Common Schools to the Governor, Lieutenant Governor, or Person administering the Government, that the same may be laid before the Legislature at its first meeting for their inspection.

Governor to appoint not more than five persons to compose a Board of Education in each District, three to be a Quorum, who have power to superintend such Schools, and report annually to the Governor.

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, to appoint not more than five fit and discreet persons to compose a Board of Education in each and every District of this Province, three of whom shall be a quorum; who shall have full power to superintend such Common Schools in the Districts for which they are appointed, and shall annually report to the Governor, Lieutenant Governor, or Person administering the Government, the state of the said Common Schools, to be laid before the Legislature at their meeting.

Monies granted to be apportioned to the Teachers, to be paid yearly or half-yearly.

X. [Repealed by 60 Geo. III. Chap. 7.]

XI. And be it further enacted by the authority aforesaid, That the Teachers of such Common Schools established as aforesaid, in any Town, Township, Village or place, in each and every District of this Province, producing a Certificate, signed by the Trustees of any such Common School, stating his having well demeaned himself as Teacher of the said School for Six Months, with the number of Scholars Educated in the said School, being not less than twenty in such School, aforesaid, it shall and may be lawful for the Treasurer of the District to pay to such Teacher his proportion of any sum or sums of money that may be granted by the Legislature of this Province for Common Schools in the respective Districts thereof, during the continuance of this Act.

Teachers producing a Certificate signed by Trustees;
(See 4 Geo. IV. Sess. 2, Ch. 2, Sec. 6.)

Treasurer of the District to pay such Teacher.

XII. [Repealed by 60 Geo. III. Chap. 7.]

District Board to apply such part of the money granted, not exceeding £100 for the purchase of books for the use of the Schools.

XIII. And be it further enacted by the authority aforesaid, That the Board of Education, to be appointed by virtue of this Act, in each and every District of this Province, shall have full power and authority to proportion the sums of money for the Common Schools of the said Districts, and after proportioning the same to each of the said Schools, to send to the Treasurer of the said District a copy thereof, in order that the Treasurer, aforesaid, may discharge the certificates granted to the Teacher, as aforesaid; *Provided always*, that no allowance to any Common School, in each and every District of the Province, shall exceed the sum of *Twenty-five pounds annually*; *Provided always nevertheless*, that no allowance whatever shall be paid to the Teacher of any Common School, in any District of this Province, unless the Trustees of the said Common Schools report to the Board of Education, agreeably to the provisions of this Act.

Board of Education have full power to proportion the money for the Schools, and to send to the Treasurer a copy thereof.
(See 60 Geo. III. Ch. 7, Sec. 1.)

No allowance to any Common School to exceed £25 annually;

No allowance to a Teacher, unless the Trustees report to the Board of Education.

XIV. And be it further enacted by the authority aforesaid, That when two adjoining Districts may find it convenient to compose such School, as aforesaid, a portion of the Scholars of which may reside in each District, that the Trustees of such School shall have full power to make the necessary returns as are required by this Act, and receive an equal proportion of the monies so granted for the support of such Schools, from each of the respective Districts, in proportion to the number of Scholars sent to the said School from each District.

When two adjoining Districts compose such School, the Trustees have power to make the necessary returns, &c.

XV. And be it further enacted by the authority aforesaid, That the several sums hereby granted to the several Districts of this Province, shall be paid by the Receiver General of this Province, to the Treasurer of each District, respectively, in discharge of such warrant or warrants as shall from time to time be issued by the Governor, Lieutenant Governor, or Person administering the Government of this Province; and shall be accounted for by the Receiver General, to His Majesty, His Heirs or Successors, through the Lords Commissioners of His Treasury, for the time being, in such manner and form as His Majesty, His Heirs or Successors shall be graciously pleased to direct.

The several sums granted, to be paid by the Receiver General, to the Treasurer of each District, in discharge of Warrants issued by the Governor;

To be accounted for through the Lords Commissioners of the Treasury.

Continuance of this Act.

(Continued by 60 Geo. III, Ch. 7. 4 Geo. IV, Sess. 2, Ch. 8.)

XVI. *And be it further enacted by the authority aforesaid, That this Act shall be, and is hereby declared to be in force for and during the term of four years.*

[Since the Union, this Act, and the other Common School Acts, have been repealed, by Statutes of Canada, 4 & 5 Victoria, Chap. 18.]

CHAP. XXXVII.

AN ACT to grant to His Majesty a sum of Money, to amend and repair the public Highways and Roads in this Province, and to build and repair Bridges in the several Districts thereof.

[Passed 1st April, 1816.]

[TEMPORARY.]

CHAP. XXXVIII.

AN ACT to appropriate a sum of Money to defray the expences of any Commission for ascertaining Titles to Lands in the Niagara District, which shall or may be authorised by any Act of the Parliament of this Province.

[Passed 1st April, 1816.]

Preamble.—£1000 granted for carrying into effect, the provisions of an Act, intituled, "An Act to afford relief to persons holding or possessing lands, tenements or hereditaments in the District of Niagara"; To be paid by the Receiver General, in discharge of such warrant as shall be issued for that purpose; and to be accounted for, through the Lords Commissioners of the Treasury.

CHAP. XXXIX.

AN ACT to repeal and amend part of an Act passed in the fiftieth year of His Majesty's Reign, intituled, "An Act to provide for the laying out, amending and keeping in repair, the Public Highways and Roads in this Province, and to repeal the Laws now in force for that purpose."

[Passed 1st April, 1816.]

18th and 26th Clauses of 50th Geo. III, repealed. Any person liable to perform duty, may compound as herein mentioned; Every male Inhabitant from the age of 21 to 50, not rated on the Assessment, shall work on highways three days; Penalty for refusal; In case any person shall remove to another Township, Overseer to grant him a Certificate.

I. [Repealed by 5th William IV. Chap. 8.]

II. [Repealed by 59th George III. Sess. 2, Chap. 8.]

STATUTES OF UPPER CANADA,

PASSED IN THE

FIRST SESSION OF THE SEVENTH PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT YORK, ON THE FOURTH DAY OF FEBRUARY, IN THE FIFTY-SEVENTH YEAR OF THE
REIGN OF OUR SOVEREIGN LORD GEORGE THE THIRD, AND PROROGUED ON
THE SEVENTH DAY OF APRIL FOLLOWING.

FRANCIS GORE, ESQUIRE,
LIEUTENANT GOVERNOR.

ANNO DOMINI 1817.

CHAP. I.

*AN ACT to provide for the Representation of the Commons of the
Counties of Wentworth and Halton, in Parliament.*

[Passed 8th February, 1817.]

[REPEALED BY 60 GEO. III. CHAP. 2.]

CHAP. II.

*AN ACT to establish a Police in the Towns of York, Sandwich and
Amherstburgh.*

[Passed 7th April, 1817.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. III.

*AN ACT granting to His Majesty a Sum of Money, for certain
purposes therein mentioned.*

[Passed, 7th April, 1817.]

[TEMPORARY.]

CHAP. IV.

AN ACT to establish a Market in the Town of Niagara, in the Niagara District.

Passed 7th April, 1817.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. V.

AN ACT to repeal part of, and amend an Act passed in the fifty-sixth year of His Majesty's Reign, intituled, "An Act to repeal part of, and to alter and amend the Laws now in force for granting Pensions to persons disabled in the Service, and the Widows and Children of persons who may have been killed in the Service," and to extend the provisions of the same.

[Passed 7th April, 1817.]

[REPEALED BY 2ND GEO. IV. SESS. 1. CHAP. 4.]

CHAP. VI.

AN ACT to make good certain Monies issued and advanced by His Excellency the Lieutenant Governor, in pursuance of several Addresses during the last Session.

[Passed 7th April, 1817.]

[TEMPORARY.]

CHAP. VII.

AN ACT to Repeal part of, and alter and amend 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 within this Province."

[Passed 7th April, 1817.]

[REPEALED BY 5TH WM. IV. CHAP. 8.]

CHAP. VIII.

AN ACT further to continue An Act passed in the Forty-sixth year of His Majesty's Reign, intituled, "An Act to make Provision for certain Sheriffs in this Province," and also, to extend the Provisions of the said Act.

[Passed 7th April, 1817.]

[EXPIRED.]

CHAP. IX.

AN ACT to enable the Commissioners of Gaol Delivery, and Oyer and Terminer, to proceed, although the Court of King's Bench be sitting in the Home District, for which they are Commissioned.

[Passed 7th April, 1817.]

WHEREAS by construction of Law, without special provision to the contrary, the meeting of the Court of King's Bench, in any District, supersedes all Commissions of Oyer and Terminer and Gaol Delivery: *And whereas*, it may so happen that the business of the Spring Assize, in the Home District, may not be concluded before the first day of Easter Term; *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 when any Session of Oyer and Terminer and Gaol Delivery for the Home District, shall have been begun to be holden before the first day of any term, that the said Session shall be continued to be holden and the business thereof finally concluded, notwithstanding the sitting of His Majesty's Court of King's Bench within the said District; and that all trials and proceedings, as well as judgments, had at such Session, so continued to be holden, shall be good and effectual to all intents and purposes as if the said Session of the Court of King's Bench had not been.

Preamble.

When any Session of Oyer and Terminer and Gaol Delivery for the Home District, shall have been begun to be holden before the first day of any term—the said Session shall be continued to be holden and the business concluded, notwithstanding the sitting of the Court of King's Bench.

STATUTES OF UPPER CANADA,

PASSED IN THE

SECOND SESSION OF THE SEVENTH PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT YORK, ON THE FIFTH DAY OF FEBRUARY, IN THE FIFTY-EIGHTH YEAR OF THE REIGN
OF OUR SOVEREIGN LORD GEORGE THE THIRD, AND PROROGUED ON THE
FIRST DAY OF APRIL FOLLOWING.

SAMUEL SMITH, ESQUIRE,
ADMINISTRATOR.

ANNO DOMINI 1818.

CHAP. I.

*AN ACT to impose a Duty upon persons selling Wine, Brandy and other
Spirituous Liquors, by Wholesale.*

[Passed 1st April, 1818.]

[EXPIRED—SEE 59TH GEO. III. CHAP. 17. SESS. 1.; 4TH GEO. IV.
CHAP. 19, SEC. 2. SESS. 2.]

CHAP. II.

*AN ACT to repeal part of an Act passed in the Fifty-sixth year of His
Majesty's Reign, intituled "An Act to alter the time of holding the
Courts of General Quarter Sessions of the Peace, in the London and
Johnstown Districts."*

[Passed 1st April, 1818.]

[REPEALED BY 7TH WM. IV. CHAP. 11.]

CHAP. III.

*AN ACT to enable Robert Cartwright, Son of the late Honourable Richard
Cartwright, deceased, to surrender certain Lands in the Town of
Kingston, to His Majesty, His Heirs and Successors.*

[Passed 1st April, 1818.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. IV.

AN ACT to regulate the Costs in certain cases in the Court of King's Bench.

[Passed 1st April, 1818.]

WHEREAS the District Courts, established in the several Districts of this Province, were intended as well to relieve Defendants from the charge of answering in the Superior Court, as to facilitate the Suitor; *And whereas* Suits of the proper competence of the said District Courts are frequently brought into the Court of King's Bench, having concurrent jurisdiction, to the great increase of costs and charges to the parties: For remedy whereof, *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 any Suit hereafter to be brought in the Court of King's Bench, which Suit may be of the proper competence of the District Court, no more Costs shall be taxed against the Defendant, than would have been incurred in the District Court in the same action, unless the Judge who tried the cause of such suit or action, shall certify in open Court at the trial, that it was a fit cause to be withdrawn from the District Court and commenced in the Court of King's Bench.

In actions hereafter brought in the King's Bench, which the District Courts are competent to try, none but District Court Costs shall be taxed against the Defendant, unless the Judge certifies, &c.

II. *And be it further enacted by the authority aforesaid,* That the Defendant's Costs taxed between Client and Attorney in such Suit not so certified, or so much thereof as shall exceed the Costs taxable in the District Court in such case, shall be set off against the Plaintiff's Costs taxed, to be recovered from Defendant.

And so much of Defendant's Costs taxed against him by his Attorney as exceed the Costs in the District Court, shall be charged to the Plaintiff.

C H A P. V.

AN ACT to continue, repeal part of, and amend an Act passed in the Fifty-sixth year of His Majesty's Reign, intituled "An Act for granting to His Majesty Duties on Licences to Hawkers, Pedlers and Petty Chapmen, and other Trading persons therein mentioned," and to extend the provisions of the same.

[Passed 1st April, 1818.]

WHEREAS an Act passed in the fifty-sixth year of the reign of our Sovereign Lord the King, intituled, "An Act granting to His Majesty Duties on Licences to Hawkers, Pedlers and Petty Chapmen, and other Trading persons therein mentioned," will shortly expire; *And whereas* it is expedient to continue and amend 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 the said Act, with the exception of the first, second, seventh and eighth clauses thereof, which are hereby repealed, shall be and remain in force for and during the continuance of this Act.

Preamble.

56th Geo. III., chap 36, continued.

(See 4 Geo. IV. Sess. 1, Chap. 13.
9 Geo. IV. Chap. 8, Sec. 2.
3 Wm. IV. Chap. 45.
3 Vic. Chap. 23.
3 Vic. Chap. 9.
3 Vic. Chap. 19.)

Except the 1st, 2nd, 7th, and 8th Clauses.

Duties on Licences to be taken out by Hawkers, Pedlers and Petty Chapmen.

When Licence to be taken out.

By whom.

Amount of Duties thereon.

II. And be it further enacted by the authority aforesaid, That there shall be raised, collected and paid, to His Majesty, His Heirs and Successors, to and for the Public uses of this Province, and the support of the Government thereof, the several and respective Duties therein mentioned, for and upon the respective Licences, to be taken out in manner and by the persons hereinafter mentioned; that is to say, from and after the fifth day of April in this and every ensuing year during the continuance of this Act, there shall be taken out a Licence by every Hawker, Pedler, Petty Chapman, and any Trading person or persons, such person or persons having taken the Oath of Allegiance to His Majesty, going from town to town, or to other men's houses, or who have not become House-holders by permanent residence in any town or place within this Province, by or for the space of one year previous to the passing of this Act, or travelling either on Foot, or with a Horse or Horses, Mule, or Mules, or other beast bearing or drawing burthen; Boat or Boats, Decked Vessels, or other Craft, or otherwise within this Province carrying to sell, or exposing to sale, any Goods, Wares or Merchandize, for which Licence there shall be paid the following sums at the time such Licence be taken out:—For every man-traveller on Foot, Five Pounds Current Money of this Province; for every Horse, Ass or Mule, or other

least bearing or drawing burthen, an additional sum of Five Pounds ; for every Man sailing with a Decked Vessel, trading and exposing for sale Goods, Wares and Merchandize, on board or from the same, the sum of Twenty-Five Pounds ; for every Man trading with a Boat, or other Craft, and exposing for sale Goods, Wares and Merchandize, for each Boat or Craft, the sum of Twenty Pounds.

III. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for any Justice of the Peace, Collector, Deputy Collector, Constable or Peace Officer, to seize and detain any such Hawker, Pedler or Petty Chapman, or other Trading persons as aforesaid, who shall be found Trading without a Licence contrary to this Act ; or being found Trading, shall refuse or neglect to produce a Licence according to this Act, after being required so to do, in order to his or her being carried, and they are hereby required to carry such person or persons so seized, unless he or they shall produce their respective Licences, before three or more of His Majesty's Justices of the Peace, the nearest to the place where such offence or offences shall be committed, which said three or more Justices of the Peace are hereby authorised and strictly required, either upon the confession of the party offending, or due proof by witness or witnesses, other than the Informer, upon oath, which oath they are hereby empowered to administer; that the person or persons so brought before them had so traded, as aforesaid, without a Licence ; and in case no such Licence shall be produced by such offender or offenders, before such Justices, the said Justices, by Warrant under their Hands and Seals, directed to a Constable or other Peace Officer, shall cause a sum, not exceeding Twenty Pounds, nor less than Five Pounds, with reasonable Costs, to be forthwith levied by Distress and Sale of the Goods, Wares and Merchandize, of such offender or offenders, or of the Goods with which such offender or offenders shall be found Trading, as aforesaid, rendering the overplus, (if any there be) to the owner or owners thereof, after deducting the reasonable charges for taking the said Distress ; and for want of sufficient Distress, the offender or offenders shall be sent to the nearest Gaol of such District, for a time not exceeding six months, nor less than one month, as such Justices of the Peace shall think most proper.

Authority to seize any Hawker, Pedler, &c trading without a Licence.

Or refusing to produce his Licence.

Three or more Justices on complaint may fine offenders.

Amount of Penalty.

Imprisonment in default of distress.

IV. *And be it further enacted by the authority aforesaid,* That the Collectors acting by virtue of and under the authority of this Act, shall and they are hereby required to make returns to the Inspector General of this Province, and transmit all such monies as may come to their hands to the Receiver-General of the Province, in like manner, and subject to the same penalties as Inspectors and Collectors now are by virtue of any Law now in force in this Province.

Collectors to account. (See 3 Vic. Chap. 9.)

and pay over Monies.

V. *And be it further enacted by the authority aforesaid,* That the Duties levied, collected and paid, by virtue of this Act; and one moiety of every pecuniary penalty or satisfaction by this Act imposed, shall be

Appropriation of Penalties.

long to His Majesty, His Heirs and Successors, and shall also be paid by the person or persons respectively receiving the same, into the hands of the Receiver-General, to and for the uses 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 Lords Commissioners of His Majesty's Treasury for the time being, in such manner as it shall please His Majesty to direct; and the other moiety of such pecuniary penalty or satisfaction, shall belong to the person or persons who shall sue for the same.

Informers.

Continuance of this Act.
(Made perpetual by 2
Vic. Chap. 23.)

VI. *And be it further enacted by the authority aforesaid, That this Act shall continue and be in force four years, and from thence to the end of the then next ensuing Session of Parliament.*

CHAP. VI.

AN ACT granting to His Majesty a Duty on Licences to Auctioneers, and on Goods, Wares and Merchandize, sold by Auction.

[Passed 1st April, 1818.]

MOST GRACIOUS SOVEREIGN :

Preamble.

(See 4 Geo. IV. Sess. 1,
Chap. 17.
9 Geo. IV. Chap. 10.
4 Wm. IV. Chap. 41.
3 Vic. Chap. 19.
3 Vic. Chap. 23.)

WHEREAS it is expedient to increase the Revenue of this Province, to meet the increased expenditure of the same; *And whereas* it would be for the advantage of the said Province if all persons using or exercising the trade or business of an Auctioneer, should be obliged to take out a Licence for that purpose, specifying their names and places of abode, respectively, and to grant unto Your Majesty a certain rate upon all Sales of Goods, Wares and Merchandize whatsoever, sold by way of Auction, as hereinafter mentioned: We Your Majesty's dutiful and loyal Subjects, the Commons of Upper Canada, in Provincial 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 passing of this Act, all and every person or persons, who shall exercise the calling or occupation of an Auctioneer, shall and they are hereby required to take out a Licence as aforesaid, on or before the first day of June next, before he, she or they, shall presume hereafter to exercise such calling or occupation of an Auctioneer.*

Auctioneers required to
take out Licences.

When.

(This Clause expired;
See 3 Vic. Chap. 23.)

II. *And be it further enacted by the authority aforesaid,* That all and every person or persons who shall exercise the calling or occupation of an Auctioneer, shall yield and pay annually, to and for the use of His Majesty, His Heirs and Successors, for a Licence to use and exercise the said calling or occupation, the sum of Five Pounds. And pay £5 for the same.

III. *And be it further enacted by the authority aforesaid,* That the Licences herein before mentioned shall be granted by the Governor, Lieutenant Governor, or Person Administering the Government of this Province; and for every such Licence that shall be delivered, there shall be paid by the person or persons applying for the same to the Collector, the sum of Five Shillings Current Money, and no more, for issuing the same. By whom to be issued. Fee to the Collector.

IV. *And be it further enacted by the authority aforesaid,* That any person or persons who shall neglect to take out such Licence, as aforesaid, and on or before the fifth day of January hereafter in each and every year during the continuance of this Act, and shall so continue to exercise the said trade or business of an Auctioneer, or who shall neglect to exhibit, in a conspicuous manner at his Auction Room, his Name and Trade as such Auctioneer, shall, upon the Oath of one or more credible Witness or Witnesses, other than the Informer, for each and every of the said negligences or offences, forfeit and pay the sum of Twenty Pounds, to be recovered before any three or more of His Majesty's Justices of the Peace, in the District where such offence shall have been charged to have been committed, the party or parties being first Summoned to attend, which Justices are hereby authorised and required to issue their Warrant, and cause the penalty as aforesaid, with reasonable costs and charges, to be levied by distress and sale of the goods and chattels of such offender, returning the overplus, if any there be, after deducting the reasonable charges for taking the said distress; and for want of sufficient distress, the offender or offenders, shall be sent to the Common Gaol of the District, for such time, not exceeding six months. Penalty for neglect to take out the Licence, and to exhibit in a conspicuous manner, in his auction room, his name and trade as Auctioneer. How to be recovered. Imprisonment in default of distress.

V. *And be it further enacted by the authority aforesaid,* That from and after the first day of June next, there shall be raised, levied, collected and paid, in such manner as hereinafter is mentioned, to and for the use of His Majesty, His Heirs and Successors, to and for the public uses of this Province, and the support of the Government thereof, for and upon all manner of Sales of Goods, Wares and Merchandize, by way of Auction, as aforesaid, in the Province of Upper Canada, the respective Rates and Duties hereinafter expressed, that is to say; the sum of *Two Pounds Ten Shillings* for every Hundred Pounds, and in the same proportion for every greater or lesser sum of the purchase money arising by sale at Public Auction of such Goods, Wares and Merchandize; the said respective Rates and Duties to be paid by every such Auctioneer, out of the monies arising at each and every such sale at Auction as aforesaid. Duties of 2 per cent on goods sold by Auction. To be paid by the Auctioneer out of the proceeds of the sale.

Bond to be given by Auctioneers to render an account;

and pay over the amount of such duties.

Accounts to be sworn to.

Not to extend to Sheriff's Sales, &c.

Other exceptions.

It may be made a condition at any sale, that the purchaser shall pay the auction duties.

VI. *And be it further enacted by the authority aforesaid;* That each and every person acting as aforesaid at every such Public Sale at Auction in any part of this Province, shall, at the time of receiving such Licence as aforesaid, execute a Bond, with sufficient Sureties in the sum of Five Hundred Pounds, current money of this Province, to His Majesty, His Heirs and Successors, which Security, the Collector to be appointed for granting such Licence, as aforesaid, shall, and they are hereby authorised to take, with condition that he will within sixty days after every such Sale deliver in an exact and particular Account to such person or persons as shall be appointed to deliver out the Licences, as aforesaid, in writing, of the total amount of the money bid at each Sale, and of the several Articles, Lots or Parcels which shall have been there sold, and the price of each and every such Article, Lot or Parcel, and at the same time, make payment of all such sum and sums of money as shall be due and payable to His Majesty, in pursuance of and according to the true intent and meaning of this Act; which sum or sums of money he is hereby authorised and empowered to retain out of the produce arising by such Sale, or deposit made at such Sale, or otherwise recover the same by Action of Debt, or on the case, against the person or persons by whom such Auctioneer shall be employed, or on whose account such Goods, Wares and Merchandize, shall be so sold; and every person so acting as Auctioneer, or the person who acted as his Clerk at such Sale, if any, shall make Oath to the truth of each and every such Account before the person or persons issuing such Licence, as aforesaid, or before some one of His Majesty's Justices of the Peace for the District in which such Auctioneer shall reside, which Oath the said person or persons issuing such Licence, as aforesaid, and such Magistrate is, and are hereby authorised and empowered to administer.

VII. *Provided also, and it is hereby further enacted by the authority aforesaid,* That nothing in this Act contained shall extend, or be construed to extend, to charge with the said Rate or Duty any Goods, Wares and Merchandize sold at Auction under the authority of any Sheriff, under Sheriff or Constable. *And provided also,* that nothing in this Act contained shall extend, or be construed to extend, to affect any Sale of Farming Stock, or Utensils of Husbandry, or Household Furniture, that have been in use, any thing to the contrary thereof notwithstanding.

VIII. *Provided always, and it is hereby further enacted by the authority aforesaid,* That nothing herein contained shall extend, or be construed to extend, to restrain any seller by Auction, or person acting as Auctioneer at any Sales by way of Auction, from making it a condition of Sale, that the Pound Rate granted by this Act, or any certain portion thereof, shall be paid by the Purchaser, over and above the price bidden at such Sale by Auction: and in such case, the person so acting as Auctioneer, is hereby authorised and required to demand payment of the said Duty from such Purchaser or Purchasers, or such portion thereof

as expressed in such condition or agreement; and upon neglect or refusal to pay the same, such Bidding shall be null and void to all intents and purposes.

On his failing to pay, his bidding to be void.

IX. *And be it further enacted by the authority aforesaid,* That the moiety of every pecuniary penalty or satisfaction by this Act imposed, shall belong to His Majesty, His Heirs and Successors, and shall also be paid by the person or persons respectively receiving the same, into the hands of the 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 Civil Government thereof; to be accounted for to His Majesty through the Lords Commissioners of His Treasury, for the time being, in such manner and form as it shall please His Majesty to direct; and the other moiety thereof to the informer, or person who shall sue for the same.

Distribution of penalties imposed by this Act.

Informer.

X. *And be it further enacted by the authority aforesaid,* That the Collectors acting by virtue of and under the authority of this Act, shall, and they are hereby required, to make Returns to the Inspector General of this Province, and transmit all such Monies as may come to their hands to the Receiver General of the Province, in like manner, and subject to the same pains and penalties, as Inspectors and Collectors now are by virtue of any Law now in force in this Province.

Collectors, how and when to render accounts;

And transmit monies.

XI. *And be it further enacted by the authority aforesaid,* That the said Collector shall retain and take at the rate of five pounds for every hundred pounds which he shall so collect as aforesaid during the continuance of this Act; and all Monies so paid by the said Collector into the hands of the Receiver General, shall be by him accounted for to His Majesty, His Heirs and Successors, through the Lords Commissioners of His Treasury, for the time being, in such manner and form as His Majesty, His Heirs and Successors, shall be graciously pleased to direct.

Collectors may retain £5 per cent; (See 3 Vic. Chap. 19.)

Appropriation of monies paid to the Receiver General under this Act.

XII. *And be it further enacted by the authority aforesaid,* That if any action or suit shall be brought or commenced against any person or persons for any thing done in pursuance of this Act, such action or suit shall be commenced within six months next after the matter or thing done, and not afterwards.

Limitation of Actions brought for any thing done under this Act.

XIII. *And be it further enacted by the authority aforesaid,* That this Act shall continue and be in force for the space of four years next ensuing the passing thereof, and from thence to the end of the then next ensuing Session of Parliament.

Continuance of this Act. (Revised and made perpetual by 3 Vic. Ch. 23.)

[See 4 & 5 Victoria, Ch. 21, Sec. 12.]

C H A P. VII.

AN ACT to repeal an Act passed in the Fifty-sixth year of His Majesty's Reign, intituled, "An Act granting to His Majesty a Sum of Money, to be applied for the encouragement of the Cultivation of Hemp within this Province."

[Passed 1st April, 1818.]

Preamble. 56 Geo. III. Ch. 35, repealed. The sum of £1000 thereby granted, how to be applied and accounted for.

C H A P. VIII.

AN ACT to provide for the Registering of Deeds, Conveyances, Wills and other Incumbrances, which may affect any Lands, Tenements and Hereditaments, the same being executed in the United Kingdom of Great Britain and Ireland, or in any of His Majesty's Colonies, and to amend 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."

[Passed 1st April, 1818.]

Preamble.
35 Geo. III, Ch. 5.

WHEREAS it is expedient to amend the Provisions of an Act passed in the Thirty-fifth year of His Majesty's reign, intituled "An Act for the Public Registry of Deeds, Conveyances, Wills and other Incumbrances, which shall be made or may affect any Lands, Tenements or Hereditaments, within this Province;" *And whereas* great inconvenience and difficulties have arisen in cases where persons residing in Great Britain and Ireland, or in any Colony belonging to His Majesty, who may have had occasion to execute any Deed or Conveyance, or to have made or published any Will, whereby any Lands or Tenements within this Province may be affected, by reason of the difficulty of Registering the same, according to the directions of the said recited Act: For remedy whereof, *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 henceforth, whenever any person or persons, residing in Great Britain or Ireland, or in any Colony belonging to the Crown of Great Britain, shall or may have occasion to execute any Deed or Conveyance, or make or publish any Will, whereby any Lands or Tenements within this Province may be affected, it shall and may be lawful to and for the parties concerned, to execute a Memorial of any such Deed, Conveyance or Will, or Probate of the same, in like manner as is authorised and directed by the said in part recited Act.

Memorial to be made of any Deed, Conveyance, Will, &c. executed in Great Britain or Ireland, or any British Colony.

II. *And be it further enacted by the authority aforesaid,* That any Memorial of any such Deed or Conveyance, which shall have been, or may hereafter be executed or published in any part of Great Britain or Ireland, or in any Colony belonging to the Crown of Great Britain, shall be entered or Registered by the Register or his Deputy of any County or Counties within this Province, in case an affidavit shall have been sworn, or shall hereafter be sworn, before the Mayor or Chief Magistrate of any City, Borough or Town Corporate, in Great Britain or Ireland, or the Chief Justice or Judge of the Supreme Court of any Colony belonging to the Crown of Great Britain, and be brought to the said Register or his Deputy, wherein one of the witnesses to the execution of such Deed or Conveyance shall have sworn, or shall hereafter swear, he or she saw the same, as also the Memorial thereof, executed; and in case of Wills, one of the witnesses to the Memorial of such Will, or probate thereof, shall have proved, or shall hereafter prove, the execution of such Memorial, the same shall be a sufficient authority to the said Register or his Deputy to give the party that brings such Deed or Conveyance, Will, or probate thereof, and the Memorial of the same, together with such affidavit, a Certificate of the Registry of the same, in like manner as if the execution thereof had been proved before the said Judge, Commissioner, Register or his Deputy, as aforesaid.

How such Memorial shall be received, proved and entered;

Certificate of Registry.

III. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, in such cases where the witnesses to any Deed, Conveyance or Instrument, incumbering Land in this Province, shall be dead, it shall and may be lawful for the Grantee or Grantees, his or their Heirs, Executors or Administrators, Guardians or Trustees, to make proof before the Justices in Quarter Sessions assembled, of the execution of such Instrument; and upon Certificates signed by the Chairman, and witnessed by the Clerk of the Peace, that the majority of the Magistrates present in such Sessions were satisfied by such proof, of the due execution of such Instrument, it shall and may be lawful for the Register of the said County to Register a Memorial of such Instrument, together with the Certificate, which Registration shall have the same force and effect as that of a Memorial Registered according to the provisions of the before recited Act, passed in the Thirty-fifth year of His Majesty's reign, and no other.

Provision for the Registry of Deeds, &c. when the witnesses to the same are dead.

How proof of Deeds in such cases shall be received;

Perjury.

IV. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Justices of the Peace in each and every District in this Province, in Quarter Sessions assembled, to receive such evidence upon oath; and that if any person or persons shall at any time forswear him, her or themselves, before such Magistrates, he, she or they, shall incur, and be liable to the same penalties, as would have been incurred upon 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.

Certificates of the Mayor or Chief Magistrate of any city, borough or town corporate, required by this Act, not to be evidence without the seal of such city, &c.

V. *And be it further enacted by the authority aforesaid,* That no Certificate to be granted as aforesaid, by any such Mayor or Chief Magistrate of any City, Borough or Town Corporate, in Great Britain or Ireland, or of any Colony belonging to the Crown of Great Britain, shall have any force or effect, unless the Seal of such City, Borough or Town Corporate, shall be affixed thereto.

CHAP. IX.

AN ACT to repeal an Act passed in the Thirty-fifth year of His Majesty's Reign, intituled, "An Act to ascertain the Eligibility of persons to be returned to the House of Assmblly," and also to repeal an Act passed in the Fifty-fourth year of His Majesty's Reign, intituled, "An Act to repeal and amend part of an Act passed in the Thirty-fifth year of His Majesty's Reign, intituled, 'An Act to ascertain the Eligibility of persons to be returned to the House of Assembly,' and to make further and more effectual provision for securing the freedom and constitution of the Parliament of this Province.

[Passed 1st April, 1818.]

[REPEALED BY 4TH GEO. IV. SESS. 2. CH. 3.]

CHAP. X.

AN ACT to make good certain Monies issued and advanced by His Honour the Administrator, pursuant to an Address of the Commons House of Assembly.

[Passed 1st April, 1818.]

[TEMPORARY.]

CHAP. XI.

AN ACT to continue an Act passed in the Fifty-fifth year of His Majesty's Reign, intituled, "An Act to repeal an Act passed in the Fifty-fourth year of His Majesty's Reign, intituled, 'An Act to supply in certain cases the want of County Courts in this Province,' and to make further provision for proceeding to Outlawry in certain cases therein mentioned."

[Passed 1st April, 1818.]

[EXPIRED.]

Preamble. 55 Geo. III. Ch. 2, continued for two years, and from thence to the end of the then next ensuing Session of Parliament.

CHAP. XII.

AN ACT to remunerate certain Commissioners therein mentioned.

[Passed 1st April, 1818.]

Preamble. £300 applied to the remuneration of the Commissioners appointed to treat with the Commissioners of Lower Canada, at Montreal, the 31st May, 1818; Distribution. 2. How to be paid and accounted for.

CHAP. XIII.

AN ACT to repeal an Act passed in the Fifty-sixth year of His Majesty's Reign, intituled, "An Act to continue for a limited time, the Provisional Agreement entered into between this Province and Lower Canada, at Montreal, on the fifth day of July, one thousand eight hundred and four, relative to Duties; also, for continuing for a limited time, the several Acts of the Parliament of this Province relative thereto;" and also to ratify and confirm the Provisional Articles of Agreement entered into by the respective Commissioners of this Province and Lower Canada, at Montreal, on the thirty-first day of May, one thousand eight hundred and seventeen, relative to Duties, and for carrying the same into effect.

[Passed 1st April, 1818.]

[EXPIRED.]

STATUTES OF UPPER CANADA,

PASSED IN THE

THIRD SESSION OF THE SEVENTH PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT YORK, ON THE TWELFTH DAY OF OCTOBER IN THE FIFTY-NINTH YEAR OF THE
REIGN OF OUR SOVEREIGN LORD GEORGE THE THIRD, AND PROROGUED ON
THE TWENTY-SEVENTH DAY OF NOVEMBER FOLLOWING.

SIR PEREGRINE MAITLAND, K. C. B.
LIEUTENANT GOVERNOR.

ANNO DOMINI 1818.

CHAP. I.

*AN ACT to regulate the Trade by Land and Inland Navigation, between
this Province and the United States of America.*

[Passed 27th November, 1818.]

[REPEALED BY 59 GEO. III. SESS. 2. CHAP. 1.]

CHAP. II.

*AN ACT to alter the Laws now in force for granting Licences to Inn-keepers,
and to give to the Justices of the Peace, in General Quarter Sessions
assembled, for their respective Districts, authority to regulate the Duties
hereafter to be paid on such Licences.*

[Passed 27th November, 1818.]

Preamble.

(See 11 Geo. IV. Ch. 9;
4 Geo. IV. Sess. 2, Ch. 18,
2 Wm. IV. Ch. 20,
3 Wm. IV. Ch. 14,
6 Wm. IV. Ch. 4,
2 Vic. Chap. 25,
3 Vic. Ch. 21.)

WHEREAS it is expedient to repeal part of and amend the Laws now
in force regulating the manner of Licencing Public Houses, and for the
retailing of Wine, Brandy, Rum or any other Spirituous Liquors: *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 third clause of an Act of the Parliament of this Province, 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;" also the second clause of 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;'" also the third clause of an Act of the Parliament of this Province, passed in the forty-fifth year of His Majesty's reign, intituled, "An Act for altering the time of issuing Licences for the keeping of a House or any other place of Public Entertainment, or for the retailing of Wine, Brandy, Rum, or any other Spirituous Liquors, or for the having and using of Stills for the purpose of distilling Spirituous Liquors, and for repealing so much of the fifth clause of an Act passed in the forty-third year of His Majesty's reign, as relates to the periods of paying into the hands of the Receiver General the monies collected by the Inspector of each and every District throughout this Province for such Licences;" and an Act of the Parliament of this Province, passed in the fifty-sixth year of His Majesty's reign, intituled "An Act to repeal part of, and to continue and amend an Act passed in the fifty-fourth year of His Majesty's reign, intituled, 'An Act for granting to His Majesty an additional Duty on Shop and Tavern Licences,'" be and the same are hereby repealed.

34 Geo. III. Ch. 18, sec. 3, repealed.

Also see. 2, 33 Geo. III. Ch. 2.

Also see. 2, 45th Geo. III. Ch. 1

And the whole of 56 Geo. III. Ch. 10, repealed.

II. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Justices of the Peace, in General Quarter Sessions assembled, in each and every District, respectively, in this Province, and they are hereby required *at their Meeting next before the fifth day of January, in each and every year, except the present, to adjourn the said Court of General Quarter Sessions to the last Monday in the month of December,* in which adjourned Sessions the said Justices shall have power to limit the number of Inns and Public Houses in their respective Districts, 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 Districts; and the said Justices shall, upon hearing and receiving any application from any person, praying to have a Licence granted to him or her, enquire into the life, character and behaviour, of the person so applying, and if it shall appear proper and necessary to the said Justices, or a majority of them then and there assembled, to grant a Certificate, and that the party applying is a sober, honest and diligent person, and a good subject of our Lord the King, the presiding Magistrate shall then and there grant him or her a Certificate, under his hand and seal, which Certificate shall enable the party so holding the same, to apply for and take out a Licence, on or before the fifth day of January then next ensuing the date of such Certificate, and that the said Certificate

At what time and in what manner Tavern Licences are to be applied for.

(See 3 Geo. Ch. 20, Sec. 3.)

Character of person applying to be enquired into.

Justices to grant certificate, on which Inspector on payment of Duties, &c. to grant Licence.

(See 4 Geo. IV. Sec. 2, Ch 18.)

shall be a proper and sufficient warrant for the Inspectors of the several Districts respectively to grant, and they are hereby required to grant to the said person holding the said Certificate, such Licence, on receiving payment of such Duties as are imposed by this Act, or hereafter may be imposed by Law on the same; and that all the rules, regulations, restrictions, penalties, matters and things, which are by any Act or Acts of the Legislature of this Province in force, touching and concerning the applying for, allowing, granting, obtaining or in any wise relating to the said Licences herein before mentioned, except so far as they are varied or changed by this Act, shall and are hereby extended to such Licences, as aforesaid, any thing herein contained to the contrary notwithstanding.

Provisions of former Acts to be in force, except as varied by this Act.

Justices empowered to meet as herein provided.

III. [Repealed by 4th Geo. IV. Sess. 2. Ch. 18; See 3 Vic. Ch. 20.]

Justices when they grant certificates, may apportion the Duties to be paid for Tavern Licences, according to situation, &c.

IV. *And be it further enacted by the authority aforesaid*, That on granting such Certificate as aforesaid, it shall and may be lawful for the said Justices, and they are hereby required, to direct the Inspectors of the several Districts, respectively, to receive from the person taking out any Licence for keeping such Public House or Inn, as aforesaid, such sum as they, or the majority of them, assembled as aforesaid, shall adjudge just and proper, according to the situation of such Inn: *Provided always*, that it shall not be lawful for the said Justices, or a majority of them, as aforesaid, to order or direct the said Inspectors, respectively, to receive for any such Licence, as aforesaid, a greater sum than twelve pounds ten shillings, or a lesser sum than one pound sixteen shillings, Sterling, and the additional sum of twenty shillings, Currency, now imposed by Law, any Law to the contrary thereof in any wise notwithstanding.

Which Duties only shall be exacted by the Inspector.

Being in no case more than £12 10s or less than £2 currency.

(See 11 Geo. IV. Ch. 9, sec. 4; 3. Vic. Ch. 21.)

Persons may obtain certificates for Tavern Licences at any time during the year.

(See 3 Vic. Ch. 21, sec. 3.)

V. *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 for keeping an Inn or House of Public Entertainment upon a Certificate from the Justices assembled on the last Monday in December, as aforesaid, for the purposes aforesaid, or from the adjourned Quarter Sessions in each and every year during the continuance of this Act, being desirous of keeping an Inn or Public House, to apply for such Certificate at any time during the year, to the Justices of the District in which he resides, in General Quarter Sessions assembled, and it shall be lawful for the said Justices to inquire 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 qualified, as aforesaid, the Presiding Magistrate shall then and there grant a Certificate, in manner and for the purpose, and under such regulations and restrictions, as are herein before mentioned.

Magistrates shall frame rules and regulations for the conduct of Tavern-keepers.

VI. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful, and it is hereby required, that the Magistrates at the time of granting such Certificate, as aforesaid, shall make and frame rules and regulations for the observance of the several Inn-keepers, in their

respective Districts, which rules and regulations the said Inn-keepers are to be bound by their recognizances to abide by, a copy of which rules and regulations, for the information of travellers, to be affixed in some conspicuous place in every House so Licenced within the Province.

VII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Clerk of the Peace, in each and every District of this Province, and he is hereby required to transmit quarterly, to the Inspector General of this Province, a detailed statement of all Orders of Sessions, relative to Duties to be taken by the said District Inspector for any Licence granted under the authority of this Act.

Clerk of the Peace to transmit quarterly accounts to the Inspector General of Duties, to be taken by the Inspectors for Tavern Licences, under orders of Sessions (See 6 Wm. IV. Ch. 4, Sec. 8.)

VIII. *And be it further enacted by the authority aforesaid,* That each of the said Inspectors shall account for the monies in the same manner, and pay in the same to the Receiver General at the same time he is now obliged to pay over all public monies which come to his hands, and in default of such account or payment, shall be liable to the penalties imposed by any Law now in force requiring such account and payment.

How the duties collected under this Act are to be paid over and accounted for.

IX. *And be it further enacted by the authority aforesaid,* That this Act shall continue in force for two years, and from thence to the end of the then next ensuing Session of the Provincial Parliament, and no longer.

Continuance of this Act. (See 3 Vic. Chap. 21, making part of this Act perpetual.)

CHAP. III.

AN ACT for the better Division of the County of Glengarry into Townships.

[Passed 27th November, 1818.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. IV.

AN ACT to empower the Commissioners of the Peace for the Eastern District, in their Court of General Quarter Sessions assembled, to establish and regulate the times for holding a Market in the Town of Cornwall, in the said District.

[Passed 27th November, 1818.]

[REPEALED BY 4TH WM. IV, CHAP. 25.]

CHAP. V.

AN ACT to appropriate a certain Sum of Money for the purposes therein mentioned.

[Passed 27th November, 1818.]

[TEMPORARY.]

Preamble; £750 granted for opening and amending roads in certain new settlements in the Districts of Johnstown and Newcastle; Distribution. 2. One Commissioner to be appointed for each District to superintend the application. 3. To whom the said sums are to be paid; and how accounted for.

CHAP. VI.

AN ACT to continue the Laws now in force for granting an additional Duty on Shop Licences.

[Passed 27th November, 1818.]

[EXPIRED.—See 4th GEO. IV. SESS. 2. CHAP. 19; 2nd WM. IV. CHAP. 20; 4th WM. IV. CHAP. 50; 7th WM. IV. CHAP. 27.]

CHAP. VII.

AN ACT granting to His Majesty a Sum of Money for certain purposes therein mentioned.

[Passed 27th November, 1818.]

[TEMPORARY.]

Preamble; £13795 5s. Sterling appropriated as hereinafter mentioned; £5815 5s. appropriated for the service of the year 1819; How distributed; How to be paid and accounted for; Expenditure of the said sums to be accounted for to Parliament.

CHAP. VIII.

AN ACT further to extend the provisions of an Act passed in the Forty-fifth year of His Majesty's Reign, intituled, "An Act to make provision for the further appointment of Parish and Town Officers throughout this Province.

[Passed 27th November, 1818.]

[REPEALED BY 5th WM. IV. CH. 8 ; 2nd VIC. CH. 21.]

CHAP. IX.

AN ACT to make good certain Monies issued and advanced by His Honour Mr. Administrator Smith, in pursuance of an Address of the Commons House of Assembly.

[Passed 27th November, 1818.]

[EXPIRED.]

CHAP. X.

AN Act to authorise the inquiry and trial of Crimes and Offences committed within this Province, without the limits of any described Township or County, to be had in any District thereof.

[Passed 27th November, 1818.]

WHEREAS by an Act passed in the Thirty-eighth year of His Majesty's reign, intituled, "An Act for the better division of this Province," large tracts of country are comprehended in the several Districts of this Province, which are not within the limits of any Township or County therein : *And whereas* crimes and offences have been committed, and may hereafter be committed, in such tracts of country, which it might be inconvenient to try in the particular District wherein the same may have been committed ; *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

Preamble.

38th Geo. III. Chap. 5, recited.

(See 2 Wm. IV, Chap. 2.)

Hereafter offences committed in unorganized parts of this Province may be tried in any District thereof.

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 crimes and offences, committed in any of the said tracts of country or parts of this Province, not being within the limits of any described County or Township, may be inquired of and tried within any District of this Province, and may and shall be laid and charged to have been committed within the jurisdiction of the Court which shall try the same, and such Court may and shall proceed thereon to trial, judgment and execution, or other punishment, for such crime or offence, in the same manner as if such crime or offence had been really committed within the District where such trial may be had, any law, usage or custom, to the contrary notwithstanding.

When such unorganized parts of the Province shall be formed into Townships, the provisions of this Act shall not apply to them.

II. *Provided always*, That when and so soon as any new County or Counties, Township or Townships, shall be laid out, described and established, in any of the tracts of country, aforesaid, and shall be so declared by Law or by Proclamation, under the Hand and Seal of the Governor, Lieutenant Governor, or Person Administering the Government of this Province, for the time being, by and with the advice and consent of His Majesty's Executive Council, all crimes and offences committed within the limits of any such new County or Counties, Township or Townships, shall be inquired of and tried in the District or Districts wherein such new County or Counties, Township or Townships, shall be respectively comprehended, in like manner as such crimes or offences would have been inquired of and tried if this present Act had not been made or passed.

CHAP. XI.

AN ACT to prevent certain Meetings within this Province.

[Passed 27th November, 1818.]

[REPEALED BY 60th GEO. III. CHAP. 4.]

CHAP.

CHAP. XII.

AN ACT for vesting in Commissioners the Estates of certain Traitors, and also the Estates of persons declared Aliens by an Act passed in the fifty-fourth year of His Majesty's reign, intituled, "An Act to declare certain persons therein described Aliens, and to vest their Estates in His Majesty," and for applying the proceeds thereof towards compensating the losses which His Majesty's Subjects have sustained in consequence of the late war, and for ascertaining and satisfying the lawful debts and claims thereupon.

[Passed 27th November, 1818.]

WHEREAS by the operation of an Act of the Parliament of this Province, passed in the fifty-fourth year of His Majesty's reign, intituled, "An Act to declare certain persons therein described Aliens, and to vest their Estates in His Majesty," and by inquiries duly taken and returned, according to the provisions of the said Act, His Majesty has become seized of Lands in this Province of considerable value, which it is expedient should be sold, that the claims of all *bonâ fide* creditors, and persons having any just lien or security upon the same may be paid and satisfied, and the remaining proceeds thereof applied agreeably to the gracious instructions of His Royal Highness the Prince Regent, acting in the name and on the behalf of His Majesty, communicated through His Honour Samuel Smith, Esquire, late Administrator of the Government of this Province, towards compensating the losses which His Majesty's faithful Subjects of this Province have sustained by the invasion of the enemy, or otherwise, in consequence of the war, lately terminated, between His Majesty and the United States of America: *And whereas*, also, during the late war with the United States of America, a number of His Majesty's Subjects in this Province, contrary to their duty of allegiance, were wickedly and traitorously adhering to the enemies of His Majesty, or did levy war against His Majesty, or were guilty of other High Treasons, and it being in like manner signified to be the gracious intention of His Royal Highness the Prince Regent, that the estates, real and personal, of such persons as have been or shall be duly attainted as guilty of High Treason during the said war with the United States of America, should be likewise applied towards compensating the losses which His Majesty's faithful Subjects of this Province have sustained by the invasion of the enemy, or otherwise, in consequence of the said war; therefore, in order to carry the said gracious intentions into effect, and also that due provision may be made for the satisfaction of all just and lawful claims, which any of His Majesty's dutiful and loyal Subjects may have to, upon or out of the estates of such Rebels and Traitors: *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

Preamble.

54th Geo. III. Chap. 9,
recited.

(See 2 Geo. IV. Sess. 1,
Chap. 6;
2 Geo. IV. Sess. 2, Ch. 12;
9 Geo. IV. Chap. 6;
10 Geo. IV. Chap. 10.)

Royal instructions
respecting the forfeited
estates.

Governor to appoint Commissioners in whom the forfeited estates, real and personal, shall be vested.

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 Governor, Lieutenant Governor, or Person Administering the Government of this Province, from time to time, by Commission under the Great Seal of this Province, to authorise and empower such and so many persons as he shall think fit, to be Commissioners and Trustees, in whom all and every the real estates, that now are or hereafter may become vested in His Majesty, by the operations of the said Act of the Parliament of this Province, passed in the fifty-fourth year of His Majesty's reign, intituled, "An Act to declare certain persons therein described Aliens, and to vest their Estates in His Majesty," and the proceedings that have been had or may take place thereupon; and also all and every the estates, both real and personal, that have become vested or may hereafter become vested in His Majesty, by the attainder of any person or persons, convicted of or for any High Treason, committed during the late war between His Majesty and the United States of America, shall be vested in the manner and for the ends and purposes hereinafter mentioned.

Certified extracts of inquisitions to be furnished in the Commissioners by the Clerk of the Crown;

II. And to the end that all the estates of the said Traitors, of what nature soever, within this Province, which by the attainder of any person or persons of any High Treason, by him or them committed, during the late war between His Majesty and the United States of America, shall have been or may hereafter become legally forfeited to His Majesty; and also all the real estates, which by the said Act of the Parliament of this Province, passed in the fifty-fourth year of His Majesty's reign, and by the proceedings that have been or may be hereafter had thereupon, have or hereafter may become vested in His Majesty, may be the better known, described and ascertained, and that the rents, issues, profits and produce thereof, may be recovered and brought in for the use of His Majesty, to be applied in the manner herein before expressed, and that due examination may be taken, and satisfaction made of all just and lawful claims to, upon or out of the said estates, or any of them, *be it further enacted by the authority aforesaid*, That the Clerk of the Crown for this Province shall, within three months after the passing of this Act, deliver to the Commissioners to be appointed under this Act, an extract, certified under the Seal of the Court of King's Bench of this Province, of all inquisitions heretofore made and taken under the provisions of the said Act of this Province, passed in the fifty-fourth year of His Majesty's reign, whereby any real estate or estates have been vested in His Majesty; and also a certified extract under the Seal of the said Court, of all inquisitions whereby any real or personal estate of any kind whatever, have been returned as forfeited to His Majesty, by the attainder of any person or persons, of any High Treason committed during the war lately terminated between His Majesty and the United States of America, in which extracts

of the inquisitions taken under the said Act, passed in the fifty-fourth year of His Majesty's reign, shall be stated the names, additions and late places of abode, of the persons inquired of by the said inquisitions, and the real estates which by such inquisitions are vested in His Majesty, as the same are described in the said inquisitions respectively, together with the date of the said inquisitions, and the names of the Commissioners by whom they were respectively taken; and in the extracts of the inquisitions, upon attainders of any person or persons for High Treason, as herein before mentioned, shall be stated the names, additions, and late places of abode of the persons attainted, the species of Treason of which, and the respective times, places and Courts, when and where they were so attainted; and also the real estates, chattels, real or personal, debts, goods and effects whatsoever, which in the said inquisitions are found to be forfeited by such attainder; and that the said Clerk of the Crown, for the time being shall, within thirty days after any inquisition shall be hereafter returned into the Court of King's Bench, under the provisions of the said Act of the fifty-fourth year of His Majesty's reign, whereby any real estate shall become vested in His Majesty, or after any inquisition shall be returned into the Court of King's Bench, whereby any real or personal estate shall be found vested in His Majesty, by the attainder of any person or persons for any High Treason, committed during the existence of the late war between His Majesty and the United States of America, make out and deliver to the said Commissioners like extracts of the same respectively; all which extracts or certified lists, the said Commissioners shall enter into a book, to be provided and kept by them for that purpose.

Which extracts to be entered by the Commissioners.

III. *And be it further enacted by the authority aforesaid,* That an extract from that book, signed by any two or more of the said Commissioners, shall be taken and held as sufficient evidence of the matters therein certified, in all Courts of Justice within this Province, as far as may concern the execution of this Act, as fully as if the records of such attainder or inquisition were produced in such Courts.

An extract of such entry signed by any two or more Commissioners, to be evidence in Courts of Justice.

IV. *And be it further enacted by the authority aforesaid,* That the said Commissioners, or the majority of them, for the time being, are hereby authorized, empowered and required, to inquire into all such estates, both real and personal, within this Province, as are or may be vested in His Majesty, by such attainder as aforesaid, or by inquisition returned under the authority of the said Act passed in the fifty-fourth year of His Majesty's reign, and to cause all and every the rents, issues and profits, of the said real estates, until sale thereof, to be effectually levied and paid into the hands of a Special Receiver, to be appointed by the Governor, Lieutenant Governor, or Person Administering the Government of this Province, for the time being, for the purposes of this Act, and to levy, raise, secure, and cause to be sold, all such goods, debts and personal chattels and estates, within this Province, as are or may be vested in His Majesty, in the manner herein before mentioned, and to sell the said real estates, after the

General duties of Commissioners under this Act.

claims relating to such estates respectively shall be determined, or otherwise dispose of the same, in the manner hereinafter provided, and out of the rents or produce of the said estates, real or personal, to cause payment or satisfaction to be made of such sums of money as shall be due to any claimants upon the same; and in the execution of the premises, the said Commissioners shall and may proceed, in virtue of the powers hereby granted to them, in a summary way, without the formalities practised or observed in Courts of Justice.

Mode of proceeding.

Register of forfeited estates kept by Commissioners to be open to public inspection.

V. And to the end that all and every of the said estates and interest hereby vested or to be vested in the said Commissioners may be duly published, so as all persons having interest therein may have notice thereof, in such manner as that they may enter their claims upon the same in manner hereinafter provided; *be it enacted by the authority aforesaid*, That the said Commissioners shall cause the Register or books herein appointed to be kept of the names of all persons attainted of High Treason, committed during the time aforesaid, and of all real and personal estates and interests by this Act vested or to be vested in the said Commissioners, or an authentic copy or duplicate of such books, to be kept by a proper officer, who shall make the same open and patent to the inspection of all persons who shall demand the same, between the hours of ten and two of any lawful day, without any fee or reward; and in the said books shall be expressed the dates when the entries of the several estates, real or personal, that shall be there entered were made; and the said Commissioners, or the majority of them, shall also transmit to the Special Receiver, for the time being, an authentic copy of the said Register or books.

Duplicates of entries of real estates forfeited, shall be transmitted to the Clerks of the Peace, in the Districts where such real estates lie;

Notice to be given of such entries or registers.

VI. *And be it further enacted by the authority aforesaid*, That when any real estate shall be entered in the said Register, the said Commissioners shall, from time to time, within the space of one month after such entry, transmit or cause to be transmitted an authentic copy or duplicate of every such entry to the Clerk of the Peace of the District within which the said real estate is situated; and every such Clerk of the Peace shall, and is hereby required within seven days after he shall receive such duplicate or copy, to cause the same or a copy thereof to be affixed on the door of the place where the General Quarter Sessions of the Peace are usually held for such District, and to cause the same to be inserted in a book to be provided and kept by him for that purpose, all which books shall be made open and patent to any persons demanding inspection of the same, upon any lawful day between the hours of ten and two, without fee or reward.

In what manner claims to or out of the forfeited estates are to be made;

VII. And that no person or persons whomsoever, having any estate, right, title or interest, in Law or Equity, into or out of any of the said estates, real or personal, vested or to be vested in the said Commissioners by this Act, may be in any wise prejudiced thereby, *be it enacted by the authority aforesaid*, That all and every person and persons whatsoever,

Bodies politic or corporate, other than and except all such persons forfeiting the same, and the heirs, executors, administrators and assigns, of every of them, and all and every person and persons having or claiming any thing in the premises, or any part thereof, to the use of or in trust for any such persons, or their or any of their heirs, executors, administrators, having any estate, right, title, interest, use, trust, possession, reversion, remainder, annuity, rent, debt, benefit, charge or incumbrance, whatsoever, in Law or Equity, in, to or out of, or upon any lands, messuages, tenements and hereditaments whatsoever, or to any real or personal estate, or any other the premises whatsoever, vested or to be vested in the said Commissioners by this Act, by or under any settlement, conveyance, judgment, statute, recognizance, extent, or other debt, charge or incumbrance, affecting or which was binding on the persons attainted or to be attainted, or on the persons found or to be found Aliens by any inquisition taken and returned according to the above-recited Act of the Parliament of this Province, passed in the fifty-fourth year of His Majesty's reign, and which might have affected the same estate before the respective days and times whereon the same was vested in His Majesty; and also all and every person and persons, Bodies politic and corporate, pretending to have right or title to any estate which shall have been vested, or shall hereafter be vested in the said Commissioners, and who shall pretend that none of the persons registered in the books of the said Commissioners, as attainted of High Treason, or as found to be Aliens, was seized or possessed of, or interested in, or entitled unto such estates, in his, her or their own right, or to his, her or their own use, nor any other person in trust for them or any of them, as in the inquisitions concerning the same are respectively returned, or that they have right or title to such estate, shall within the space of six months, to be reckoned from and after the date of the entry that shall be made in the registry book of the said Commissioners, of any personal estate, and in case of real estate, within eight months of the entry in the register to be kept for the District where such estate lies, in manner herein before directed, of the estate or interest in, to or out of which such claims and demands are to be made respectively, enter all their respective claims and demands before the said Commissioners, in such manner as herein before mentioned, or in default thereof, every such estate, right, title, interest, use, possession, reversion, remainder, annuity, rent, debt, charge and incumbrance, into or out, of or upon the said premises, or any part thereof, shall be and is hereby declared to be null and void to all intents and purposes whatsoever, and the estate or estates so as aforesaid, liable unto or charged therewith, shall from thence be freed, acquitted and discharged, of and from the same; and all and every such claims and demands of Infants shall and may be made by their fathers or guardians, or any other persons in their behalf; and all claims of *Femmes Couvertes* by their husbands, or any other persons on their behalf, and all claims of Madmen, Idiots or Lunatics, by such person or persons under whose care or custody they are or shall be at the time of entering such claims; and that all such claims shall be made and

Time of making claim

If claims not made within the terms limited, the estate to be forever discharged thereof.

How claims of infants, lunatics, femmes couvertes, &c. to be made;

Claim to be in writings.

tendered in writing to the said Commissioners, and signed by the party or parties making the same, or such other person or persons on his, her or their behalf, as aforesaid, or signed by the Attornies or Agents of the party or parties claiming, and such signing shall be testified by two or more credible witnesses, who shall subscribe their names to attest the same, and every claimant shall therein particularly express what estate, right, title, interest, use, possession, reversion, remainder, annuity, rent, debt, benefit, charge or incumbrance, he or she demand or claim, into or out of or upon any part of the premises, and by and under what gift, grant, settlement, conveyance, security, title or incumbrance, he or she do claim the same, and if such party claiming hath demands, or claims any estate, right, title or interest, in or to any part of the premises, by virtue of any incumbrance for any debt or sum of money whatsoever, such party shall also in his claim set forth such incumbrance, and the dates and contents thereof, and the witnesses thereto, and if the same be recorded, when and where the same was entered on record, and whether such debt and sum of money was and is really due and remains wholly unpaid and unsatisfied, and what part and how much thereof has been really and truly satisfied by money paid, or by any other ways and means whatsoever; and every such claim shall be transcribed by order of the said Commissioners, or the majority of them, and entered in books to be provided and fairly kept by them for that purpose; and the said Commissioners, or the majority of them, are hereby required and empowered to proceed in a summary way, without abiding the course of any roll, to hear and determine all such claims; and every decree of the said Commissioners, or the majority of them, shall be final and binding upon all parties concerned, in case thirty days shall elapse without any proceedings being had for appealing from the same to a Special Commission of Appeal, to be composed of the Chief Justice and Judges of the Court of King's Bench in this Province; and it shall be lawful for the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, to appoint the Chief Justice and the Judges of the Court of King's Bench, for the time being, Commissioners of Appeal, with power to hear and determine all appeals from the decisions, judgments and decrees, of the Commissioners first above referred to.

How Commissioners are to proceed on such claims;

Commissioners' decree to be final, unless appealed from within 30 days;

Commissioners of appeal.

Examination of claims by Commissioners;

VIII. *And be it further enacted by the authority aforesaid,* That the said Commissioners, or the majority of them, shall and they are hereby empowered and required, in a summary way, without the formality of proceedings in the Courts of Law or Equity, to proceed by and upon the testimony of witnesses upon oath, examination of persons claiming, or otherwise interested, upon their oaths, inspection and examination of deeds of writings and records, or by all or any of the said ways and means, or otherwise, or according to the circumstances of the case, as soon as conveniently may be, to hear and determine, and adjudge all and every claim and claims which shall be entered within the times aforesaid; and that every party claiming, shall, if required by the said Commissioners, or by or on behalf of His Majesty's Attorney or Solicitor General of this

Evidence to be produced;

Province, upon oath, answer to the truth of his or her claim, and to such proper interrogatories as the Commissioners shall think fitting for the clearing thereof; and upon oath produce before the said Court, at the hearing of such claim, all such deeds, writings and evidences, as are in his custody or power, any ways concerning the said claim or the subject matter thereof.

Oath of claimants.

IX. And to the end that due care may be taken of the interest of His Majesty in respect of such claims as shall be offered as aforesaid, *it is hereby further enacted by the authority aforesaid*, That His Majesty's Attorney General of this Province, or in his absence, the Solicitor General, shall and they are hereby empowered and required to provide for making proper answers and defence on behalf of His Majesty, to all such claims as shall be offered as aforesaid, and for reversing, affirming and amending the decrees that shall be passed upon such claims, as they shall see cause.

His Majesty's Attorney and Solicitor General to defend on behalf of His Majesty.

X. *And be it further enacted by the authority aforesaid*, That where the claim so to be determined as aforesaid to be just and lawful, shall contain a demand of any sum or sums of money, any wise affecting any of the said estates, real or personal, then and in such case, the said Commissioners, or the majority of them shall, and are hereby expressly empowered and required to issue out debentures or certificates to claimants for the respective sum or sums which shall be determined to be due and payable to them severally by the decrees of the said Commissioners; which debentures or certificates, with legal interest, shall be paid without any deduction, fee or reward, by the aforesaid Special Receiver, out of such rents, profits and proceeds, as shall be paid into his hands from the respective estates upon which the said claims are allowed, so that such claims shall in no case exceed the rents, profits and proceeds, received by the said Special Receiver from and on account of the estate in respect of which the said claim is made.

In what manner the sums decreed to claimants are to be paid.

XI. *And be it further enacted by the authority aforesaid*, That when the said claim shall contain a demand of any lands, tenements, or other real estate whatsoever, or any interest therein, and shall be adjudged and decreed by the said Commissioners to be just and legal, then, and in that case, the said Commissioners, or the majority of them, are hereby authorized to order the Sheriff of the District where the same shall lie, to cause possession to be delivered to such claimant or claimants, his, her their heirs, executors, administrators or successors, or to whom they or any of them shall appoint; and all and every such claimant or claimants, his, her or their, heirs, executors, administrators or successors, shall hold and enjoy the same, or such estate and interest therein, respectively, as shall be adjudged, determined or decreed, as aforesaid.

Sheriff to put claimants in possession of real estates decreed to them.

XII. *And be it further enacted by the authority aforesaid*, That all and every the estate and interests which shall be entered in the register, to be kept by the said Commissioners according to the directions of this Act, to

Estates when to be vested in the Commissioners.

or upon which no claim shall be entered within the time and in the manner hereinafter prescribed, shall be deemed and taken against all persons, and to all intents and purposes, to be vested in the said Commissioners in virtue of this Act, and such estates and interests as shall be so entered in the said register, and to or upon which claims shall be entered, shall in like manner be deemed and taken to be vested in the said Commissioners, subject only to such burthen, diminution or eviction, as shall arise from the determination of the claims that shall be so entered, and no otherwise.

Commissioners to sell
forfeited estates by
auction.

XIII. And to the intent that the said real and personal estates may be disposed of, and the value thereof applied as herein is directed, *be it further enacted by the authority aforesaid*, That the said Commissioners shall, as soon as convenient, use their utmost endeavours to secure all such goods and personal chattels as appear by the said extracts, or otherwise, to be vested in His Majesty, in such places, and in the custody of such persons as shall be thought most proper by the said Commissioners, for preventing the perishing, or any loss or embezzlement thereof; and the said Commissioners, or the majority of them, are hereby authorized and required to sell all and singular the real estate, and also the goods and chattels, vested or to be vested in them by this Act, according to the best of their skill and judgment; and for that purpose, having caused public notice to be given for the space of ninety days at least, of the time and where they intend to begin to expose to sale any part or parcel thereof, and of the several particulars then and there to be sold, they shall sell the same by public auction to such person or persons as shall bid most for the same, and immediately upon every such sale or contract, shall cause an entry to be made in their book of all and every the real and personal estate so sold, and of the buyers' names and places of abode, and the prices paid for the same respectively; and upon payment of the purchase money to the said Commissioners, or as soon after as conveniently may be, the said Commissioners shall deliver to the respective purchasers the goods and chattels, and execute deeds of bargain and sale for such real estates as shall be sold in manner aforesaid, to the respective purchasers thereof, which said deeds of bargain and sale are hereby required to be registered, as other conveyances by deed of bargain and sale of lands in this Province; and in case any person or persons, being the highest bidder at any such auction, shall make default in payment of the monies according to the terms mentioned at the said auction, he, she or they, shall forfeit one third of the sums for which the said real estates, or goods and chattels, respectively, were sold, to be levied under a warrant, under the hands and seals of the majority of the said Commissioners, and the said Commissioners, or the majority of them, may and shall proceed to a new sale of all and every such real estate, or goods and chattels, for which such default shall be made, unto any other person or persons, as if no sale thereof had been before made.

XIV. *And be it further enacted by the authority aforesaid*, That all and every person and persons, who, since the committing of any act by reason

of which any estate has become or may hereafter become vested in His Majesty, either by attainder, or any High Treason committed during the late war between His Majesty and the United States of America, or under the provisions of the herein before recited Act of the Parliament of this Province, passed in the fifty-fourth year of His Majesty's reign, have entered into or upon the said estate, or any part thereof, and held and enjoyed the same, without any lawful title thereunto, shall be responsible for all and every the profits of the same premises, during the time of his, her or their, occupation thereof, and shall answer and pay the value thereof, to be decreed upon evidence by the said Commissioners, or the majority of them, to the said Special Receiver, at such days or times as shall be appointed by the said Commissioners, or the majority of them; or in default thereof, shall forfeit double the value of the same profits by him or them received, to be levied by the said Commissioners, or the majority of them, by warrant, under their hands and seals, and paid into the hands of the Special Receiver, to be applied as the other monies to be paid to him in pursuance of this Act.

Persons having entered into forfeited estates, or enjoyed the same without lawful title, shall account for the profits thereof to the Commissioners;

Or in default pay double value, to be levied, &c.

XV. *And be it further enacted by the authority aforesaid,* That the said Commissioners, or the majority of them, shall and may meet on the first and third Mondays of every month, and may meet, act and proceed, at such other days and times as they may think proper, with or without adjournment, and shall and may send their precept or precepts for any person whatsoever to appear before them, and for all such books, papers and writings, as they shall think necessary for their information, in any matter or thing relating to this Act, under the same penalties and conditions as witnesses subpoenaed in civil causes in the Court of King's Bench, and shall and may detain in their custody such books, papers and writings, so long as they shall have occasion for the same, and then return such books, papers and writings to the persons to whom they respectively belong; and shall and may administer oaths for the better discovery of the truth of the inquiries by them to be made, to any person or persons therein concerned, or to any other person or persons whatsoever, and all Sheriffs, Bailiffs, Constables, and other Officers whatsoever, are hereby required to obey and execute such orders and precepts as shall be sent to them, or any of them, by the said Commissioners, or the majority of them, as they will answer the contrary at their utmost perils; and if any Officer or Officers shall neglect or refuse to give obedience to the precepts and orders of the said Commissioners, or the majority of them, for the due execution of this Act, then, and in every such case, it shall and may be lawful to and for the said Commissioners, or the majority of them, to impose upon any such Officer or Officers a fine, not exceeding fifty pounds sterling, for any one offence, and to commit such Officer or Officers till such fine shall be paid unto the Receiver General of this Province, to and for the uses of His Majesty, His Heirs and Successors, for the public uses of this Province, and for the support of the Government thereof, to be accounted for to His Majesty through the Lords

Days of meeting of Commissioners, who may send for persons, papers &c.

Administer oaths.

Penalty on Sheriffs or other officers not obeying the precepts of the Commissioners.

Commissioners of His Majesty's Treasury, for the time being, in such manner as it shall please His Majesty to direct.

Appointment of clerks,
&c. by Commissioners;

Fees;

Oath to be taken by
clerks, &c.

XVI. *And be it further enacted by the authority aforesaid,* That the said Commissioners, or the majority of them, shall, and they are hereby authorised, from time to time, to appoint and employ Clerks or other necessary Officers for the execution of this Act; which said Clerks or other Officers respectively, are hereby required faithfully to execute and perform the trust in them respectively reposed, without taking any thing for such their service other than such fees, salaries or rewards, as the said Commissioners, or the majority of them, shall think fit and direct in that behalf; and every such Clerk or other Officer, before he enters on the execution of his employment shall take an oath, for his true and faithful demeanour in all things relating to the trusts reposed in him by the said Commissioners, and that he will not directly nor indirectly take or receive any fee or reward, or accept the promise of any fee or reward, for any thing whatsoever to be done by him in the execution of the said trusts, except what shall be settled or allowed by the said Commissioners, or the majority of them, and that he will not directly nor indirectly have any part, share or interest, or make any benefit by any discoveries of any forfeited or forfeitable estates or interests whatsoever, intended to be vested in the said Commissioners in pursuance of this Act, or conceal, or cause or procure to be concealed the same or any part thereof.

Provision for the remuneration of inferior Officers by the Commissioners.

XVII. *And be it further enacted by the authority aforesaid,* That there shall and may be paid to such person or persons as the said Commissioners, or the majority of them, shall nominate, upon account for payment of salaries of inferior officers employed under them, and for incident charges in and for the performance of the several trusts by this Act committed to the said Commissioners, such sums of money as the said Commissioners, or the majority of them, judge to be necessary and reasonable in that behalf, out of such monies as shall from time to time be or remain in the hands of the said Special Receiver, for the time being, by virtue of any of the clauses, matters or things, in this Act contained, and the said Special Receiver is hereby authorised and required to pay the same out of such monies, upon vouchers or authorities signed for that purpose by the said Commissioners, or the majority of them.

Proceedings in appeal.

XVIII. *And be it further enacted by the authority aforesaid,* That an appeal shall lie to the Commissioners of Appeal in this Province, from the judgment and decree of the said Commission, upon any claim that shall be brought before them in pursuance of this Act, and that the appellant or appellants from any such judgment or decree shall, within twenty days from the giving or passing of the same, present to the said Commissioners, or the majority of them, his, her or their, exception or exceptions to the said judgment or decree, which exception or exceptions shall be in writing, and signed by the party or parties appealing, or his, her, or their, Attorney, and shall be entered by the said Commissioners in a book

to be kept by them for that purpose; a transcript of which exceptions, signed by the majority of the said Commissioners, shall be remitted without delay to the Clerk of the said Commission of Appeal; for the time being, that the said Commissioners of Appeal may proceed, as soon after as may be convenient, to consider the said judgment or decree, and to reverse or affirm the same, as they shall judge thereupon; and if the appellant or appellants do not appear personally, or by his or their Attorney, to prosecute such appeal within the next term after the said transcript shall have been filed by the Clerk of the Commissioners, the said Commissioners are hereby required to hear the arguments on such appeal, *ex-parte*, and to decide thereupon according to their judgment on the matters contained in the said transcript, and the judgment of the Commissioners on such appeal shall be final and conclusive.

XIX. *And be it further enacted by the authority aforesaid,* That His Majesty's Attorney and Solicitor General of this Province shall and may make out their contingent accounts against the Government of this Province, for all services rendered by them on behalf of His Majesty, in respect of the estates hereby vested or to be vested in the said Commissioners, which accounts being duly sworn to, shall be inspected and audited by the said Commissioners, or the majority of them, following as nearly as may be the usual allowance of fees made to those Officers respectively for services of a similar nature; and the amounts of such accounts, so audited, shall be paid by the said Special Receiver, for the time being, under the authority of the said Commissioners, or the majority of them, out of such monies as shall come into his hands in pursuance of this Act.

Attorney and Solicitor
Generals accounts how to
be audited and discharged

XX. *And be it further enacted by the authority aforesaid,* That the Commissioners to be appointed under this Act shall, before entering upon the duties of their office, take an oath to execute faithfully and impartially, with all possible despatch, according to the best of their ability, the several duties imposed upon them by this Act, which oath shall be taken and subscribed before the Executive Council of this Province; and shall enter into a bond, under the penalty of one thousand pounds, to pay over into the hands of the said Special Receiver all such sums of money as shall be paid to them, in pursuance of this Act, within one month after they shall receive the same respectively; and that each of the said Commissioner, acting in pursuance of this Act, shall be entitled to receive a sum not exceeding one pound per day, for every day he shall be so employed in executing the provisions of this Act, which sums shall be paid to them respectively by the said Special Receiver annually, out of such monies as shall come into his hands in pursuance of this Act, upon the warrant of the Governor, Lieutenant-Governor, or person administering the Government of this Province.

Oath to be taken by the
Commissioners and
security given;

Remuneration.

XXI. *And be it further enacted by the authority aforesaid,* That the Special Receiver to be appointed under this Act, for the time being, shall

Oath of Special Receiver

Security;

Remuneration;

Appropriation of proceeds
of the forfeited Estates,
after payment of all
accounts, charges and
deductions.

before entering upon the duties of his office, take an oath to execute faithfully the duties imposed upon him by this Act, which oath shall be taken and subscribed before the Executive Council of this Province; and shall enter into a bond, with a penalty of four thousand pounds, with two sureties in the sum of two thousand pounds each, to pay over and duly account for all such sums of money as he shall receive in pursuance of this Act; and that the said Special Receiver, for the time being, shall and may retain in his hands two pounds ten shillings, for every hundred pounds to be by him received and paid in pursuance of this Act, as a remuneration for services therein; and that the balance remaining in his hands after the payment of all and every of the certificates, debentures, accounts, charges, salaries, and deductions, mentioned or provided in this Act, shall be paid by the said Special Receiver, in discharge of such warrants as the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, by and with the advice of the Executive Council thereof, shall from time to time issue in favour of any person or persons, for any sum or sums of money to be paid them towards compensating the losses which he, she or they, have sustained by the invasion of the enemy or otherwise, in consequence of the late war with the United States of America.

CHAP. XIII.

AN ACT to repeal an Act passed in the fifty-fifth year of His Majesty's reign, intituled, "An Act to Licence Practitioners in Physic and Surgery, throughout this Province," and to make further provision for Licencing such Practitioners.

[Passed 27th November, 1818.]

Preamble.

59th Geo. III. chap 10,
repeated.(See 59 Geo. III. Sess. 2,
Chap. 2,
8 Geo. IV. Chap. 3)

WHEREAS the provisions of an Act of the Parliament of this Province, passed in the fifty-fifth year of His Majesty's reign, intituled "An Act to Licence Practitioners in Physic and Surgery throughout this Province," have been found to be impracticable: *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 above recited Act be and the same is hereby repealed.

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, to constitute and appoint, under His Hand and Seal at Arms, five or more persons legally authorised to practice Physic, Surgery or Midwifery, in this Province, to be a Board, whereof any three to be a quorum, to hear and examine all persons desirous to apply for a Licence to practice Physic, Surgery and Midwifery, or either of them, within this Province, and being satisfied by such examination, that any person is duly qualified to practice Physic, Surgery and Midwifery, or either, to certify the same under the hands and seals of two or more of such Board, whereupon the Governor, Lieutenant-Governor, or Person Administering the Government, being satisfied of the loyalty, integrity and good morals of such applicant, may under His Hand and Seal at Arms, grant to him a Licence to practice Physic, Surgery and Midwifery, or either, conformable to such Certificate: Provided always, that nothing in this Act shall extend to prevent any female from practising Midwifery in this Province, or to require such female to take out such Licence as aforesaid, Provided also, that no person duly authorised by any University in His Majesty's Dominions, or by Commission or Warrant in His Majesty's Naval and Military service, or who have been heretofore Licenced by any Medical Board in this Province, shall be restrained from practising for want of such Licence as aforesaid.*

Medical Board to be appointed for examination of Candidates for Licences to practice;

Certificate of the Board;

Licence;

Exceptions;

(Repealed by 8th Geo. IV. Chap. 3.)

Penalty for practising Physic, &c. without Licence; How recovered and applied; Provision in favour of resident Practitioners before 1st January 1812.

III. [Repealed by 8 Geo. IV. Chap. 3.]

IV. *And be it further enacted by the authority aforesaid, That it shall and may be lawful for such Board to ask, demand and receive, for every such Certificate, from the person claiming the same, the sum of three pounds ten shillings; and that it shall also be lawful for the Private Secretary of the Governor, Lieutenant-Governor, or Person Administering the Government, to ask, demand and receive, for such Licence, of and from the person receiving the same, the sum of twenty shillings.*

Fees on Certificates;

And on Licences.

V. [Repealed by 59 Geo. III. Sess. 2. Chap. 2.]

Periods of sitting.

CHAP. XIV.

AN ACT to repeal an Ordinance of the Province of Quebec, passed in the twenty-fifth year of His Majesty's reign, intituled, "An Ordinance concerning Land Surveyors, and the Admeasurement of Lands," and also to extend the provisions of an Act passed in the thirty-eighth year of His Majesty's reign, intituled, "An Act to ascertain and establish on a permanent footing the Boundary Lines of the different Townships of this Province," and further to regulate the manner which Lands are hereafter to be surveyed.

[Passed 27th November, 1818.]

Preamble.

WHEREAS an Ordinance of the Province of Quebec, passed in the twenty-fifth year of His Majesty's reign, intituled, "An Ordinance concerning Land Surveyors, and the Admeasurement of Land," is in many instances, as far as the same relates to this Province, found to be inapplicable; *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 Ordinance, so far as it relates to or affects this Province, be and the same is hereby repealed.

Ordinance of Quebec respecting Land Surveyors, repealed.

(See 1 Vic. Chap. 19.
2 Vic. Chap. 17.
3 Vic. Chap. 11.)

53th Geo. III. Chap. 1.

II. And whereas it is necessary to extend the provisions of an Act passed in the thirty-eighth year of His Majesty's reign, intituled, "An Act to ascertain and establish on a permanent footing the boundary lines of the different townships of this Province," *be it enacted by the authority aforesaid*, That all boundary lines of townships, all concession lines, governing points, and all boundaries, posts or monuments, which have been placed or planted at the front angles of any lots or parcels of land, in the first survey, intended to determine the width of such lots or parcels of land, provided such survey has been performed under the authority of the Executive Government of the late Province of Quebec, or under the authority of the Executive Government of this Province, shall be, and the same are hereby declared to be, the true and unalterable boundaries of all and every of such townships, concessions and lots, respectively; and that every lot or parcel of land respectively, whether it shall upon admeasurement be found to contain the exact width, or more or less than what may be expressed in any Letters Patent, grant, or other instrument, in respect of such boundaries or lines mentioned and expressed, shall embrace the whole width contained between the front posts, monuments

What are declared to be the unalterable boundaries of townships, concessions and lots.

or boundaries, planted or placed at the front angles of any such lot or parcel of land, as aforesaid, in such original survey as aforesaid, and no more nor less, and every half or quarter of such lot or parcel, its proportion; any thing in such Patent or instrument to the contrary thereof in any wise notwithstanding.

III. *And be it further enacted by the authority aforesaid,* That the boundary line of each and every township, on that side from which the lots are numbered, shall be, and the same is hereby declared to be, the course or courses of the respective division or side lines throughout the several townships and concessions of this Province, respectively; and all Surveyors shall and are hereby required to run all division or side lines, which they may be called upon by the owner or owners of any lands to survey, to correspond with and be parallel to the respective town lines, from whence the lots are numbered as aforesaid.

Course of division and side line.

IV. *And be it further enacted by the authority aforesaid,* That every licenced Surveyor, when and as often as he is employed to run any side line or limit, between lots or lines required to go the same course of the side lines or limits between lots in the concession in which the land to be surveyed lies, shall, if it has not been done before, or if it has been done, but the course cannot at such time be truly ascertained, determine by a true meridian line, or some other infallible method, the true course of a straight line between the front and rear angles of such concession, on that boundary of the township from which the lots are numbered, and run such line or lines, as aforesaid, truly parallel to such course, which is hereby declared, and shall at all times be deemed and taken to be the true course of such lines in the several townships of this Province.

How Surveyors to proceed in running the side lines or limits between lots.

V. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, no person shall act as a Surveyor of lands in this Province, until he shall have been duly examined by the Surveyor General or Deputy Surveyor General thereof, as to his fitness and capacity, and shall have obtained a licence from and be appointed to act as such by the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, for the time being; and shall have entered into a bond, with two sufficient sureties, in the sum of five hundred pounds, to His Majesty, His Heirs and Successors, for the due performance of his office; and shall have taken and subscribed the oath of allegiance, and the following oath, before the Surveyor General or Deputy Surveyor General of this Province:

Qualification of Surveyors.

Bond to be given;

And oath taken by them.

“I, A. B., do solemnly swear, that I will well and truly discharge the duty of a Surveyor of lands, agreeably to the law, without favour, affection, or partiality, when and as often as I may be required thereto by any person or persons, or by the rule or order of any Court of Justice, and which I will faithfully, and without unnecessary delay, submit to the party requiring the same, or the Court directing my duty; also a plan of survey, if required. So help me God.”

Exception in favour of persons now authorized.

Provided always, That this Act shall not extend, or be construed to extend, to prevent any person or persons from acting as a Surveyor of lands in this Province, who is now authorized to act as such by virtue of a licence from the Governor, Lieutenant-Governor, or Person Administering the Government of this Province.

Surveyor General or Deputy Surveyor General to examine applicants, and administer oaths.

VI. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the Surveyor General or Deputy Surveyor General of this Province, to examine applicants to survey, and if found competent, to grant certificates to that effect, and to administer the foregoing oaths, which oaths shall be deposited in the Surveyor General's Office.

Licence to be granted to Surveyors.

VII. *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 grant licences to such persons as are well recommended, on their producing satisfactory certificates from the Surveyor General or Deputy Surveyor General of this Province, of their competent knowledge of the theory and practice of surveying in all its branches, to survey in this Province during their good behaviour.

Chain Bearer to be sworn.

VIII. *And be it further enacted by the authority aforesaid*, That each and every Chain Bearer shall take an oath to act as such justly and exactly, according to the best of his judgment and abilities, and to render a true account thereof to the Surveyor by whom he may have been appointed to such duty, which oath the Surveyor employing such Chain Bearer is hereby authorized and required to administer.

What shall be taken to be the front of each concession.

IX. *And be it further enacted by the authority aforesaid*, That the front of each concession, lot, or parcel of land, shall be considered to be, and the same is hereby declared to be, that end or boundary of such concession, lot, or parcel of land, which is nearest to the boundary of the respective townships from which the several concessions thereof are numbered.

How the side lines between the lots shall be ascertained, in case where a patent has issued embracing several lots.

X. *And be it further enacted by the authority aforesaid*, That in all cases when any Letters Patent of grant, or other instrument, has issued for several lots or parcels of land in concessions adjoining each other, the side lines or limits between lots or parcels of land therein mentioned and expressed, shall commence at the front angles of every such lot or parcel of land respectively, and run agreeably to the courses of the respective townships as hereinbefore enacted, and shall not continue on in a direct line through several concessions, unless such line or lines when run truly parallel to such governing boundaries of such townships as aforesaid, shall intersect the corresponding post or monument at front of such concession next in rear.

XI. *And be it further enacted by the authority aforesaid, That in all cases when any licenced Surveyor shall be employed to run any side line or limit between lots, and the original post or monument from which such line should commence cannot be found, every such Surveyor shall, in every such case, obtain the best evidence that the nature of the case will admit of respecting such limit; but if such limit cannot in such manner be nearly ascertained, then such Surveyor shall proceed to measure the true distance between the nearest undisputed posts, limits or monuments, into such number of lots as the same contained in the original survey of such township, having due respect to any allowance for road or roads, common or commons, as were contained in such original survey, and such limit so found shall be taken to be, and the same is hereby declared to be the true limit in every such case, if accurately obtained, any law or usage to the contrary thereof in any wise notwithstanding.*

How Surveyors are to proceed when the original posts or monuments are lost.

XII. *And be it further enacted by the authority aforesaid, That if any action of ejectment shall be brought against any person or persons, who after these lines have been established by virtue of this Act, shall be found, in consequence of unskilful Surveyors, to have improved on land not his, her, or their own, it shall and may be lawful for the Judge of Assize, before whom such action is tried, to direct the Jury to assess such damages for the defendant or defendants for any loss he, she, or they may sustain in consequence of any improvement made before such action is commenced, and also assess the value of the land to be recovered, and if a verdict shall be found for the plaintiff or plaintiffs, no writ of possession shall issue, until such plaintiff or plaintiffs have tendered or paid the amount of such damages, as aforesaid, or shall release the said land to the defendant, provided the said defendant shall pay or tender to the plaintiff the value of the land so assessed, before the fourth day of the ensuing term.*

What proceedings shall be had when actions of ejectment are brought for land improperly occupied in consequence of erroneous Surveys.

CHAP. XV.

AN ACT further to extend the provisions of an Act passed in the thirty-third year of His Majesty's reign, intituled, "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 comprised within the Province of Upper Canada, and to provide for the further Solemnization of Marriage within the same."

[Passed 27th November, 1818.]

WHEREAS it is expedient to extend the benefit of an Act passed in the thirty-third year of His Majesty's reign, intituled "An Act to confirm

Preamble.
33rd Geo. III. Chap. 5.
(See 1 Pm. IV. Chap. 1.)

and make valid certain Marriages heretofore contracted in the country now comprised within the Province of Upper Canada, and to provide for the future Solemnization of Marriage within the same," to such persons who have neglected to avail themselves of the enactment in the second section of said Act, in preserving the testimony of such Marriage, and the birth of their children, within three years from the passing 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 enable such person or persons who have neglected to avail themselves of the benefit of the said enactment, to preserve the testimony of such Marriage and to effectuate the same, it shall and may be lawful, at any time within three years after the passing of this Act, for any Magistrate of the District where such parties may have contracted Matrimony, declared valid by the said recited Act, passed in the thirty-third year of His Majesty's reign, to administer to either of the parties surviving, husband or wife, the following oath :

Persons having neglected to avail themselves of the provisions of 33rd Geo III. Chap. 5, may within three years preserve the testimony of their marriage and effectuate the same by complying with the provisions of this Act;

Oath;

"I, A. B. do solemnly swear, in the presence of Almighty God, that I did publicly intermarry with C. D. on or about the — day of —, and that there is now living, issue of the said Marriage, (as the case may be) I. B. born on the — day of —, M. B. born on the — day of —."

Certificate and fee for same;

Evidence of the marriage.

Which form of attestation shall be subscribed by the parties, if living, or by the surviving husband or wife, 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 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 any 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, any thing in the said recited Act of the thirty-third year of His Majesty's reign contained to the contrary notwithstanding.

CHAP. XVI.

AN ACT to alter and amend the Laws now in force for levying and collecting Light House and Tonnage Duties, and to relieve Vessels propelled by Steam from paying the said Duty on the space occupied by the Engine, Machinery and Fuel.

[Passed 27th November, 1818.]

WHEREAS by an Act passed in the forty-third year of His Majesty's reign, intituled, "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, Wares and Merchandise, brought into this Province from the United States of America, as are now paid on Goods, Wares and Merchandise, imported from Great Britain, and other places,' and to provide more effectually for the collection and payment of Duties on Goods, Wares and Merchandise, coming from the United States of America into this Province, and also to establish a fund for the erection and repairing of Light Houses," It is enacted, that the sum of three pence per ton, shall be demanded for every vessel, boat, raft or other craft, of the burthen of ten tons and upwards, that may enter certain Ports on Lake Ontario, for Light House and Tonnage Duty: *And whereas* it is inexpedient that such Tonnage and Light House Duty should hereafter be enforced and collected at any Port where there is no Light House erected, or that such Tonnage and Light House Duty should be paid on any vessel propelled by Steam, on the space occupied by the engine, machinery and wood; *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, the usual space occupied by the engine and machinery, with the requisite stowage of wood, be taken and considered to occupy one third part of such vessel, and be deducted from her full and actual admeasurement, nor shall the said vessel be liable to pay Light House or Tonnage duty on any more than two third parts of her actual admeasurement, any law or usage to the contrary thereof in any wise, notwithstanding.*

Preamble,
43rd Geo. III. Chap. 2.
(See 2 Geo. IV. Sess. 1,
Chap. 15;
7 Wm. IV. Chap. 95;
3 Vic. Chap. 22.)

Steam Boats or vessels
only to pay Light House
or Tonnage duty on 2/3 of
their actual admeasure-
ment, the remaining 1/3
be deducted for the machi-
nery and fuel.

II. *And whereas* it is expedient to alter and amend the laws now in force as far as relates to levying and collecting Tonnage and Light House Duty: *be it therefore enacted* by the authority aforesaid, that no vessel, boat, raft or other craft, of the burthen of ten tons and upwards, that shall

No Light House duty to
be paid at any port where
there shall be no Light
House erected.

enter any Port within this Province, shall be liable to pay any Light House Duty at any Port where there shall be no Light House erected, any law or usage to the contrary notwithstanding.

CHAP. XVII.

AN ACT to amend the Laws now in force for granting Wholesale Licences.

[Passed 27th November, 1818.]

[EXPIRED—WITH 58TH GEO. III. CHAP. 1.]

CHAP. XVIII.

AN ACT granting to His Majesty a Sum of Money for the Survey of the Waters of the Saint Lawrence, and for other purposes therein mentioned.

[Passed 27th November, 1818.]

[REPEALED BY 2ND GEO. IV. SESS. 1. CHAP. 2.]

CHAP. XIX.

AN ACT to remunerate certain persons therein mentioned.

[Passed 27th November, 1818.]

[TEMPORARY.]

Preamble; £887 12s. 7d. granted to His Majesty. 2. How to be appropriated. 3. To be paid and accounted for.

STATUTES OF UPPER CANADA,

PASSED IN THE

FOURTH SESSION OF THE SEVENTH PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT YORK, ON THE SEVENTH DAY OF JUNE IN THE FIFTY-NINTH YEAR OF THE REIGN
OF OUR SOVEREIGN LORD GEORGE THE THIRD, AND PROROGUED ON THE
TWELFTH DAY OF JULY FOLLOWING.

SIR PEREGRINE MAITLAND, K. C. B.
LIEUTENANT GOVERNOR.

ANNO DOMINI 1819.

CHAP. I.

AN ACT to repeal part of the Laws now in force imposing Duties on Goods, Wares and Merchandize, imported into this Province from the United States of America, and to make further regulations for the trade between this Province and the said United States of America, by land and inland navigation.

[Passed 12th July, 1819.]

[EXPIRED.]

CHAP. II.

AN ACT to repeal part of and to amend an Act passed in the fifty-ninth year of His Majesty's reign, intituled, "An Act to repeal an Act passed in the fifty-fifth year of His Majesty's reign, intituled, 'An Act to Licence Practitioners in Physic and Surgery throughout this Province,' and to make further provision for Licencing such Practitioners."

[Passed 12th July, 1819.]

WHEREAS by the fifth clause of an Act of the Parliament of this Province, passed in the fifty-ninth year of His Majesty's reign, intituled, "An Act to repeal an Act passed in the fifty-fifth year of His Majesty's reign, intituled 'An Act to Licence Practitioners in Physic and Surgery throughout this Province,' and to make further provision for Licencing

Preamble.
(See 8 Geo. IV. Ch. 3.)
59 Geo. III. Ch. 13, recited

such Practitioners," the Board constituted and appointed by virtue of and under the authority thereof is required to be held at York on the first Monday in January and July in each year: *And whereas* much delay and inconvenience may arise from a limitation of the sittings of the said Board to those periods: *And whereas* it is expedient to make further provision for the constitution and organization of the said Board; *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 fifth clause of the said recited Act of the fifty-ninth year of His Majesty's reign, be and the same is hereby repealed.

5th clause repealed.

Secretary of the Board to be appointed;

His duty.

II. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the said Board, or a majority of the members composing the same, to appoint from time to time a fit and proper person to be Secretary of the said Board; which Secretary shall attend the meetings of the said Board, and keep a record of the proceedings of the same in a book or books to be by him provided for that purpose, together with all such matters and things as to the said Board shall appertain.

Board to sit at four periods in the year;

Sitting not to exceed a week.

III. *And be it further enacted by the authority aforesaid*, That from and after the passing of this Act, the said Board shall be kept and held in the town of York, in the Home District, four times in each year, viz: on the first Monday in January, April, July and October, respectively, and may be continued by adjournment from day to day until the business before the Board is finished: *Provided*, that no one quarterly sitting shall be so continued by adjournment beyond the Saturday of the week in which such sitting shall commence.

Notice of application for Licence to be given to the Secretary;

Fees to the Secretary.

IV. *And be it further enacted by the authority aforesaid*, That every person desirous of being examined by the said Board, touching his qualifications for the practice of Physic, Surgery and Midwifery, or either of them, shall and he is hereby required to give due notice thereof to the Secretary aforesaid in writing, setting forth the branch or branches of medical practice that he wishes to be examined in; and shall pay to the Secretary, aforesaid, the sum of ten shillings as his fee for receiving and entering the same, and a further sum of ten shillings as his fee upon receiving the certificate of the Board.

CHAP. III.

AN ACT to give effect and validity to Deeds executed by Married Women in the United Kingdom of Great Britain and Ireland, or in any of His Majesty's Colonies, and to repeal part of and amend an Act passed in the forty-third year of His Majesty's reign, intituled, "An Act to enable Married Women, having Real Estate, to alien and convey the same."

[Passed 12th July, 1819.]

WHEREAS there is by Law no provision enabling Married Women resident abroad, and owning real estate in this Province, to alien 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 from and after the passing of this Act, 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 any real estate whereof she may be seized within this Province, to such use or uses as to her and her said husband shall seem meet, which conveyance shall be as valid and effectual in Law to all intents and purposes as if she were sole, any law or usage to the contrary notwithstanding.

Preamble.

(See 2 Geo. IV. Ch. 14,
1 Wm. IV. Ch. 3,
2 Vic Ch. 6, sec. 2.)

Married women enabled to alienate their real estate by deed executed jointly with their husbands.

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 her coverture, or after the dissolution thereof, or shall be held to have any force or effect whatsoever; unless such Married Woman, if resident in Upper Canada, shall appear before any Judge or other person mentioned and described in a certain Act passed in the Parliament of this Province, in the forty-third year of His Majesty's reign, intituled, "An Act to enable Married Women, having real estate, more conveniently to alien and convey the same," or unless such Married Woman, being resident in Great Britain or Ireland, or any Colony belonging to the Crown of Great Britain, shall appear before the Mayor or Chief Magistrate of any City, Borough or Town Corporate, in Great Britain or Ireland, or the Chief Justice or any one of the Judges of the Supreme Court of any Colony

Examination and consent necessary to render such deed effectual;

If femme covert resident in the Province;

If resident in Great Britain or Ireland or any British Colony.

belonging to the Crown of Great Britain, and be examined by such Mayor or Chief Magistrate, or Chief Justice or Judge, touching her consent to alien and depart with such real estate, and shall freely and voluntarily, and without coercion, give her consent before such Mayor or Chief Magistrate, or Chief Justice or Judge, as aforesaid, to alien and depart with such estate.

Certificate to be given of such examination and consent;

(Sec 1 Wm. IV. Ch. 3.)

III. *And be it further enacted by the authority aforesaid,* That in case it shall appear to such Mayor or Chief Magistrate, Chief Justice or Judge, that such Married Woman doth freely and voluntarily consent to depart with, alien and convey her said real estate, without coercion on the part of her husband or any other person, it shall and may be lawful for such Mayor or Chief Magistrate, Chief Justice or Judge, 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 Mayor or Chief Magistrate, Chief Justice or Judge, before whom the same shall be taken; and forasmuch as the second section of the said recited Act of the forty-third year of the reign of His Majesty, the examination of any Married Woman touching her consent to alien, depart with and convey any real estate in this Province, shall take place within six months from the time of the execution of any Deed or Conveyance, the same being found inconvenient and impracticable in many cases, *it is hereby enacted,* that so much of the said second section of the said Act, as enacts that such examination shall take place within six months from the time of the execution of any Deed or Conveyance, as therein stated, shall be and the same is hereby repealed.

Provision of 43rd Geo. III. Chap. 5, requiring examination to be within six months, repealed.

Twelve months allowed from the execution of the conveyance;

(Sec 1 Wm. IV. Ch. 3.)

IV. *And be it further enacted by the authority aforesaid,* That all examinations of such Married Women, and certificate of such Deeds, as before mentioned, which may be taken and made, as by the said several recited Acts are mentioned, shall be valid in Law, if the said examination and certificate shall be taken and made *within twelve months* from the date of the execution of any such Deed or Conveyance.

Certificate of mayor or chief magistrate of any borough or town corporate or colony, to have the seal of such city &c. affixed.

V. *And be it further enacted by the authority aforesaid,* That no certificate to be granted as aforesaid, by any such Mayor or Chief Magistrate of any Borough or Town Corporate in Great Britain or Ireland; or of any Colony belonging to the Crown of Great Britain, shall have any force or effect, unless the Seal of such City, Borough or Town Corporate, shall be affixed thereto.

CHAP. IV.

AN ACT to repeal part of and to amend the Laws now in force for establishing Public Schools in the several Districts of this Province, and to extend the provisions of the same.

[Passed 12th July, 1819.]

MOST GRACIOUS SOVEREIGN :

WHEREAS it hath been found expedient to repeal part of and to amend an Act passed in the forty-seventh year of His Majesty's reign, intituled, "An Act to establish Public Schools in each and every District of this Province," and to extend the provisions 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 provision be made by Law for the establishing of a Public School in the District of Gore.

Preamble.
47th Geo. III. Chap. 6.
recited;

A District School established in the District of Gore.

II. *And be it further enacted by the authority aforesaid,* That from and out of the rates and duties raised, levied and collected, or hereafter to be raised, levied and collected, to and for the public uses of this Province, and unappropriated, there be granted annually to His Majesty, His Heirs and Successors, the sum of one hundred pounds, which sum of one hundred pounds shall be appropriated and applied and disposed of in paying the salary of the Teacher of the said School; which said sum of one hundred pounds shall be paid by the Receiver General of this Province, in discharge of such warrant or warrants as shall for that purpose be issued by the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, and 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 be pleased to direct.

£100 per annum appropriated to pay the salary of the Teacher.

III. *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, to appoint Trustees and a Teacher in the said District of Gore, under the like provisions as are contained in the said Act of the forty-seventh year of His Majesty's reign, intituled, "An Act to establish Public Schools in each and every District of this Province."

Trustees to be appointed.

Annual public examination to be held of every District School.

IV. *And be it further enacted by the authority aforesaid,* That the Trustees of each and every District School within this Province, shall direct a public examination of their respective Schools to be held previous to the usual annual vacation, at which they or a majority of them shall assist; and it is hereby required that such public examination shall be holden every year at the time aforesaid.

Annual reports to be made by the Trustees of District Schools, to the Lt. Governor;

V. *And be it further enacted by the authority aforesaid,* That the Trustees for the respective District Schools, as aforesaid, in each and every District in this Province, shall, and they are hereby required, once in every year, after the public examination as aforesaid, to report to the Governor, Lieutenant Governor, or Person Administering the Government of this Province, the state of the said Schools, the number of scholars, the state of education, with the different branches taught in the said School, the number of scholars who have completed their education, together with all other matters and things that may tend to cherish the prosperity of the said Schools, or that may in any wise benefit the same, that the said report may be laid before the Legislature at its first meeting for their inspection.

To be laid before the Legislature.

Ten poor children to be educated at each School, gratis.

VI. *And be it further enacted by the authority aforesaid,* That in order to extend the benefit of a liberal education to promising children of the poorer Inhabitants, the Trustees of each and every School have the power of sending scholars, not exceeding ten in number, to be taught gratis at the respective District Schools.

How such Scholars are to be selected.

VII. *Provided always, and be it further enacted by the authority aforesaid,* That the said scholars, so to be taught as aforesaid, shall once in every four years be drawn by lot in manner following, viz.: the Trustees for the Common Schools, now or hereafter to be established by virtue of any Act of the Parliament of this Province, shall and they are hereby authorised to return the name or names of one or more, not exceeding four, from each Common School, of the most promising scholars, as aforesaid, of their respective Schools, to the Trustees of the District Schools for the District in which they shall respectively reside, which Trustees shall, and they are hereby required, at a special meeting to be openly held for that purpose, inscribe each and every name so returned to them on a separate and distinct slip of paper, being all as nearly as possible of the same size, which slip of paper shall be put into a box or glass, to be provided for that purpose, and at such meeting as aforesaid, the same shall, in the presence of the said Trustees, be openly drawn by some disinterested person, and each and every scholar so chosen as aforesaid, shall be entitled to receive his education gratuitously at the said District School, and the Teacher thereof shall and he is hereby required to educate such scholar as aforesaid.

Vacancies filled up.

VIII. *And be it further enacted by the authority aforesaid,* That in case any vacancy shall ensue in consequence of the refusal or decease, or from

any other cause whatever, of any scholar or scholars drafted as aforesaid to be taught in the District School, it shall and may be lawful for the Trustees of the Common School from which such scholar or scholars shall have been drafted, to make a second ballot to fill up the vacancy.

IX. *And be it further enacted by the authority aforesaid,* That so much of the third clause of the said Act, intituled, “An Act to establish Public Schools for each and every District in this Province,” as relates to the Public Schools in the District of London and Johnstown, be and the same is hereby repealed.

Parts of 47th Geo. III.
Chap. 6, repealed.

X. *And be it further enacted by the authority aforesaid,* That the Public School for the District of London shall be opened and kept in the town of *Vittoria, in the township of Charlotteville*; and the Public School for the District of Johnstown shall be opened and kept in the village of Brockville, in the township of Elizabethtown; that the Public School for the District of Gore shall be opened and kept at the town of Hamilton, in the District of Gore.

Where the Public Schools shall be kept in the Districts of Johnstown, Gore and London;
(See 7 Wm. IV, Chap. 106.)

XI. *Provided always, and be it further enacted by the authority aforesaid,* That to every Teacher hereafter to be appointed, there shall be only fifty pounds paid, unless the average number of Scholars exceeds ten.

Teachers to be appointed hereafter, shall have no more than £50 per annum unless they have more than ten Scholars.

XII. *And be it further enacted by the authority aforesaid,* That the certificate required from the Trustees by the twelfth clause of the said Act, passed in the forty-seventh year of His Majesty's reign, shall declare that, “at a public meeting of the Trustees of the District School, upon due notice given for that purpose, a majority of the Trustees being present, we certify, &c. &c.”

Form of certificate to be given by Trustees;
(See 2 Vic. Chap. 10.)

[See Statutes of Canada, 4 & 5 Victoria, Ch. 19.]

CHAP. V.

AN ACT for establishing a Police in the Town of Niagara, in the District of Niagara, and for other purposes therein mentioned.

[Passed 12th July, 1819.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. VI.

AN ACT granting to His Majesty an additional Duty on Stills used for the distillation of Spirituous Liquors for sale, and for ascertaining the manner in which certain Wooden Stills shall be gauged in this Province.

[Passed 12th July, 1819.]

[EXPIRED.—But see 3 VIC, CH. 19.]

CHAP. VII.

AN ACT to repeal the several Laws now in force relative to levying and collecting Rates and Assessments in this Province, and further to provide for the more equal and general Assessment of Lands and other Ratable Property throughout this Province.

[Passed 12th July, 1819.]

Preamble.

(See 38 Geo. III. Chap. 1
Sec. 7;
6 Geo. IV. Chap. 7;
9 Geo. IV. Chap. 3;
7 Wm. IV. Chap. 19;
1 Vic. Ch. 20;
1 Vic. Ch. 21;
Sec. 14, 15, 16, 17, 18, 19;
40, 41; 46; 51.)

51st Geo. III. Chap. 8, and
55th Chap. 5, repealed.

WHEREAS it is expedient to make provision for the more equal and general Assessment of Lands and other ratable property 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 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 Monday in January, which will be in the year of our Lord one thousand eight hundred and twenty, the several Acts now in force in the Province relative to Rates and Assessments, that is to say, an Act passed in the fifty-first year of the reign of His present Majesty, intituled, "An Act to repeal an Act passed in the forty-seventh year of His Majesty's reign, intituled, 'An Act to repeal the several Acts now in force in this Province relative to Rates and Assessments, and also to particularize the property, real and personal, which, during the continuance thereof, shall be subject to Rates and Assessments, and fixing the several valuations at which each and every particular of such property shall be rated and assessed,' and to make further provision for the same;" and also, a certain other Act passed in the fifty-fifth year of His present Majesty's reign, intituled, "An Act to continue and amend an Act passed in the fifty-first

year of His Majesty's reign, intituled, 'An Act to repeal an Act passed in the forty-seventh year of His Majesty's reign, intituled, 'An Act to repeal the several Laws now in force in this Province relative to Rates and Assessments, and also to particularize the property, real and personal, which, during the continuance thereof, shall be subject to Rates and Assessments, and fixing the several valuations at which each and every particular of such property shall be rated and assessed,' and to make further provision for the same," shall be and the same are hereby repealed.

II. *And be it further enacted by the authority aforesaid,* That the following property, real and personal, shall, after the said first Monday in January one thousand eight hundred and twenty, and for every subsequent year during the continuance of this Act, be deemed ratable property throughout this Province, and shall be rated at the rate and valuation herein set forth, that is to say: every acre of arable, pasture or meadow land, twenty shillings; every acre of uncultivated land four shillings; every town lot situated in the towns hereinafter mentioned, to wit: *York, Kingston, Niagara and Queenston, fifty pounds; Cornwall, Sandwich, Johnstown and Belleville, twenty-five pounds; every town lot on which a dwelling house is erected in the town of Brockville, being composed of the front half of lots number ten, eleven, twelve and thirteen, in the first concession of the township of Elizabethtown, in the District of Johnstown, thirty pounds; every town lot on which a dwelling house is erected in the town of Bath, being composed of the front or south half of lots number nine, ten and eleven, in the first concession of the township of Ernestown, in the Midland District, twenty pounds; every house built with timber squared or hewed on two sides, of one story in height, and not two stories, with not more than two fire places, twenty pounds; for every additional fire place, four pounds; every dwelling house built of squared or flatted timber on two sides, of two stories in height, with not more than two fire places, thirty pounds; and for every additional fire place, eight pounds; every framed house under two stories in height, with not more than two fire places, thirty-five pounds; and every additional fire place, five pounds; every brick or stone house of one story in height, and not more than two fire places, forty pounds; and for every additional fire place, ten pounds; every framed, brick or stone house, of two stories in height, and not more than two fire places, sixty pounds; every additional fire place, ten pounds; every grist mill wrought by water, with one pair of stones, one hundred and fifty pounds; every additional pair, fifty pounds; every saw mill, one hundred pounds; every merchant's shop, two hundred pounds; every store house owned or occupied for the receiving and forwarding goods, wares or merchandize, for hire or gain, two hundred pounds; every stone horse kept for the purpose of covering mares for hire or gain, one hundred and ninety-nine pounds; *Provided also,* that if any person shall bring into any township in this Province, any horse as aforesaid, after the Assessment Roll shall have been made up for*

What shall be deemed ratable property after first Monday in January, 1820;

Valuation;

(See 7 Wm. IV. Chap. 39, and the Police Acts of the several Towns.)

Stone Horse;

such township, it shall and may be lawful for the Collector of such township, and he is hereby required to demand and receive of any such person, the rate for such horse as aforesaid, unless the owner can satisfy such Collector that the rate for such horse has been returned or paid for that year, and in case of a refusal of payment, to proceed to the recovery of such rate by distress and sale of such horse as aforesaid; every horse of the age of three years and upwards, eight pounds; oxen of the age of four years and upwards, per head, four pounds; milch cows, per head, three pounds; horned cattle from the age of two years to four years, per head, twenty shillings; every close carriage with four wheels, kept for pleasure, one hundred pounds: every phaeton or other open carriage, with four wheels, kept for pleasure only, twenty-five pounds; every curricule, gig or other carriage, with two wheels, kept for pleasure only, twenty pounds; every waggon kept for pleasure, fifteen pounds: *Provided always*, that every stove erected and used in a room where there shall be no fire place be deemed and considered as a fire place: *Provided also*, that nothing herein contained shall extend, or be construed to extend, to any property, goods or effects, matters or things, herein mentioned or enumerated, which shall belong to or be in the actual possession or occupation of His Majesty, His Heirs or Successors, except the Crown and Clergy Reserves actually leased to individuals, which shall be liable to the same rates and assessments as other lands hereinbefore mentioned.

Carriages;

Stoves;

Exceptions of property of the King.

Lists to be taken by Assessors; Particular specification of land.

III. [Repealed by 5th Wm. IV. Ch. 8; 1st Vic. Ch. 21.]

What lands subject to rates.

IV. *And be it further enacted by the authority aforesaid*, That all lands shall be considered as ratable property which are holden in fee simple, or promise of a fee simple by Land Board certificate, Order of Council, or certificate of any Governor of Canada, or by lease.

Town lots divided.

V. *And be it further enacted by the authority aforesaid*, That each lot, piece, or parcel of land, in any of the before recited towns, other or less than a town lot on the original plan of such town, held by lease or otherwise, on which a building shall be erected, shall be likewise taken and considered to be a town lot.

Compensation to Assessors.

VI. [Repealed by 5 Wm. IV. Ch. 8; 1 Vic. Ch. 21.]

Assessments to be imposed and apportioned by Quarter Sessions;

VII. *And be it further enacted by the authority aforesaid*, That the several Courts of Quarter Sessions are hereby authorised, empowered and required, after having ascertained the sum of money required to be raised for defraying the public expenses of the District, to divide and apportion the same upon each and every person in the said Rate rolls named, and liable to pay rates as aforesaid, so that every person shall be assessed in just proportion to the list of his, her or their, ratable property, real and personal, according to the rates hereinbefore specified, and having ascertained the quota, dividend or sum of money, for which each and every person shall be so assessed 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 the said Clerk of the Peace shall be entitled to ask, and the Treasurer is hereby required to pay him the sum of thirty shillings on each Assessment Roll, so by the said Clerk apportioned and transmitted as aforesaid; 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 on the sum herein specified; on the valuation at which each species of the property before mentioned shall be rated and assessed.

Assessment rolls;

Clerk of the Peace;

Limitation of assessment to one penny in the pound.

VIII. *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 one half of the money collected by virtue of the preceding rate, together with the whole of the monies collected under and by virtue of any Act or Acts now or hereafter to be in force in this Province, shall have been expended for the public uses of the District.

Restrictions preventing new assessment except in certain cases.

Punishment of Officers neglecting or refusing to perform duties imposed on them by this Act; and on persons not delivering true lists to Assessors; Fine; How levied; Accounted for. In case of refusal to pay rate, the same to be levied by distress; Overplus. Compensation to Collectors; Money received by them to be paid to the Treasurer.

IX. }

X. }

XI. }

[Repealed by 5 Wm. IV. Ch. 8; 1 Vic. Ch. 21.]

XII. *And be it further enacted by the authority aforesaid*, That His Majesty's Surveyor General of this Province, for the time being, shall, on or before the first day of July, which will be in the year of our Lord one thousand eight hundred and twenty, furnish the Treasurer of each and every District thereof with a list or schedule of the lots in every town, township or reputed township, of his respective District, as the same are designated by numbers and concessions; or otherwise, upon the original plan thereof, in which list it shall be specified, in columns opposite to each lot respectively, to whom the said lot, or any and what part thereof has been described as granted by His Majesty, and whether the same, or any and what part thereof be yet ungranted, and also what lots are reserved as Crown or Clergy Reserves, or for other public purposes, and to whom such Reserves, or any and what part thereof have been leased by His Majesty; and shall, on or before the first day of July, in every year thereafter transmit to the Treasurer of such District, respectively, a schedule of all such lots or parcels of land, specifying the number of acres or other less quantity of land in each, as have been granted or set to lease by His Majesty, since the last schedule by him furnished, as before directed.

Schedules of granted and leased lands to be furnished by Surveyor General;

(See 6 Geo. IV. Chap. 7. Secs. 2, 3, 4, 5.)

XIII. *And be it further enacted by the authority aforesaid*, That all lands described in the said schedule as having been granted or let to lease by

All lands included in such schedules as granted or leased, shall be liable to assessments whether occupied or not; (See 6 Geo. IV. Ch. 7.)

How rates to be collected in respect of lands not returned on Assessment Lists;

Distress.

His Majesty shall, from the time they are returned in the said schedule, be assessed and charged to the payment of the rates or taxes imposed by this Act, in the respective Districts in which they are situated, and not elsewhere, whether the same be occupied at the time of assessment or not; and the Treasurer of each and every District of this Province, is hereby authorised and empowered to receive from any person or persons paying the same, the rates or taxes for and in respect of all such lands as are not returned on the Assessment Roll of any township or place; and that in case any lands charged to the said rates or taxes shall be unoccupied, and no distress can be found on the same at the time such rates or taxes shall be payable, it shall and may be lawful for the Collector, for the time being, of the township or place in which such lands are situated, at any time thereafter, to enter upon the said lands, when there shall be any distress thereupon to be found, and having obtained a warrant for that purpose from any of His Majesty's Justices of the Peace, to levy from the occupier of such tract or parcel of land, the amount of all rates and taxes in arrear, by distress and sale, as they might have done upon the same lands if in the occupation of such persons at the time the rates and taxes became due, and after deducting the legal charges of distress and sale, as well as the amount of such taxes in arrear, such Collector shall pay the overplus, if any there be, to the person or persons occupying the premises on which such distress was made.

Treasurer of each District to keep an account against the Lands in his District, charging the rates hereby imposed;

(See 9 Geo. IV. Ch. 3.)

Inspection of accounts:

XIV. *And be it further enacted by the authority aforesaid,* That the Treasurer of each and every District of this Province, shall keep an account for every parish, town, township, reputed township or place, within his District, according to the list or schedule furnished by the Surveyor General, as before mentioned, in which account he shall particularly enumerate every lot or parcel of land in the said parish, township or place, describing the same as in the said schedule, and shall charge the same with, or credit it for the amount of the taxes and rates payable or paid in respect thereof, for each and every year; and that the said books or accounts shall be produced by the said Treasurer, for the inspection of the Justices, at the Court of General Quarter Sessions held in his District, respectively, in each and every year, and shall be kept open for the inspection of all persons desiring to see the same between the hours of ten and three on every first and third Monday in each month; and the Treasurer is hereby authorised to demand for every such search and inspection one shilling and three pence, and no more.

Fee for search.

Rates to accumulate by an increased proportion, if suffered to remain in arrear beyond certain periods.

XV. *And be it further enacted by the authority aforesaid,* That when the rates and assessments upon any lot, piece or parcel of land, shall be suffered to remain in arrear and unpaid for the space of three years, the rates and assessments so in arrear shall be increased in the proportion of one third; and if suffered to remain *five years in arrear, the whole shall be increased in the proportion of one half; and if suffered to remain eight years in arrear, the amount of such arrear shall be doubled, and the said rates and assessments shall be charged thenceforward in double the amount that would*

(See 6 Geo. IV. Chap. 7; 9 Geo. IV. Chap. 3, Sec. 4.)

grow due according to the existing rate or assessment; and such rates so increased respectively, shall be charged against the lands in the accounts of the Treasurer herein directed to be kept, and shall be levied in the manner herein before provided.

XVI. [Repealed by 5 Wm. IV. Ch. 8; 1 Vic. Ch. 21.]

Townships not authorised to hold Town Meetings.

XVII. *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 is hereby required to transmit, before the end of the month of January, in each and every year, to the Governor, Lieutenant Governor, or Person Administering the Government, an aggregate account of the said assessment, in order that the same may be laid before the Legislative Council and House of Assembly, which shall contain a true and full statement of every species of property in respect of which such assessment was made; and the Clerks of the Peace, respectively, are hereby authorised to demand, and the Treasurer of each District is hereby respectively required to pay each of the said Clerks of the Peace, for their trouble in making up such aggregate account, the sum of thirty shillings.*

Aggregate account to be transmitted to the Lieutenant-Governor by the Clerks of the Peace.

Remuneration to the Clerks of the Peace.

XVIII. *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 assembled, or the greater part of them, then and there assembled, to nominate and appoint a proper person, being resident within the District, to be Treasurer of the said District; which Treasurer shall give sufficient security in such sum as shall be approved of by the said Justices at their respective General Quarter Sessions 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, and also for the true 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 or persons as the said Justices, at their respective General Quarter Sessions, or the greater part of them then and there assembled, shall by their order direct and appoint for the purposes therein recited, and for any other uses and purposes to which the public stock of the said District is or shall be applicable by law; and for every time or times, to and for his own use, as a reward for his labour and expense, the sum of four pounds for every hundred pounds that shall or may be paid into his hands under the authority of this Act, for the purposes aforesaid.*

Treasurer how to be appointed.

Security.

Duty.

Remuneration.

XIX. *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*

Treasurer's accounts.

or any other Act now or hereafter in force in this Province; and also to deliver in a true and exact account, upon oath, which oath any one of the Justices at their respective General Quarter Sessions is hereby authorised 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 Sessions the proper vouchers for the same; and also transmit once in each and every year a certified copy thereof on oath to the Governor, Lieutenant Governor, or Person Administering the Government, in order that the same may be laid before the Legislative Council and House of Assembly; 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 a good and sufficient acquittance to the full amount thereof.

Certified copy of the same to be transmitted to the Lieutenant-Governor.

XX. *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, 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 proper person in his place.

Treasurer removable from office at the pleasure of the Justices.

XXI. *And be it further enacted by the authority aforesaid,* That the following fees, and no more, shall be taken for every distress levied under this Act: for every warrant of distress, two shillings and six pence; for every mile travelling to execute the same, four pence; and for every selling and making return, two shillings.

Fees on distress.

(See 1 Vic. Ch. 16.
1 Vic. Ch. 21, Sec. 47.)

XXII. *And be it further enacted by the authority aforesaid,* That for every schedule for each township furnished by the Surveyor General of this Province according to the provisions of this Act, on or before the first day of July one thousand eight hundred and twenty, he shall be entitled to receive from and out of the rates and duties now or hereafter to be raised, levied and collected, to and for the uses of this Province, the sum of twenty shillings for each and every such schedule, and for every supplementary schedule thereafter furnished, as directed by this Act, the sum of two shillings and six pence, to be paid by the Receiver General of this Province in discharge of such warrant or warrants as the Governor, Lieutenant Governor, or Person Administering the Government of this Province shall issue, and shall be accounted for to 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.

Compensation to Surveyor-General for the duties imposed on him by this Act,

(See 2 Geo. IV. Sess. 2,
Ch. 16.)

Continuance of this Act.

XXIII. }

[Repealed by 6 Geo. IV. Ch. 7.]

Form of Assessment Roll.

XXIV. }

[See Statutes of Canada, 4 & 5 Vic. Ch. 10.]

CHAP. VIII.

AN ACT to repeal part of and amend the Laws now in force for laying out, amending and keeping in repair, the Public Highways and Roads in this Province.

[Passed 12th July, 1819.]

WHEREAS it is expedient to amend the Laws now in force for providing for the laying out, amending and keeping in repair, the public highways and roads 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 first Monday in the month of March, which will be in the year of our Lord one thousand eight hundred and twenty, the thirtieth clause of an Act of the Parliament of this Province, passed in the fiftieth year of His Majesty's reign, intituled, "An Act to provide for the laying out, amending and keeping in repair, the public Highways and Roads in this Province, and to repeal the Laws now in force for that purpose," and so much of an Act passed in the fifty-sixth year of His Majesty's reign, intituled, "An Act to repeal and amend part of an Act passed in the fiftieth year of His Majesty's reign, intituled, 'An Act to provide for the laying out, amending and keeping in repair, the public Highways and Roads in this Province, and to repeal the Laws now in force for that purpose,'" as enacts "that any person liable to perform the duty imposed by the before recited Act, may compound for such duty, if he or she may think fit, by paying to the Overseer the sum of ten shillings, for each cart, waggon, team and driver, for each day, and every person liable to perform such labour may compound for the same, if he or she shall think fit, by paying to the Overseers the sum of *five shillings*, for and in lieu of such day's duty or labour respectively," at the time and in the manner directed by the aforesaid Act, shall be and the same are hereby repealed.

II. *And be it further enacted by the authority aforesaid*, That from and after the first Monday in March, which will be in the year of our Lord one thousand eight hundred and twenty, every person included or inserted in or upon the Assessment Roll of any township, reputed township or place, shall in proportion to the estimate of his real and personal property stated on the said Roll, be held liable to work on the highways and roads in each and every year as follows, that is to say: if his property be not rated at more than twenty-five pounds, then his proportion of statute

Preamble.

(See 4 Geo. IV. Sess. 2. Ch. 9 and 10.)

8 Geo. IV. Ch. 14,

1 Vic. Ch. 21, Sess. 5;

20, 21.)

After first Monday in March, 1820, the 30th clause of 50th Geo. III. Ch. 1, and certain parts of 56th Geo. III. Ch. 30, repealed.

(See 3 Vic. Ch. 10, and 7 Wm. IV. Ch. 39, Sec. 1, and the several Acts for police towns.)

After first Monday in March, 1820, what persons are to perform labour on the highways, and in what proportion.

(See 1 Vic. Ch. 21, Sec. 23, 3 Vic. Ch. 10.)

labour on the highways shall be two days; if at more than twenty-five pounds, and not more than fifty pounds, three days; if at more than fifty pounds, and not more than seventy-five pounds, four days; if at more than seventy-five pounds, and not more than one hundred pounds, five days; if at more than one hundred pounds, and not more than one hundred and fifty pounds, six days; if at more than one hundred and fifty pounds, and not more than two hundred pounds, seven days; if at more than two hundred pounds, and not more than two hundred and fifty pounds, eight days; if at more than two hundred and fifty pounds, and not more than three hundred pounds, nine days; if at more than three hundred pounds, and not more than three hundred and fifty pounds, ten days; if at more than three hundred and fifty pounds, and not more than four hundred pounds, eleven days; if at more than four hundred pounds, and not more than five hundred pounds, twelve days; and for every hundred pounds above the sum of five hundred pounds, till it amounts to one thousand pounds, one day; and for every two hundred pounds above the sum of one thousand pounds, till it amounts to two thousand pounds, one day; and for every three hundred pounds above the sum of two thousand pounds, till it amounts to three thousand five hundred pounds, one day; and for every five hundred pounds above the sum of three thousand five hundred pounds, one day: *Provided always*, that every person possessed of a waggon, cart, or team of horses, oxen or beasts of burthen or draft, used to draw the same, shall be liable to work on the highways not less than three days, any thing herein contained to the contrary in any wise notwithstanding.

Lands subject to be assessed, but not included in the assessment roll of any township, to be rated at one-eighth of a penny per acre, for amending the roads.

III. *And be it further enacted by the authority aforesaid*, That from and after the first Monday in the month of March, which will be in the year of our Lord one thousand eight hundred and twenty, every lot or parcel of land in this Province, subject to be rated and assessed, but which by reason of its remaining unoccupied, or for other cause, may not be included in the Assessment Roll of the township, reputed township or place, wherein the same is situated, shall nevertheless be rated and assessed at one eighth of a penny per acre annually, towards defraying the expense of laying out, amending and keeping in repair, the public highways and roads in such township, reputed township or place, to be levied by distress and sale, in case of non-payment, in the same manner by the Collectors in the different Districts respectively, as the other rates and assessments shall and may be levied and collected by virtue of the laws then in force for that purpose.

Treasurer to receive such rate, and if not paid, and the land unoccupied, the rates may be levied by distress, at any time after, when occupied.

IV. *And be it further enacted by the authority aforesaid*, That the Treasurer of each and every District in this Province, is hereby authorised and empowered to receive from any person or persons paying the same, the rates or taxes by this Act imposed, for or in respect of all such lands as are not returned on the Assessment Roll of any township or place; and that in case any lands charged with such rates and taxes shall be unoccupied, and no distress can be found thereon at the time such rates

or taxes shall be payable, it shall and may be lawful for the Collector, for the time being, of the township or place in which such lands are situated, at any time thereafter, to enter upon the said lands, when there shall be any distress thereupon to be found in the actual possession of the owner or occupier thereof, and having obtained a warrant for that purpose from any of His Majesty's Justices of the Peace, to levy the amount of such rates and taxes in arrear, by distress and sale, as they might have done upon the same lands if in the occupation of such persons at the time the rates and taxes became due; and after deducting the legal charges of distress and sale, as well as the amount of such rates and taxes in arrear, such Collector shall pay the overplus, if any there be, to the person or persons occupying the premises on which such distress was made.

Distress.

V. *And be it further enacted by the authority aforesaid,* That when the rates and assessments chargeable upon any lot, piece or parcel of land, by virtue of this Act, shall be in arrear and unpaid for the space of three years, the said rates and assessments, so in arrear, shall be increased in the proportion of one third, and if suffered to remain five years in arrear, the whole shall be increased in the proportion of one half, and if suffered to remain eight years in arrear, the amount of such arrears shall be doubled, and the said rates and assessments shall be charged thenceforward in double the amount that would grow due according to the existing rate or assessment, and such rates, so increased respectively, shall be charged against the lands in the accounts of the Treasurer, herein directed to be kept, and shall be levied in the manner herein before provided.

Rates to accumulate by increased proportions if suffered to remain in arrear.

[See 6 Geo. IV. Ch. 7, 5 Geo. IV. Ch. 3.]

VI. [Repealed by 4 Geo. IV. Sess. 2. Ch. 10. Sec. 1; 5 Wm. IV. Ch. 8.]

Stants labour may be compounded for. Rates of composition.

VII. *And be it further enacted by the authority aforesaid,* That the Treasurer of each and every District of this Province, in the account which he is required to keep for every parish, township, reputed township or place, according to the provisions of a certain Act passed in the present Session of the Parliament of this Province, intituled, "An Act to repeal the several Laws now in force relative to raising, levying and collecting, Rates and Assessments in this Province, and further to provide for the more equal and general Assessment of Lands and other ratable property throughout this Province," shall charge each lot or parcel of land with, or credit for the amount of taxes and rates hereby imposed, as well as of those accruing under the last mentioned Act; and that the said books or accounts shall be produced to the Justices, and shall be subject to public inspection in the same manner as is provided by the said Act, except that no more than one fee for search shall be exacted by the Treasurer for inspection of both heads of rates or assessments at the same time.

Treasurer to charge lands in his District with the rates hereby imposed.

Books to be open;

Fee for search.

VIII. }
IX. } [Repealed by 5 Wm. IV. Ch. 8; 1 Vic. Ch. 21.]

*Collectors to pay over-
monies to the Treasurer.
Compensation to Collec-
tors.
Fees on warrant of dis-
tress, &c.*

Compensation to the
Treasurer;

X. *And be it further enacted by the authority aforesaid, That the Treasurer of each and every District in this Province, shall be entitled to deduct the sum of four pounds for every hundred pounds paid into his hands under the provisions of this Act, and shall on the first day of June in every year pay over the remainder to the Overseer of the Highways, for the division in which the lands are situated, in respect of which the rates and taxes in his hands shall have been received, who shall apply the same to the use of the Highways within the year of his appointment, and the receipt of such Overseer shall be a sufficient acquittance to the Treasurer.*

Monies to be paid over by
him to the Overseers of
the Highways.

[Repealed by 4 Geo. IV.
Sess. 2, Chap. 9, Sec. 13.]

Overseers to render ac-
count on oath;
Money not expended by
Overseers shall be paid
over to their successors.
Perjury;
Power given to the Magis-
trates in certain cases to
exempt from Statute
labour on the Highways.

XI. }
XII. } [Repealed by 5 Wm. IV. Ch. 8.]

This Act not to vary or
annul any provision except
as herein expressly
enacted.

XIII. *And be it further enacted by the authority aforesaid, That nothing in this Act contained, shall be construed to vary, repeal or annul, any clause, matter or thing, in the said Acts contained, further than is herein expressly declared and enacted.*

Continuance of this Act.

XIV. [Repealed by 4 Geo. IV. Sess. 2. Ch. 9.]

CHAP. IX.

AN ACT to repeal and amend certain parts of an 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." and also, of an Act passed in the thirty-seventh year of His Majesty's reign, intituled, "An Act to extend the jurisdiction and regulate the proceedings of the Distrist Courts, and Court of Requests."

[Passed 12th July, 1819.]

[REPEALED BY 2nd GEO. IV. SESS. 2. CH. 2.]

CHAP. X.

AN ACT for granting to His Majesty a sum of money, in aid of the Funds, for defraying the expenses of the administration of Justice, and support of the Civil Government of this Province.

[Passed 12th July, 1819.]

[TEMPORARY.]

CHAP. XI.

AN ACT to amend and repeal part of an Act passed in the fifty-seventh year of His Majesty's reign, intituled, "An Act to establish a Market in the town of Niagara, in the Niagara District."

[Passed 12th July, 1819.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XII.

AN ACT to repeal part of and amend an Act passed in the forty-eighth year of His Majesty's reign, intituled, "An Act to explain, amend, and reduce to one Act of Parliament, the several Laws now in being for the Raising and Training the Militia of this Province."

[Passed 12th July, 1819.]

[REPEALED BY 1 VIC. CH. 8 SEC. 54; 2 VIC. CH. 9]

CHAP. XIII.

AN ACT to grant to His Majesty a sum of money, to enable Him to pay the salary of the Inspector General of Public Provincial Accounts in this Province.

[Passed 12th July, 1819.]

MOST GRACIOUS SOVEREIGN:

WHEREAS it is expedient to provide a fund to enable Your Majesty Preamble. to pay the salary of the Inspector General of Public Provincial Accounts See Act of Union; of this Province, we Your Majesty's dutiful and loyal subjects, the Commons of Upper Canada, in Provincial Parliament assembled, 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 Québec in North America,' and

£365 Sterling to be applied annually to pay the salary of the Inspector General.

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 raised, levied and collected, or hereafter to be raised, levied and collected, to and for the uses of this Province, and in the hands of the Receiver General unappropriated, there be granted to His Majesty, His Heirs and Successors, the sum of three hundred and sixty-five pounds sterling, annually, which sum of three hundred and sixty-five pounds sterling, shall be appropriated, applied and disposed of, in payment of the salary of the said Inspector General.

Payable after 1st January, 1820.

II. *And be it further enacted by the authority aforesaid,* That the said sum of three hundred and sixty-five pounds sterling, shall become payable from and after the first day of January one thousand eight hundred and twenty.

It is to be accounted for.

III. *And be it further enacted by the authority aforesaid,* That the said sum of three hundred and sixty-five pounds sterling, shall be paid by the Receiver General of this Province, in discharge of such warrant or warrants as shall for that purpose be issued by the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, and shall be accounted for to His Majesty, by the Receiver General of this Province, through the Lords Commissioners of His Treasury, for the time being, in such manner and form as His Majesty, His Heirs and Successors, shall be graciously pleased to direct.

CHAP. XIV.

AN ACT granting to His Majesty a sum of money, to provide for the accommodation of the Legislative Council and House of Assembly.

[Passed 12th July, 1819.]

[TEMPORARY.]

CHAP. XV.

AN ACT to incorporate certain persons under the style and title of the President, Directors and Company, of the Bank of Kingston.

[Passed 12th July, 1819.]

[Forfeited by non-user.]

CHAP. XVI.

AN ACT for appropriating a sum of money to defray the expense of procuring Plans and Elevations of Public Buildings, and for Copies of the Journals which were destroyed by the enemy.

[Passed 12th July, 1819.]

[TEMPORARY.]

CHAP. XVII.

AN ACT to repeal part of an Act passed in the fifty-sixth year of His Majesty's reign, intituled, "An Act to continue and amend an Act passed in the fifty-second year of His Majesty's reign, intituled, 'An Act to prevent damage to Travellers on the Highways in this Province.'"

[Passed 12th July, 1819.]

WHEREAS an Act passed in the fifty-second year of His Majesty's reign, intituled, "An Act to prevent damage to Travellers on the Highways in this Province," and continued and amended by An Act passed in the fifty-sixth year of His Majesty's reign, intituled, "An Act to continue and amend an Act passed in the fifty-second year of His Majesty's reign, intituled, 'An Act to prevent damage to Travellers on the Highways in this Province,'" will shortly expire: *And whereas*, it is expedient to make the said recited Acts permanent laws 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 last clause of the said last recited Act be, and the same is hereby repealed.

Preamble.

4th clause 56th Geo. III.
Chap. 11, repealed.

CHAP.

CHAP. XVIII.

AN ACT to continue and amend an Act passed in the fifty-sixth year of His Majesty's reign, intituled, "An Act to revive and continue an Act passed in the fifty-second year of His Majesty's reign, intituled, 'An Act to continue and amend an Act passed in the forty-eighth year of His Majesty's reign, intituled, 'An Act to continue an Act passed in the forty-fifth year of His Majesty's reign, intituled, 'An Act to afford relief to those persons who may be entitled to claim Lands in this Province as Heirs or Devises of the nominees of the Crown, in cases where no Patent hath issued for such Lands,' and further to extend the benefit of the said Act, and to continue part of the same."

[Passed 12th July, 1819.]

Preamble.

WHEREAS an Act passed in the fifty-sixth year of His Majesty's reign, intituled, "An Act to revive and continue an Act passed in the fifty-second year of His Majesty's reign, intituled, 'An Act to continue and amend an Act passed in the forty-eighth year of His Majesty's reign, intituled, 'An Act to continue an Act passed in the forty-fifth year of His Majesty's reign, intituled, 'An Act to afford relief to those persons who may be entitled to claim Lands in this Province as Heirs or Devises of the nominees of the Crown, in cases where no Patent hath issued for such Lands,' and further to extend the benefit of the said Act, and to continue part of the same," will shortly expire : *And whereas* it is expedient to continue and amend 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 the said Act of the fifty-sixth year of His Majesty's reign be and the same is hereby continued ; and that the assignee or assignees of the nominee or nominees of the Crown to lands in this Province, who is or are dead, or who have left this Province, before the passing of this Act, may bring their claims for such lands in the same manner that the assignee or assignees of the nominee or nominees of the Crown were authorized to do, by the second clause of the before recited Act of the forty-eighth year of the reign of His present Majesty.

56th Geo. III. Chap. 22,
continued;

Its provisions extended.

Fees to Clerk of the
Commission ;
(See 4 Geo. IV. Ch. 7 ;
10 Geo. IV. Chap. 4.)

II. *And be it further enacted by the authority aforesaid,* That the following fees shall be taken and received by the Clerk of the Commission : for filing each petition, five shillings ; on hearing the claim, five shillings ; for each certificate of allowance thereof, five shillings.

CHAP. XIX.

AN ACT to make good certain monies issued and advanced by His Excellency the Lieutenant-Governor, in pursuance of the Address of the Commons House of Assembly, at the last Session of Parliament.

[Passed 12th July, 1819.]

[TEMPORARY.]

CHAP. XX.

AN ACT to afford relief to Abner Chapin.

[Passed 12th July, 1819.]

[TEMPORARY.]

CHAP. XXI.

AN ACT for the relief of John Wagstaff, of Niagara, in the District of Niagara, Tinsmith.

[Passed 12th July, 1819.]

[TEMPORARY.]

CHAP. XXII.

AN ACT to continue an Act passed in the forty-second year of His Majesty's reign, intituled, "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 Collectors at the same, respectively."

[Passed 12th July, 1819.]

[TEMPORARY.]

CHAP. XXIII.

AN ACT further to continue an Act passed in the thirty-third year of His Majesty's reign, intituled, "An Act to provide for the appointment of Returning Officers of the several counties within this Province."

[Passed 12th July, 1819.]

[TEMPORARY.]

TWO ACTS,

PASSED BY BOTH HOUSES OF THE LEGISLATURE, IN THE FOURTH SESSION OF THE SEVENTH PROVINCIAL PARLIAMENT, WHICH BEING RESERVED FOR THE SIGNIFICATION OF HIS MAJESTY'S PLEASURE THEREON, HAVE SINCE RECEIVED THE ROYAL ASSENT.

SIR PEREGRINE MAITLAND, K. C. B.

LIEUTENANT GOVERNOR.

ANNO DOMINI 1819.

CHAP. XXIV.

AN ACT to incorporate sundry persons under the style and title of the President, Directors and Company, of the Bank of Upper Canada.

[The Royal Assent to this Act was promulgated by Proclamation, bearing date April twenty-first, in the year of our Lord one thousand eight hundred and twenty-one, and second of the reign of His Majesty Geo. IV.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXV.

AN ACT to prevent the abatement of any Action against a Joint Obligor, Contractor or Partner, on account of the other joint parties not being made defendants.

[The Royal Assent to this Act was promulgated by Proclamation, bearing date April twenty-first, in the year of our Lord one thousand eight hundred and twenty-one, and second of the reign of His Majesty Geo. IV.]

WHEREAS by Law the several defendants named in any civil suit or action must be personally served with process; *And whereas* by Law if any joint obligor, contractor or partner, be sued in any action, without

Preamble;
(See 7 Wm. IV. Ch. 3;
1 Vic. Ch. 7.)

naming the other joint obligors, contractors or partners, the defendant may plead the same in abatement of such action, to the great delay of justice in such cases, where one or more joint obligors, contractors or partners, reside out of the jurisdiction of the Courts of this Province, and cannot be served with process ; for remedy whereof, *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 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 any action to be brought in this Province against any joint obligor, contractor or partner, the action shall not abate for or on account of any joint obligor, contractor or partner, not being made defendant, unless the party pleading such matter in abatement shall shew to the Court that such joint obligor, contractor or partner, is living within the jurisdiction of the Court, so to be served with its process conformably to Law.

No action to abate by reason that any one or more of several joint obligors, &c. contrary are not made defendants, unless the party pleading in abatement shall shew that the joint contractor not named is within the jurisdiction of the Court.

II. *And be it further enacted by the authority aforesaid,* That the joint obligation, contract or promise, may be given in evidence against any one or more of the joint obligors, contractors or partners, and have the same force and effect, as to any judgment or execution thereon, as if the same was the sole obligation, contract, or promise of the defendant, any law, usage or custom, to the contrary notwithstanding.

Joint obligation, contract or promise, may be given in evidence against any one or more of the joint contractors, partners, &c. as if it were a sole obligation.

III. *And be it further enacted by the authority aforesaid,* That for satisfaction of any judgment against one or more of several joint obligors, contractors or partners, no execution shall issue until the bond, obligation, or other written evidence on which judgment shall be had, be first filed with the record of the said judgment.

No execution to issue upon a judgment against one of several joint obligors until the joint bond, contract, &c. be filed in Court.

STATUTES OF UPPER CANADA,

PASSED IN THE

FIFTH SESSION OF THE SEVENTH PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT YORK, ON THE TWENTY-FIRST DAY OF FEBRUARY, IN THE FIRST YEAR OF THE
REIGN OF OUR SOVEREIGN LORD GEORGE THE FOURTH, AND PROROGUED ON
THE SEVENTH DAY OF MARCH FOLLOWING.

SIR PEREGRINE MAITLAND, K. C. B.
LIEUTENANT GOVERNOR.

ANNO DOMINI 1820.

CHAP. I.

*AN ACT to regulate the Commercial Intercourse between this Province
and the United States of America, by land and inland Navigation.*

[Passed 7th March, 1820.]

[REPEALED BY 2ND GEO. IV. SESS. 1. CHAP. 1.]

CHAP. II.

*AN ACT to provide for increasing the Representation of the Commons
of this Province in the House of Assembly.*

[Passed 7th March, 1820.]

[SUPERSEDED BY THE ACT OF UNION.]

CHAP. III.

*AN ACT granting to His Majesty a sum of money to make good certain
monies issued and advanced by His Excellency the Lieutenant Govern-
or, pursuant to an address of the House of Assembly during its last
Session.*

[Passed 7th March, 1820.]

[TEMPORARY.]

CHAP. IV.

AN ACT to repeal an Act passed in the fifty-ninth year of His Majesty's reign, intituled, "An Act to prevent certain meetings within this Province."

[Passed 7th March, 1820.]

WHEREAS it is inexpedient to continue an Act passed in the fifty-ninth year of His Majesty's reign, intituled, "An Act to prevent certain meetings within 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 the aforesaid Act, and every matter and thing therein contained, shall be and the same is hereby repealed.

Preamble.

Fifty-ninth Geo. III. Ses. 1. Ch. 11, repealed.

CHAP. V.

AN ACT to amend and extend the provisions of an Act passed in the forty-first year of His Majesty's reign, intituled, "An Act to authorise the Governor, Lieutenant Governor, or Person Administering the Government, to appoint Inspectors of Flour, Pot and Pearl Ashes, within this Province."

[Passed 7th March, 1820.]

WHEREAS it is expedient to amend and extend the provisions of an Act passed in the forty-first year of His Majesty's reign, intituled, "An Act to authorise the Governor, Lieutenant Governor, or Person Administering the Government of this Province, to appoint Inspectors of Flour, Pot and Pearl Ashes, 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 first day of

Preamble.

41 Geo. III. Ch. 7.

Flour packed in barrels to be branded.

September next, every miller or manufacturer of flour for sale within this Province, shall provide brands or marking irons, for the purpose of branding and marking flour packed in barrels, on which brands or marking irons shall be expressed the name of the mills the flour was packed in, with the words "Upper Canada," the net weight and tare in figures, and also the words superfine, fine, or fine middlings, as the case may be.

Flour to be merchantable and well packed;

II. *And be it further enacted by the authority aforesaid,* That all wheat flour manufactured and packed in casks, and branded as aforesaid, at any mill in this Province, by the owner of such flour, shall be by such miller or manufacturer made merchantable and of due fineness, and shall be honestly and well packed in good and sufficient casks, made of staves well seasoned and bound with ten hoops, and the tare marked on the said cask, together with the net weight of flour contained in such cask; each cask to contain one hundred and ninety-six pounds.

Each cask to contain 196 lbs.

Flour to be marked according to its quality, under a penalty.

III. *And be it further enacted by the authority aforesaid,* That on any miller or manufacturer being required to make flour intended to be of the first quality, on each cask shall be branded superfine; and on each cask of flour intended to be of the second quality, shall be branded the word fine; and on each cask of flour intended to be of the third quality, shall be branded the words fine middlings, under the penalty of ten shillings for each cask: *Provided always,* that nothing herein contained shall extend, or be construed to extend, to compel any miller or manufacturer of flour to brand any casks of flour, unless he shall be satisfied that the flour is of the quality that it is required to be branded or marked as aforesaid.

To be liable to inspection;

IV. *And be it further enacted by the authority aforesaid,* That all flour packed in casks, and branded as aforesaid, and exposed for sale in any of the county towns or villages in this Province, shall be liable to inspection at the election of any purchaser; and the expense of such inspection shall be paid equally by the purchaser and seller, each one half.

Expense of inspection.

Punishment for putting a false tare on any flour cask.

V. *And be it further enacted by the authority aforesaid,* That if any person or persons shall put a false or wrong tare on any cask of flour, to defraud any purchaser, the persons so offending shall forfeit for every such cask so falsely tared as aforesaid, the sum of ten shillings.

Penalty for counterfeiting brands, or putting other flour in casks properly branded.

VI. *And be it further enacted by the authority aforesaid,* That any person or persons who shall counterfeit any of the aforesaid brand marks, or brand the same on any cask of flour, or shall empty any cask of flour branded as aforesaid, in order to put therein other flour for sale, without first cutting out the said brand marks, the person or persons so offending shall for every such offence forfeit and pay the sum of twenty shillings.

VII. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Inspectors, from time to time, to weigh such casks of flour as he or they shall suspect to be light, and if found not to contain the just and true weight, to mark or brand the same on the head with the word "light;" and for every cask of flour so marked "light," the manufacturer thereof shall forfeit and pay the sum of ten shillings.

Inspectors to weigh casks of flour, &c.

Penalty if found light.

VIII. *And be it further enacted by the authority aforesaid,* That on all casks of flour inspected by any of the Inspectors aforesaid, the Inspector shall brand the initial letters of his Christian name, and his Surname at full length, together with the name of the District or place where the same is inspected.

Inspector to mark flour inspected by him.

IX. *And be it further enacted by the authority aforesaid,* That in all cases where the brands describing the quality of flour, shall not in the judgment of the said Inspector be branded according to its respective kinds and qualities, he shall alter the same so as to describe the real quality, according to the true intent and meaning of this Act.

And to alter the mark denoting its quality, if incorrect.

X. *And be it further enacted by the authority aforesaid,* That no person appointed, or hereafter to be appointed Inspector of flour, shall deal in, buy, barter or exchange, any flour by him inspected, under pain of the Commission under which he acts being null and void, except such flour as may be necessary for the consumption of his own family.

Inspectors of flour not to deal in flour.

XI. *And be it further enacted by the authority aforesaid,* That all fines, forfeitures and penalties, by this Act imposed, shall be recoverable with costs, in a summary way, to be proceeded upon and be examined, heard and determined, by any one or more of His Majesty's Justices of the Peace, acting in the District where the offence shall have been committed, and in order thereto, it shall and may be lawful to and for any one of His Majesty's Justices of the Peace within the District where the offence has been committed, to summon any person or persons to appear before such Justices as aforesaid, and they are fully authorised and required, upon the appearance or default of such person or persons so to be summoned, to examine into the cause of such complaint, and thereupon to proceed to give judgment; the one moiety of all fines and forfeitures when recovered, shall be paid into the hands of the Receiver General, for the use of His Majesty, His Heirs and Successors, towards the support of the Government of this Province; and 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; and the other moiety to the person who shall sue for the same.

How fines, &c. should be recovered;

And accounted for.

CHAP. VI.

AN ACT to provide for the remuneration of John Beikie, Esquire, for services rendered to this Province.

[Passed 7th March, 1820.]

[EXPIRED.]

CHAP. VII.

AN ACT to amend and continue, under certain modifications, an Act passed in the fifty-sixth year of His Majesty's reign, intituled, "An Act granting to His Majesty a sum of money, to be applied to the use of Common Schools throughout this Province," and to provide for the regulation of the said Common Schools.

[Passed 7th March, 1820.]

Preamble.

(See 4 Geo. IV. Sess. 2,
Ch. 2;
4 Geo. IV. Ch. 36;
2 Vic. Ch. 61.)

WHEREAS it is expedient for the encouragement of education, to continue, under certain modifications, an Act passed in the fifty-sixth year of His Majesty's reign, intituled, "An Act granting to His Majesty a sum of money, to be applied to the use of Common Schools 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 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 fifty-sixth year of His Majesty's reign, except the first, tenth, twelfth, and so much of the thirteenth clause as fixes the salary to be paid to any Common School to twenty-five pounds, which is hereby repealed, be and the same is hereby continued.

56th Geo. III. Ch. 36,
continued with certain
exceptions.

£2500 to be paid
annually in aid of
Common Schools;

II. *And be it further enacted by the authority aforesaid,* That for the establishment of Common Schools in each and every District of this Province, there shall be annually paid during the continuance of this Act, the sum of two thousand five hundred pounds, in manner hereinafter mentioned, out of any monies which are now raised or levied, or which hereafter may be raised or levied by authority of Parliament to and for

the uses of this Province; of which said sum of two thousand five hundred pounds, there shall be paid annually to the Home District, two hundred and fifty pounds; to the District of Newcastle, two hundred and fifty pounds; to the Midland District, two hundred and fifty pounds; to the Johnstown District, two hundred and fifty pounds; to the Eastern District, two hundred and fifty pounds; to the District of London, two hundred and fifty pounds; to the District of Gore, two hundred and fifty pounds; to the *Niagara District, two hundred and fifty pounds*; to the Western District, two hundred and fifty pounds; to the District of Ottawa, two hundred and fifty pounds.

Distribution;

[See 4 Geo. IV. Ch. 36.]

III. *And be it further enacted by the authority aforesaid,* That the monies granted by this Act shall be equally portioned to the Teachers of the several Common Schools in each and every District of this Province, to be paid to the Teachers yearly or half yearly, as may be directed by the said Trustees: *Provided nevertheless,* that nothing herein contained shall extend, or be construed to extend, to authorise the payment of a greater sum than twelve pounds ten shillings to the several Teachers of the said Schools.

Sums to be equally divided among the Teachers of the respective Districts. [See 4 Geo. IV. Secs. 2, Ch. 8, sec. 6]

None to receive more than £12 10s. per annum.

IV. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Board of Education in each and every District, to nominate and appoint a Clerk to the said Board, and direct the Treasurer of the District to pay him annually out of the monies in his hands for the purposes of this Act, a sum not exceeding five pounds.

The Board of Trustees in each District may appoint a Clerk, who may be paid a sum not exceeding £5 annually.

V. *And be it further enacted by the authority aforesaid,* That any thing in the said Act of the fifty-sixth year of His Majesty's reign notwithstanding, it shall not be lawful for the Governor, Lieutenant Governor, or Person Administering the Government, to issue any further warrant on the Receiver General, under the provisions of the said Act, to any District Treasurer, until a faithful account shall be rendered, authenticated by proper vouchers, and attested by the oath of the respective Treasurers, of the expenditure of the sums already advanced, or which may hereafter be advanced, on account, to their respective Districts.

No warrant to issue to any District Treasurer, till the sums heretofore paid have been accounted for.

[See 2 Vic. Chap. 61.]

VI. *And be it further enacted by the authority aforesaid,* That when any balances shall remain in the hands of the Treasurer of any District, beyond the payment of the lawful requisitions, orders or certificates, of the Trustees, respectively, after the first day of July next, it shall and may be lawful for the said Treasurer to retain so much thereof as is directed to be paid by this Act in any one year to the District of which he is Treasurer, to carry into effect the provisions of this Act, and the balance thereof pay over to His Majesty's Receiver General, for the public uses of this Province on or before the said first day of July.

Disposition of balances in the hands of District Treasurers.

[Compensation to the Treasurer, see 2 Geo. IV. Ch. 34.]

How the monies hereby
granted are to be paid
and accounted for.

VII. *And be it further enacted by the authority aforesaid,* That the money hereby granted to His Majesty, shall be paid by the Receiver General in discharge of such warrant or warrants as shall for the purpose herein set forth be issued by the Governor, Lieutenant Governor, or Person Administering the Government of this Province, and shall be accounted for by the Receiver General of this Province 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 be graciously pleased to direct.

Continuance of this Act.

VIII. [Repealed by 4 Geo. IV. Sess. 2, Chap. 8.]

[This Act, and the other Common School Acts, have been repealed since the Union, by 4 & 5 Vic. Ch. 18.]

STATUTES OF UPPER CANADA,

PASSED IN THE

FIRST SESSION OF THE EIGHTH PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT YORK, ON THE THIRTY-FIRST DAY OF JANUARY, IN THE SECOND YEAR OF THE
REIGN OF OUR SOVEREIGN LORD GEORGE THE FOURTH, AND PROROGUED ON
THE FOURTEENTH DAY OF APRIL FOLLOWING.

SIR PEREGRINE MAITLAND, K. C. B.
LIEUTENANT GOVERNOR.

ANNO DOMINI 1821.

CHAP. I.

AN ACT to repeal an Act passed in the first year of His Majesty's reign, intituled, "An Act to regulate the commercial intercourse between this Province and the United States of America, by land and inland navigation," and further to regulate the Trade between this Province and the United States of America, by land and inland navigation.

[Passed 14th April, 1821.]

[EXPIRED.—See 4 GEO. IV. CH. 1.]

CHAP. II.

AN ACT to make provision for the improvement of the internal navigation of this Province.

[Passed 14th April, 1821]

[EXPIRED.]

CHAP. III.

AN ACT to repeal part of an Act passed in thirty-eighth year of His late Majesty's reign, intituled, "An Act for the better division of this Province," and to make further provision for the division of the same into Counties and Districts.

[Passed 14th April, 1821.]

Preamble.

WHEREAS it is expedient to provide by law for the better division of the several townships in this Province into Counties and Districts; *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 twenty-third section of an Act of the Parliament of this Province, passed in the thirty-eighth year of His late Majesty's reign, intituled, "An Act for the better division of this Province," be and the same is hereby repealed.

23d Sec. of 38 Geo. III.
Ch. 5. repealed.

A certain tract in the Eastern District attached to the townships of Charlottenburgh and Kenyon.

II. *And be it further enacted by the authority aforesaid,* That a tract of land in the Eastern District, adjoining to the townships of Charlottenburgh and Kenyon, lately owned by the St. Regis Indians, shall be attached to the said townships in the following manner, that is to say: so much of the said tract as adjoins the township of Charlottenburgh shall constitute and form a part of the said township; and that the remainder of the said tract shall constitute and form part of the township of Kenyon.

County of Carlton.

III. [Repealed by 4 Geo. IV. Sess. 2, Ch. 5.]

The Governor authorised, as soon as he may think fit, to declare by proclamation the County of Carlton to be a separate District, under certain restrictions and modifications;

[See 4 Geo. IV. Ch. 2]

IV. *Provided always, 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, and he is hereby authorized to declare by proclamation, as soon as he may think fit, the said County of Carlton to be a separate District, by such name as to the Governor, Lieutenant Governor, or Person Administering the Government of this Province may seem meet: *Provided also,* that nothing in this Act contained shall be construed to affect the jurisdiction of His Majesty's Court of King's Bench in this Province, or to make it necessary or lawful to issue any Commission of Oyer and Terminer and General Gaol Delivery, and Commission of Assize and Nisi Prius, for the said District, or to affect the jurisdiction of the Courts of General Quarter Sessions of the Peace, or District Court,

within the present limits of the District of Johnstown, until provision be made by law to that effect.

V. *And be it further enacted by the authority aforesaid,* That the following townships in the Midland District shall be attached to and be incorporated with the Counties hereinafter mentioned, in manner following, that is to say: the townships of Oso, Olden and Kennebec, to the County of Frontenac; the township of Kaledar, to the Counties of Lenox and Addington; and the townships of Elzever, Madoc and Marmora, to the County of Hastings.

Certain new Townships in the Midland District, attached to the County of Frontenac;

To the County of Lenox and Addington;

To the County of Hastings.

VI. *And be it further enacted by the authority aforesaid,* That the unattached townships in the Newcastle District shall be incorporated in manner aforesaid, with the Counties in the said District, as follows, that is to say: the townships of Asphodel, Otanabee, Monaghan and Smith, to be attached to the County of Northumberland; and the townships of Cavan, Manvers, Cartwright, Emily, Ops and Mariposa, to the County of Durham.

New Townships in the District of Newcastle to be attached to the County of Northumberland;

To the County of Durham.

New Townships in the Home District to be attached to the East Riding of the County of York; To the West Riding, County of Simcoe, how constituted.

County of Simcoe may be declared by the Governor to be a separate District, under the same restrictions as the County of Carlton.

New Townships attached to the County of Halton.

VII. [Repealed by 3 Wm. IV. Ch. 16; and 7 Wm. IV. Ch. 32.]

VIII. [Superseded by 7 Wm. IV. Ch. 32.]

IX. *And be it further enacted by the authority aforesaid,* That the following townships, to wit: Esquesing, Erin, Nasagaweya, Eramosa, Garafraxa, and the Church Land, be annexed to the County of Halton.

New Townships attached to the County of Halton.

X. *And be it further enacted by the authority aforesaid,* That the gore of land in the District of Gore, lying between the townships of Beverley and Dumfries, be attached to the township of Beverley; and the gore lying between Dumfries and Dundas-street, be attached to Dumfries.

Certain Gores of lands attached to the Townships of Beverley and Dumfries, respectively.

XI. *And be it further enacted by the authority aforesaid,* That the gore of land attached to the township of Burford, be formed into a separate township, by the name of the township of Oakland; and that the said township of Oakland, and the townships of Nissouri and Zorra be added to the County of Oxford; and that hereafter the townships of Moza, Ecfrid, Carradoc and Lobo, be added to the County of Middlesex; also, that a gore of land on the east side of the township of Norwich, be attached to that township; and a gore of land on the east of the township of Dorchester, be attached to the said township.

The Gore attached to Burford to form a new Township of Oakland, which, with Nissouri and Zorra, shall be added to the County of Oxford. New Townships attached to the County of Middlesex; certain gores of land attached to the Townships of Norwich and Dorchester, respectively.

XII. *And be it further enacted by the authority aforesaid,* That the following new townships in the Western District be attached to the County of Kent, namely: the townships of Zone, Dawn, Sombra and Saint Clair.

Certain new Townships attached to the County of Kent.

CHAP. IV.

AN ACT to repeal an Act passed in the fifty-fifth year of His late Majesty's reign, intituled, "An Act to explain and amend an Act passed in the fifty-third year of His Majesty's reign, intituled, 'An Act to provide for the maintenance of persons disabled, and the widows and children of such persons as may be killed in His Majesty's service,'" and also an Act passed in the fifty-sixth year of His late Majesty's reign, intituled, "An Act to repeal part of and to alter and amend the Laws now in force for granting Pensions to persons disabled in the service, and the widows and children of persons who may have been killed in the service, and to extend the provisions of the same," and an Act passed in the fifty-seventh year of His late Majesty's reign, intituled, "An Act to repeal part of and amend an Act passed in the fifty-sixth year of His Majesty's reign, intituled, 'An Act to repeal part of and to alter and amend the Laws now in force for granting Pensions to persons disabled in the service, and the widows and children of persons who may have been killed in the service, and to extend the provisions of the same,'" and to make provision for granting Pensions to persons disabled in the service, and to the widows and children of persons who may have been killed in the service, or who may have died while in captivity with the enemy, during the late war with the United States of America.

[Passed 14th April, 1821.]

Preamble;

56th Geo. III. Chap. 17,
recited;

(See 53 Geo. III. Chap. 4;

7 Geo. IV. Chap. 6;

11 Geo. IV. Chap. 23;

5 Wm. IV. Chap. 36;

7 Wm. IV. Chap. 103;

1 Vic. Chap. 43, & 44;

3 Vic. Chap. 27, & 28.)

WHEREAS by a certain Act of the Parliament of this Province, passed in the fifty-sixth year of His late Majesty's reign, intituled, "An Act to repeal part of and to alter and amend the Laws now in force for granting Pensions to persons disabled in the service, and to the widows and children of persons who may have been killed in the service, and to extend the provision of the same," the classes of Militia Pensioners were greatly increased, so that the public revenue has been found wholly unable to bear the charge thereby incurred: *And whereas* the said Act being limited in its duration, is now about to expire, and it is become necessary to confine the Militia Pensions, with the exceptions hereinafter mentioned, to the objects provided for by the Laws of this Province passed during the late war, and to provide for such investigation of the claims of the different Pensioners, as may prevent further loss to the revenue from any misrepresentation or deceit which may have been practised: *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 the Act of the Parliament of this Province, passed in the fifty-fifth year of the reign of His late Majesty King George the Third, intituled, "An Act to explain and amend an Act passed in the fifty-third year of His Majesty's reign, intituled, "An Act to provide for the maintenance of persons disabled, and the widows and children of such persons as may be killed in His Majesty's service;" and also, the Act of the Parliament of this Province passed in the fifty-sixth year of His said late Majesty's reign, intituled, "An Act to repeal part of and to alter and amend the Laws now in force for granting Pensions to persons disabled in the service, and the widows and children of persons who may have been killed in the service, and to extend the provision of the same;" and also, the Act of the Parliament of this Province passed in the fifty-seventh year of His said late Majesty's reign, intituled, "An Act to repeal part of and amend an Act passed in the fifty-sixth year of His Majesty's reign, intituled, 'An Act to repeal part of and to alter and amend the Laws now in force for granting Pensions to persons disabled in the service, and the widows and children of persons who may have been killed in the service, and to extend the provisions of the same,'" shall be and the same are hereby repealed.

55th Geo. III. Chap. 5;
56th Geo. III. Chap. 17,
and 57th Geo. III. Chap. 5,
repealed.

II. *And be it further enacted by the authority aforesaid,* That the Pensions of all and every person and persons, who have been placed on the Militia Pension List of this Province, under the provisions of any Act of the Parliament thereof, passed since the fifty-third year of the reign of His said late Majesty, and who could not, by a certain Act of the Parliament of this Province, passed in the said fifty-third year of His said late Majesty's reign, intituled, "An Act to provide for the maintenance of persons disabled, and the widows and children of such persons as may be killed in His Majesty's service," have been entitled to be placed upon the Pension List of this Province, shall cease and be no further payable after the period of the payment of the same, respectively, that shall arrive next after the passing of this Act: *Provided always nevertheless,* That the widows now on the Pension List, whose husbands died in captivity with the enemy during the late war, shall and may continue to receive their Pensions in the same manner as if their husbands had been killed in action with the enemy.

All pensions to cease
which are not authorised
by 53rd Geo. III. Chap. 4;

Exception of such pen-
sions as are now paid to
widows whose husbands
died in captivity with the
enemy.

III. *And be it further enacted by the authority aforesaid,* That no person shall be placed upon the Militia Pension List of this Province by reason of any claim now existing, unless such person shall make his application within twelve months from the passing of this Act, and that the Pension of any person who may be placed upon the Pension List of this Province by reason of any such claim, shall be payable and take date only from the time of his application.

All applications to be
placed on the Pension List
must be made within
twelve months from the
passing of this Act.
[See 3 Vic. Ch. 27, Sec. 1.]

IV. Inspectors of Militia Pensioners appointed, two of whom are to attend in each District, for the purpose of examining all such as claim Pensions on the ground of incapacity for hard labour; Period of visitation; Places at which the Inspectors are to attend; Notice of their sittings.

V. Nominal list of Pensioners to be furnished to the Inspectors by the Pension Agent; Inspectors may examine each Pensioner on oath, as to the circumstances of his wound, injury, &c.; If they deem him entitled to a Pension, they are to give him a certificate to that effect; In case the two Inspectors disagree in opinion respecting any particular case, such case shall be decided by the opinion, on personal examination, of some person duly authorized to practice physic and surgery, to be called in for that purpose.

VI. Inspectors shall keep a record of their proceedings and deposit the same with the Pension Agent; Persons reported by them not to be incapacitated shall receive only the arrears due him, and be struck off the list.

VII. Persons may appeal from the decision of the Inspectors to the Medical Board at York; Fee to Secretary of Medical Board.

[Expired.]

VIII. *And be it further enacted by the authority aforesaid,* That after the report of the Inspectors, so to be appointed, shall have been received by the Pension Agent, such Agent shall pay no Pension to, or on account of any person who by this Act ought to have presented himself to such Inspectors, unless he has so presented himself, and been recommended by them to be continued on the list, but that all payment of such Pension shall be suspended until such Pensioner shall have appeared personally before the Medical Board at York, and obtained their certificate in the same manner and on payment of the same fee as is herein before provided in the case of appeal to the said Board; and if such Pension shall, for default of such appearance and certificate, remain suspended for two years, all arrears from the time of such suspension shall cease; and in case of the restitution of such Pensioner to the List, his Pension shall be payable only from the time of his restitution.

After the Inspectors have made their report no pension shall be paid to any person who ought to have presented himself for examination unless he has done so, and been admitted by the Inspectors, or until such pensioner shall have obtained the certificate of the Medical Board by attending personally at their sitting. If pension remains suspended for two years all arrears from time of suspension shall cease, and the pensioner if restored shall be paid only from his restitution.

Remuneration to Inspectors.

IX. [Expired.]

False oaths taken in cases where oaths are required by this Act made perjury.

X *And be it further enacted by the authority aforesaid,* That if any person shall wilfully forswear himself in any oath taken by virtue of this Act, he shall be deemed guilty of wilful and corrupt perjury.

Pension Agent to continue in Office; New security to be entered into; Salary and allowances; Future appointments in case of vacancy.

XI. [Repealed by 7 Geo. IV. Ch. 6.]

XII. }

XIII. } [See 7 Geo. IV. Ch. 6. Secs. 4, 5 & 6.]

XIV. }

Pensions to be paid in advance every six months; Pension Agent to give notice of his readiness to pay the Pensions; Persons not claiming within two years to lose arrears; Exception; Pensions to be paid without deductions.

XV. *And be it further enacted by the authority aforesaid,* That each and every person or persons whose names may have already been, or who may hereafter be inserted on the Pension List of this Province, shall, as soon after the first day of July and first day of January in each and every year as may be convenient, transmit to the said Agent an affidavit, as the case may require, in the following forms:

(See 7 Geo. IV. Chap. 6.)

"I, A. B. of —, in the District of —, late — in the — Regiment of — Militia, do solemnly swear, that I am the person whose name has been heretofore inserted in the Pension List of this Province."

Forms of affidavits and certificates to be transmitted by pensioners.

"I, G. H. of —, in the — District, —, do solemnly swear, that I am the widow of A. B. who died of wounds received in action with the enemy, (or who was killed in action with the enemy.)"

"I, G. H. do solemnly swear, that I am the widow of A. B. who was killed by casualty while on duty in actual service during the late war."

"I, A. B. (Guardian, Executor or Administrator, as the case may be) do solemnly swear, that I verily believe that J. H. is the youngest son (or daughter) of G. who was killed in action with the enemy, (or who died from wounds received in action) (or who was killed by casualty on actual service during the late war) and that the said J. H. is not sixteen years of age."

"I, C. D. Senior Officer of the — Regiment of — Militia; (as the case may be) do hereby certify, that C. D. the widow of A. B. who was killed in action during the late war with the United States of America, or wounded and died in consequence, or was killed by casualty, while performing duty on actual service, (as the case may be) is still living and unmarried;"

Which affidavit and certificate, with the receipt of such Pensioner or Pensioners, Guardian or Guardians, Agent or Agents, Executors or Administrators, shall be taken and allowed to be a sufficient voucher for the payment of such Pension or Pensions, as aforesaid.

Persons claiming hereafter to be placed on the pension list by reason of wounds, &c. must appear and be examined by the Medical Board, and obtain their certificate.

XVI. [Expired.]

XVII. *And be it further enacted by the authority aforesaid,* That all monies paid under the authority of this Act, shall be accounted for to His Majesty by the Receiver General of this Province, through the Lords Commissioners of His Majesty's Treasury, in such manner and form as His Majesty, His Heirs and Successors, shall be graciously pleased to direct.

Monies paid under this Act to be accounted for to His Majesty.

XVIII. *And be it further enacted by the authority aforesaid,* That the oaths directed to be taken by this Act, except those herein before directed to be administered by the Members of the Medical Board, shall and may be administered by any Justice of the Peace in this Province.

Oaths to be taken under this Act, by whom to be administered.

XIX. *And be it further enacted by the authority aforesaid,* That every Officer, Non-commissioned Officer, or Private Militia-man, acting as Provincial Artillery Driver, or in the Coloured Corps, or employed with the Indians, or serving in the late Provincial Marine Establishment, who now is placed on the Pension List of this Province, or whose widow or children are now receiving a Pension on their account, shall be deemed and taken to have been a Militia-man.

Persons serving in Provincial Artillery Drivers, Coloured Corps, employed with the Indians, or in the late Provincial Marine to be deemed Militia men

Agent to render account.

XX. [Repealed by 7 Geo. IV. Ch. 6.]

All pension for disability by wounds, &c. to be £20 per annum.

XXI. *And be it further enacted by the authority aforesaid,* That notwithstanding the repeal of the above mentioned Act, passed in the fifty-fifth year of His late Majesty's reign, the Pension of all persons placed or to be placed on the list, by reason of disability from wounds or injuries received on service, shall be the sum of twenty pounds per annum.

None to receive pensions under the Laws of this Province who receive pensions in any other of His Majesty's dominions for wounds or injuries received on service in this Province.

XXII. *Provided always nevertheless,* That no person receiving a Pension in any of His Majesty's dominions, by reason of wounds or injuries received on Militia service in this Province, shall be entitled to receive any additional Pension by virtue of this Act, or of the above recited Act passed in the fifty-third year of His late Majesty's reign.

Continuance of this Act. (See 7 Geo. IV. Chap. 6; 11 Geo. IV. Ch. 33; 5 Wm. IV. Chap. 36; 3 Vic. Chap. 35.)

XXIII. *And be it further enacted by the authority aforesaid,* That this Act shall continue and be in force for and during the term of four years, and from thence until the end of the then next ensuing session of Parliament, and no longer.

CHAP. V.

AN ACT to authorize the Governor, Lieutenant Governor, or Person Administering the Government of this Province; to borrow a sum of money upon the securities therein mentioned, to be applied in discharging the arrearages due to Militia Pensioners.

[Passed 14th April, 1821.]

[See 4 GEO. IV. SESS. 2. CH. 24.]

Preamble; After 1st August next if more than one-third of the arrears due to Militia Pensioners shall remain undischarged, the Governor may authorise the Receiver General to borrow such sum, not exceeding £250000, as may be required to pay such arrearages. 2. The Receiver General to make out Debentures for monies borrowed; Form of Debentures, and how issued and made payable. 3. Such Debentures, and the interest accruing thereon, to be charged on the proportion of duties receivable by this Province on account of goods imported into Lower Canada. 4. Debentures to pass current with Public Receivers, Collectors, &c. 5. Interest to be paid on Debentures; Interest shall cease while the Debentures remain in the hands of any Public Receiver. 6. Method of ascertaining for what period the interest on such Debentures shall be suspended. 7. Capital felony to forge any Debenture or indorsement thereon, or utter any such forged Debenture knowingly, and with intent to defraud. 8. The Receiver General to transmit accounts to the Governor before each session of Parliament of the Debentures issued, amount redeemed, outstanding &c. to be laid before the Legislature. 9. Interest accruing upon Debentures shall be paid half yearly on demand by the Receiver General; Warrants to be issued therefor. 10. Remuneration to the Receiver General and persons employed under him. 11. Debentures when due to be paid by warrant on the Receiver General, and when paid to be cancelled.— 12. After the Debentures become due, the Governor may direct a notice to be published calling on the holders to present them for payment, and if not presented within six months from the date of the notice all interest after such six months shall cease. 13. Monies to be paid by warrant, and accounted for to His Majesty.

CHAP. VI.

AN ACT to amend an Act passed in the fifty-ninth year of His late Majesty's reign, intituled, "An Act for vesting in Commissioners the Estates of certain Traitors, and also the Estates of persons declared Aliens by an Act passed in the fifty-fourth year of His Majesty's reign, intituled, 'An Act to declare certain persons therein described Aliens, and to vest their estates in His Majesty,' and for applying the proceeds thereof towards compensating the losses which His Majesty's Subjects have sustained in consequence of the late war, and for ascertaining and satisfying the lawful debts and claims thereupon."

[Passed 14th April, 1821.]

WHEREAS by an Act of the Parliament of this Province, passed in the fifty-fourth year of His late Majesty's reign, intituled; "An Act to declare certain persons therein described Aliens, and to vest their Estates in His Majesty," certain estates in this Province have become vested in His Majesty, having been found by inquisition to have been on the first day of July, one thousand eight hundred and twelve, in the seizen of persons declared Aliens by the provisions of that Act, which estates were after the said first day of July, and before the departure of such Aliens from this Province conveyed to *bonâ fide* purchasers without any intention of fraud, or were seized and sold in execution upon judgments lawfully obtained before the departure of such Aliens from this Province, as aforesaid: *And whereas* the provisions of the said Act in that behalf were only intended to prevent fraudulent sales, made with intent to evade expected forfeitures, it is expedient that relief should be afforded to *bonâ fide* purchasers, in the cases above mentioned, who in some instances have made large improvements upon lands acquired by them before the passing of said Act, and who would be wholly ruined unless provision is made for such relief: *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 Commissioners appointed under the Act passed in the fifty-ninth year of His late Majesty's reign, intituled, "An Act for vesting in Commissioners the Estates of certain Traitors, and also the Estates of persons declared Aliens by an Act passed in the fifty-fourth year of His Majesty's reign, intituled, 'An Act to declare certain persons therein described Aliens, and to vest their Estates in His

Preamble;

54th Geo. III. Ch. 9,
recited;

[See 59 Geo. III. Ch. 12;
9 Geo. IV. Ch. 1;
10 Geo. IV. Chap. 10.]

The Commissioners appointed under 59th Geo. III. Ch. 12, may revise all claims brought before them respecting lands not yet sold under that Act, and in cases where there have been *bonâ fide* sales by the Alien, or under a judgment against him before his departure from the Province, and before the passing of 54 Geo. III. Ch. 9, may decree the lands to the persons claiming under such sale;

Majesty,' and for applying the proceeds thereof towards compensating the losses which His Majesty's Subjects have sustained in consequence of the late war, and for ascertaining and satisfying the lawful debts and claims thereupon," shall and may have power to revise all such claims as have been brought before them respecting lands of which no sale has already been made under the provision of the said recited Act, passed in the fifty-ninth year of His late Majesty's reign, whether the same have or have not been decided on appeal; and if it shall appear to their satisfaction, upon the proof brought before them in support of the same claim, that the sale by the Alien, or under a judgment against him, made or entered before the departure of such Alien from the Province, and before the passing of the said first mentioned Act, was *bonâ fide*, and not for fraud or evasion, or with a knowledge of the purchaser of his intention to desert the Province, then the said Commissioners shall and may have power to decree such estate to such claimant proving good title to the same; and that it shall and may be lawful for any person or persons having any claim under such *bonâ fide* sale, as aforesaid, to prefer the same to the said Commissioners within the period of six months from the passing of this Act, any thing in the above recited Act, passed in the fifty-ninth year of His late Majesty's reign, to the contrary notwithstanding.

Claim may be within six months.

II. *And whereas* it appears upon the petition of Thomas Ridout, Esquire, and others, that in some cases, from a mistake in describing the lot, or other error in Inquisitions, certain estates have been erroneously returned as forfeited, and the persons owning the same not having observed the public notice thereof until after the expiration of the eight months limited for claiming before the said Commissioners, by reason whereof the same have been absolutely vested in the Commissioners above mentioned, who are compelled to proceed to sell the same, notwithstanding such manifest error, as aforesaid: *Be it further enacted by the authority aforesaid*, That it shall and may be lawful for the said Commissioners to inspect the respective Inquisitions, together with the minutes of evidence thereon, and compare the same with the returns furnished and published by them according to Law, and that on its appearing to the said Commissioners, or a majority of them, from such inspection, or otherwise, that any estate has been returned manifestly by error, it shall and may be lawful for them, at any time before the sale thereof, to decree the same to such person as shall prove title thereto, or in default of any claim therefor, to forbear proceeding to sell the same.

Commissioners empowered to decree to their right owners estates which appear by the inquisition, evidence and return, to have been returned forfeited by manifest error, provided such estate has not been sold by the Commissioners.

III. *And be it further enacted by the authority aforesaid*, That when any *bonâ fide* sale of any lands or tenements shall have been made by any person or persons, who may hereafter be found by Inquisition to be an Alien or Aliens under the said Act, passed in the fifty-fourth year of His Majesty's reign, when such sale shall have been made previous to desertion of such Alien, it shall and may be lawful for the Commissioners aforesaid, upon satisfactory proof of such *bonâ fide* sale, to decree such

The provisions of this Act extended to cases of persons who may be hereafter found Aliens by Inquisition.

lands and tenements to the purchaser or purchasers thereof, or the person entitled to claim the same.

IV. *And be it further enacted by the authority aforesaid,* That in all cases where the real estate of any person declared an Alien under the provisions of the said Act, passed in the fifty-fourth year of His late Majesty's reign, shall have been sold in execution upon any judgment obtained against him, before such real estate became vested in His Majesty by Inquisition found, the surplus monies arising from such sale, after the satisfaction of the execution and the legal charges thereupon, shall belong to His Majesty, and shall be forthwith paid over by the Sheriff or other Officer holding the same, to the Commissioners of Forfeited Estates appointed in and by the said Act of the Parliament of this Province, passed in the fifty-ninth year of His late Majesty's reign, who shall pay the same to the Special Receiver appointed under the provisions of the said last mentioned Act, to be by him held subject to the same orders and appropriations as if such monies had arisen from the sale of real estate by the Commissioners of Forfeited Estates.

Where estates of Aliens have been sold in satisfaction of executions against them, the surplus above the execution to be paid over by the Sheriff to the Commissioners of Forfeited Estates.

V. *And be it further enacted by the authority aforesaid,* That in all cases of sales of lands which have been or may hereafter be made by the Commissioners of Forfeited Estates, according to the authority vested in them for that purpose, deeds of bargain and sale which have been, or which hereafter shall be made and executed by the majority of such Commissioners, for the time being, shall be as valid and effectual in law, to all intents and purposes as if the same were signed by all the said Commissioners, any law to the contrary notwithstanding.

Deeds of Bargain and Sale by Commissioners shall be valid, if signed by a majority of the Commissioners for the time being.

VI. *And be it further enacted by the authority aforesaid,* That from and after the first day of August next, the said Commissioners shall meet on the first Tuesday in the months of January, April, July and November, and at no other time, unless for the purpose of determining some matter specially referred to them, or of receiving the evidence or hearing the claim of some Claimant or Claimants, Agent or Agents, actually attending for that purpose.

Days of meeting of the Commissioners after the first day of August next.

CHAP. VII.

AN ACT relative to the service of Process issuing out of His Majesty's Court of King's Bench, and the several District Courts in this Province.

[Passed 14th April, 1821.]

WHEREAS by the laws now in force in this Province relative to the service of Process issuing out of His Majesty's Court of King's Bench, Preamble. (See 2 Geo. IV. Ch. 1.)

or out of the several District Courts in this Province, it is optional with the Plaintiff, his Attorney or Agent, to cause such process to be served by some literate person or to compel the Sheriff to serve the same, when it may be inconvenient or difficult for such Plaintiff, his Attorney or Agent, to do so: *And whereas* it is expedient to grant relief to the several Sheriffs in this Province in respect of such service, and to make provision relative to the service of such process in future; *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, other than the Sheriffs and persons employed under them, shall be entitled to receive mileage or other compensation on the service of any process required by law to be directed to the Sheriff of any District.

No persons but Sheriffs and persons employed by them shall be entitled to compensation for serving any process directed to the Sheriff of any District.

CHAP. VIII.

AN ACT to explain doubts which have arisen respecting the right of persons holding a Licence to keep a house of Public Entertainment, to Retail Spirituous Liquors, to be consumed out of their houses, without any additional Licence.

[Passed 14th April, 1821.]

Preamble.

(See 37 Geo. III. Ch. 11;
11 Geo. IV. Ch. 9, Sec. 2.)

Persons licenced to keep a house of public entertainment for retailing spirituous liquors, may sell liquors by retail, to be consumed out of his house, by the same quantities as within, without any additional licence.

WHEREAS doubts have arisen whether by the laws now in force, any person having a licence to keep a house of Public Entertainment, may by virtue of such licence sell Spirituous Liquors by Retail, to be consumed out of his house; for removing such doubts, *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 any person in this Province, duly licenced to keep a house of Public Entertainment for the retailing of Spirituous Liquors, to sell Wine, Brandy or

other Spirituous Liquors, by retail, to be consumed out of his house, in the same quantities as he may retail it within his house, without any additional licence for that purpose.

CHAP. IX.

AN ACT to continue an Act passed in the fifty-fifth year of His late Majesty's reign, intituled, "An Act to repeal an Act passed in the fifty-fourth year of His Majesty's reign, intituled, 'An Act to supply in certain cases the want of County Courts in this Province,' and to make further provision for proceeding to outlawry in certain cases therein mentioned."

[Passed 14th April, 1821.]

[EXPIRED.]

CHAP. X.

AN ACT to repeal the laws now in force relative to the preservation of Salmon, and to make further provisions respecting the Fisheries in certain parts of this Province, and also to prevent accidents by fire from persons fishing by torch or fire light.

[Passed 14th April, 1821.]

WHEREAS it is expedient more effectually to provide for the preservation of Salmon within this Province, and to make further regulations for fishing in the rivers and creeks thereof; *And whereas* the provisions of an Act passed in the forty-seventh year of His late Majesty's reign, intituled, "An Act for the preservation of Salmon;" and also the provisions of another Act passed in the fiftieth year of His late Majesty's reign, intituled, "An Act to extend the provisions of an Act passed in the forty-seventh year of His Majesty's reign, intituled, 'An Act for the preservation of Salmon,'" are found inadequate; *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

Preamble.
(See 4 Geo. IV. Ch. 20.)

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 aforesaid Acts, and every matter and thing in the said Acts contained, shall be and the same are hereby repealed.

47th Geo. III. Chap. 12, and 50th Geo. III. Ch. 3, repealed.

Salmon not to be killed or taken between 25th October, and 1st of January in any year.

II. [Repealed by 4 Geo. IV. Sess. 1, Chap. 20.]

No person to fish by torch or fire-light in any creek within 100 yards of any mill or mill dam.

III. *And be it further enacted by the authority aforesaid,* That it shall not be lawful for any person or persons to take, catch or kill, or to attempt to take, catch or kill, any fish in any river or creek within this Province, by torch or fire light, within one hundred yards of any Mill or Mill-Dam, which may now or hereafter be erected on any such rivers or creeks, as aforesaid.

No Salmon or Salmon Fry to be taken in the Home, Newcastle, or Gore District, within a certain distance from the mouth of any creek;

(See 4 Geo. IV. Sess. 1, Chap. 20, Sec. 3.)

Exception as to the river Credit.

IV. *And be it further enacted by the authority aforesaid,* That it shall not be lawful for any person or persons at any time to take, catch or kill, in any manner in the Home District, District of Newcastle, and District of Gore of this Province, any Salmon or Salmon Fry, nearer the mouth of any of the rivers or creeks along the shore of Lake Ontario, than two hundred yards, or within fifty yards up the mouth of any such rivers or creeks, as aforesaid, except the River Credit, in the Home District, where it shall not be lawful to take any Salmon, by Spear or otherwise, less than two hundred yards up the mouth of the said river.

No Salmon in those Districts to be taken by setting any net or weir.

V. *And be it further enacted by the authority aforesaid,* That it shall not be lawful for any person or persons, in either of the Districts aforesaid, to take, catch, or attempt to take or catch, or attempt to take and catch by setting any net or nets, weir or weirs, any Salmon or Salmon Fry, in any of the creeks or rivers in the aforesaid Districts.

Penalties for breach of this Act.

VI. *And be it further enacted by the authority aforesaid,* That if any person or persons shall be convicted before any two or more of His Majesty's Justices of the Peace within the District in which such offence or offences shall have been committed, by the oath of one or more credible witness or witnesses, other than the informer, of infringing any of the provisions of this Act, such person or persons, respectively, upon conviction, as aforesaid, shall forfeit and pay a sum not exceeding five pounds, nor less than five shillings, for every offence so committed, with all reasonable costs both before and after conviction, or in default of payment to be committed to the Common Gaol of such District, as aforesaid, for a term not more than thirty days nor less than two days, unless the fine and costs are sooner paid.

Distribution of fines.

VII. *And be it further enacted by the authority aforesaid,* That one half of any such fine, as aforesaid, levied or collected, or to be levied or collected by virtue of this Act, shall be given to the informer, and the other half shall be paid into the hands of His Majesty's Receiver General, to and for the public uses of this Province, 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 His Majesty shall direct.

VIII. *Provided always, nevertheless, and be it further enacted by the authority aforesaid,* That nothing in this Act contained shall extend or be construed to extend to any other part of the District of Gore, aforesaid, than so much of said District as is comprised within the township of Trafalgar, and that part of the township of Nelson which lies north of the beach between Burlington Bay and Lake Ontario; *Provided,* that nothing in this Act contained shall extend or be construed to extend to prevent the Indians fishing as heretofore, when and where they please, except within one hundred yards of a Mill or Mill-Dam, by fire or torch light.

Exception as to part of the District of Gore; (See 4 Geo. IV. Sess. 1, Chap. 26. Sec. 4.)

Indians not restrained by this Act, except as to fishing by torch light near mills, &c.

CHAP. XI.

AN ACT for the more certain punishment of persons illegally Solemnizing Marriage within this Province.

[Passed 14th April, 1821.]

FOR the more certain punishment of persons illegally solemnizing marriage 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 if any Parson, Minister or Clergyman, legally authorised to solemnize Marriage within this Province, shall, after the passing of this Act, knowingly or wilfully solemnize Marriage without publication of banns, unless licence of Marriage be first had and obtained from some persons having authority to grant the same, or if any Justice of the Peace in this Province shall, after the passing of this Act, knowingly solemnize Marriage contrary to Law, or if any person not having authority by Law to solemnize Marriage within this Province shall, after the passing of this Act, marry any persons within the same, such Parson, Minister, Clergyman, Justice of the Peace or person, respectively, so offending, shall be guilty of a misdemeanour, any thing in a certain Act of the Parliament of Great Britain passed in the twenty-sixth year of the reign of King George the Second, intituled, "An Act for the better preventing of clandestine Marriages," to the contrary thereof in any wise notwithstanding: *Provided always, nevertheless,* that such offence shall not be cognizable at any

Preamble.

Persons solemnizing marriage illegally to be deemed guilty of a misdemeanour;

Quarter Sessions not to have jurisdiction over such offence;

Prosecution must be
within two years.

Court of Quarter Sessions in this Province: *And provided also*, that no prosecution shall be commenced after two years from the offence committed.

Proof of legal authority
to solemnize marriage
shall be on defendant.

II. *And be it further enacted by the authority aforesaid*, That in all cases of prosecution under this Act, wherein the legal authority of any person to solemnize Marriage within this Province shall come in question, the proof of such authority shall lie upon the defendant.

CHAP. XII.

AN ACT to render legal certain small Notes and inland Bills of Exchange within this Province.

[Passed 14th April, 1821.]

Preamble;

British Statutes 15 and
17 Geo. III. respecting
small notes and bills of
exchange recited;

Those Statutes not to be
in force in this Province;

40 Geo. II. Chap. 1,

WHEREAS the provisions of a certain Act of the Parliament of Great Britain, passed in the fifteenth year of His late Majesty's reign, intituled, "An Act to restrain the negotiation of Promissory Notes and inland Bills of Exchange, under a limited sum, within that part of Great Britain called England," and of a certain other Act of the Parliament of Great Britain, passed in the seventeenth year of His late Majesty's reign, intituled, "An Act for further restraining the negotiation of Promissory Notes and inland Bills of Exchange, under a limited sum, within that part of Great Britain called England," are inapplicable to 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 no clause, matter or thing, in the said Acts or either of them contained, shall extend to or be in force in this Province, or shall make void any bills, notes, drafts or orders, which have been or may hereafter be made or uttered in this Province, any thing in a certain Act of the Parliament of this Province, passed in the thirty-second year of His late 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 America,' and to introduce the English Law as the rule of decision in all matters of controversy relating to property and civil rights," or in a certain other Act of the Parliament of this Province, passed in the fortieth year of His late Majesty's reign, intituled, "An Act for the further introduction

of the Criminal Law of England in this Province, and for the more certain punishment of certain offenders," to the contrary thereof in any wise notwithstanding: *Provided always*, that nothing in this Act contained shall be construed to render any person liable to any punishment for any forgery, larceny or other crime, committed before the passing of this Act, respecting any notes, bills, drafts or undertakings, made and uttered before the passing of this Act, other than such person would have been liable to had this Act never been passed.

This Act to have no retrospective operation as respects any forgery or other crime committed in respect of such notes or bills, made and uttered before this Act.

CHAP. XIII.

AN ACT to establish an uniform Currency throughout this Province.

[Passed 14th April, 1821.]

WHEREAS it would tend much to the public convenience if an uniform Currency prevailed throughout this Province: *And whereas* the several gold and silver coins current in this Province, have respectively a nominal legal value in pounds, shillings and pence, bearing the relative proportion of ten to nine, to the Sterling money of account in the United Kingdom of Great Britain and Ireland, nevertheless in some parts of this Province accounts continue to be kept and contracts to be made in New York Currency, estimating the Spanish milled dollar at eight shillings, bearing to Sterling money of account the proportion of sixteen to nine, which diversity must necessarily occasion great and manifest confusion: *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 provisions 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 July, which will be in the year of our Lord one thousand eight hundred and twenty-two, no interest shall be demandable or shall be recovered in any action upon any bond, bill, note or other instrument, agreement or paper writing, made or dated within this Province, after the said first day of July, in which the penalty or the sum payable or secured, in or by such bond, bill, note or other instrument, agreement or paper writing, shall be expressed in New York Currency, or in words or letters importing New York Currency, whether interest be or be not payable according to the terms thereof; nor shall any costs be taxed or allowed against the defendant in any action which may be brought in any Court in this Province for the recovery of the debt,

Preamble.

After 1st of July, 1822, no interest shall be demandable on any bond, note, or other instrument, made after that date in this Province in which the penalty or sum payable shall be expressed in New York Currency;

Nor any costs allowed in actions brought thereon,

damages, or sum made payable or secured by any such bond, bill, note or other instrument, agreement or paper writing.

After 1st July, 1822, no rendering of account shall be deemed a demand, or acknowledgment thereof given in evidence, unless it shall have been rendered in Provincial Currency.

II. *And be it further enacted by the authority aforesaid,* That from and after the said first day of July, in the year of our Lord one thousand eight hundred and twenty-two, no rendering of any merchant's or other account, entered and made out after that date within this Province, shall be considered a demand, nor shall any admission of such account be given in evidence as an acknowledgement of a debt, unless such account shall have been entered, made and rendered, in Provincial Currency, at five shillings to a dollar.

After 1st July, 1822, no shop-books shall be received in evidence as to any entries after that date, unless they are made out in Provincial Currency.

III. *And be it further enacted by the authority aforesaid,* That no shop-book of any merchant or tradesman, made up and kept within this Province, shall be received in any Court of Law as evidence for such merchant or tradesman, as far as respects any entries made therein after the said first day of July, which will be in the year of our Lord one thousand eight hundred and twenty-two, unless such entries shall be made therein in Provincial Currency, as aforesaid.

This Act to be read in Court on the first day of the four next Courts of General Quarter Sessions.

IV. *And be it further enacted by the authority aforesaid,* That this Act shall be read by the Clerks of the Peace for the several Districts of this Province in open Court, on the first day of the General Quarter Sessions of the Peace for four successive Courts of General Quarter Sessions next after the passing thereof.

CHAP. XIV.

AN ACT to enable Married Women more conveniently to convey their Real Estate.

[Passed 14th April, 1821.]

Preamble.

43rd Geo. III. Chap. 5, recited.

(See 1 Wm. IV. Ch. 3; 2 Vic. Ch. 6)

WHEREAS by an Act passed in the forty-third year of His late Majesty's reign, intituled, "An Act to enable married women having Real Estate, more conveniently to alien and convey the same," it is enacted, that no Deed 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 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 of the Home District, or on his Circuit, and shall be examined by the said Judge, touching her consent to alien and depart with such estate: *And whereas* much inconvenience has arisen from such provision: *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 be lawful for any married woman, having Real Estate in this Province, to appear before the Quarter Sessions of the Peace in the District in which she may at the time be resident, or before the General Quarter Sessions of the Peace in any District in this Province, in cases in which the party resides out of this Province, *at any time within twelve months after her execution of the Deed conveying away her Real Estate*, and being examined by the Chairman of the Quarter Sessions in open Court touching her consent to alien and depart with her Real Estate, as in such deed may be mentioned, it shall and may be lawful for the said Chairman to certify the same, in like manner as the same may at present be certified by the Court of King's Bench, or any Judge thereof, and the said certificate shall have the same force and effect, and be as valid in law, as any certificate given under and by virtue of the above-recited Act, any law or usage to the contrary in any wise notwithstanding.

Married women having real estate, and desirous of conveying the same, may appear before the Quarter Sessions of the District in which they reside, and be examined as to their consent;

[See 1 Wm. IV. Ch. 3]

Women residing abroad may appear before the Sessions in any District of the Province;

Certificate to be given by the Chairman.

II. *And be it further enacted by the authority aforesaid*, That the Clerk of the Peace shall be entitled to receive the sum of five shillings for drawing every such certificate, and no more.

Fee to the Clerk of the Peace.

CHAP. XV.

AN ACT further to relieve Vessels and small Craft from the payment of Light-House Tonnage Duty.

[Passed 14th April, 1821.]

WHEREAS it is found expedient further to relieve the masters and owners of vessels, boats, rafts and other craft, belonging to and navigated by His Majesty's Subjects within this Province, from the payment of Light-House tonnage duty: *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

Preamble.

[See 59 Geo. III. Ch. 16;
7 Geo. IV. Ch. 9;
3 Wm. IV. Chap. 46;
7 Wm. IV. Chap. 95;
2 Vic. Chap. 22;
2 Vic. Chap. 57.]

Light-House tonnage duty on vessels owned and navigated by His Majesty's subjects in this Province to be demanded henceforward only on the tonnage of cargo actually discharged at any port where such duty is to be paid.

and after the passing of this Act, no Collector or Deputy Collector at any of His Majesty's Ports of Entry, where Light House tonnage duty now is or hereafter may become due and payable, shall demand such duty on vessels, boats, rafts or other craft, belonging to and navigated by His Majesty's Subjects, as aforesaid, except on the number of tons, weight or measurement, of cargo, other than the personal baggage of the passengers, which such vessel, boat, raft or other craft, shall actually discharge at such Port or place of entry.

Master to state in his report the number of tons of the same on oath.

II. *And be it further enacted by the authority aforesaid,* That in the report which the master, owner or other person, shall make of the arrival of such vessel, boat, raft or other craft, to the Collector or Deputy Collector at the Port or place of entry where such cargo shall be discharged, shall be specified the number of tons, weight or measurement, of the same, which report shall be verified by the oath of the person making the same, to be administered by the Collector or Deputy Collector.

False oath therein to be perjury.

III. *And be it further enacted by the authority aforesaid,* That if any person making such report, under oath administered, as aforesaid, shall therein wilfully misstate the number of tons, weight or measurement, of such cargo, he shall be deemed guilty of wilful and corrupt perjury.

CHAP. XVI.

AN ACT for altering the time of holding the General Quarter Sessions of the Peace in the Home District.

[Passed 14th April, 1821.]

[REPEALED BY 4 GEO. IV. SESS. 1, CH. 30.]

CHAP. XVII.

AN ACT for the preservation of Deer within this Province.

[Passed 14th April, 1821.]

[SEE 2 VIC. CHAP. 12.]

Preamble ; No person to kill any deer *feræ naturæ*, between the 10th day of January and 1st of July in any year. 2. Penalty ; Application of fines. 3. Indians exempt from this Act.

CHAP. XVIII.

AN ACT to continue for a limited time a certain Act of the Parliament of this Province passed in the fifty-ninth year of His late Majesty's reign, intituled, "An Act to alter the Laws now in force for granting Licences to Innkeepers, and to give to the Justices of the Peace in General Quarter Sessions assembled, for their respective Districts, authority to regulate the duties hereafter to be paid on such Licences."

[Passed 14th April, 1821.]

[EXPIRED.]

CHAP. XIX.

AN ACT to provide for the remuneration and reimbursement of certain persons therein mentioned.

[Passed 14th April, 1821.]

[TEMPORARY.]

CHAP. XX.

AN ACT granting a Pension to Elizabeth Lawe.

[Passed 14th April, 1821.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXI.

AN ACT to remunerate the Surveyor-General for certain services

[Passed 14th April, 1821.]

[TEMPORARY.]

CHAP. XXII.

AN ACT to make good certain monies issued and advanced by His Excellency the Lieutenant Governor, in pursuance of several Addresses of the House of Assembly.

[Passed 14th April, 1821.]

[TEMPORARY.]

CHAP. XXIII.

AN ACT granting to His Majesty a sum of money in aid of the Funds for defraying the expenses of the Administration of Justice, and the support of the Civil Government of this Province.

[Passed 14th April, 1821.]

[TEMPORARY.]

CHAP. XXIV.

AN ACT to make provision for compensating District Treasurers for Duties imposed on them by the several Acts of this Province, relative to Common Schools.

[Passed 14th April, 1821.]

Preamble.

(See 60 Geo. III. Ch. 7.)

District Treasurer to be allowed to retain three per cent on all moneys which may have passed through his hands under the Acts relative to the establishment of Common Schools;

Provided that such Treasurer produce proper vouchers for the expenditure of the monies according to the intention of the several School Acts.

WHEREAS a duty has been and is imposed on the Treasurers of Districts in this Province, in receiving, paying and accounting, for the several sums of money granted to their respective Districts, for the use of Common Schools therein, for which duties no compensation has been allowed by Law, and it is expedient to make provision for granting such compensation: *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 this Province, to direct the Inspector-General, or other officer to whom the duty appertains, to allow to the Treasurer of any District in this Province, in any settlement of accounts relative to monies received, paid and expended therein by him for Common Schools, the sum of three pounds for every one hundred pounds which may have been paid through the hands of such Treasurer; *Provided*, such Treasurer shall produce proper vouchers to prove that such sum or sums of money as may have been paid into his hands for the use of Common Schools, has or have been expended and paid according to the intent and meaning of the Acts of this Province relating to the said Common Schools.

[See Statutes of Canada, 4 & 5 Vic. Ch. 10, Sec. 31, and Ch. 18.]

CHAP. XXV.

AN ACT to appropriate a sum of money towards opening and completing the great line of communication from the Ottawa River, passing through Richmond and Perth, to Kingston.

[Passed 14th April, 1821.]

[TEMPORARY.]

CHAP. XXVI.

AN ACT to remunerate the Clerk of the Crown in Chancery for past services, and to provide for the future payment of that Officer.

[Passed 14th April, 1821.]

[EXPIRED.]

CHAP. XXVII.

AN ACT to repeal an Act passed in the fifty-sixth year of His late Majesty's reign, intituled, "An Act to encrease the salary of the Speaker of the House of Assembly, and to remunerate the present Speaker for past services."

[Passed 14th April, 1821.]

Preamble; 56th Geo. III. Chap. 27, repealed.

CHAP. XXVIII.

AN ACT to afford relief to John Wagstaff, of the Town of Niagara, Tinsmith.

[Passed 14th April, 1821.]

[TEMPORARY.]

Preamble; John Wagstaff, an alien, allowed to remove certain buildings heretofore erected by him on a lot or lots of land in the Town of Niagara, which were vested in the King by Inquisition.

CHAP. XXIX.

AN ACT to empower certain Trustees therein mentioned to sell and convey a certain Lot of Land in the Town of York, and to purchase another Lot or Tract of Land for the use and accommodation of a Roman Catholic Congregation.

[Passed 14th April, 1821.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXX.

AN ACT to afford relief to Edmund Mott and John Blanchard, of the District of Johnstown.

[Passed 14th April, 1821.]

Preamble; Edmund Mott and J. Blanchard allowed to traverse, within six months, any Inquisition of Office whereby their real estate may have been affected.

CHAP. XXXI.

AN ACT to afford relief to Samuel Hull and Esther Phelps.

[Passed 14th April, 1821.]

[TEMPORARY.]

Preamble; Samuel Hull and Esther Phelps allowed to traverse, within six months, certain Inquisitions of Office returned against them.

CHAP. XXXII.

AN ACT relative to the right of Tythes within this Province.

[The Royal Assent to this Bill was promulgated by Proclamation, bearing date the 20th day of February, 1823.]

Preamble.

¶ See *Imperial Statute*,
31 *Geo. III. Chap. 31.*

WHEREAS notwithstanding His Majesty has been graciously pleased to reserve for the support of a Protestant Clergy in this Province, one-seventh of all lands granted therein, doubts have been suggested that the tythe of the produce of land might still be legally demanded by the Incumbent duly instituted, or Rector of any Parish; which doubt it is important to the well-doing of this Colony to remove: *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 tythes shall be claimed, demanded or received, by any Ecclesiastical Parson, Rector or Vicar, of the Protestant Church within this Province, any law, custom, or usage, to the contrary notwithstanding.

STATUTES OF UPPER CANADA,

PASSED IN THE

SECOND SESSION OF THE EIGHTH PROVINCIAL PARLIAMENT OF UPPER CANADA :

MET AT YORK, ON THE TWENTY-FIRST DAY OF NOVEMBER, IN THE SECOND YEAR OF THE
REIGN OF OUR SOVEREIGN LORD GEORGE THE FOURTH, AND PROROGUED ON
THE SEVENTEENTH DAY OF JANUARY FOLLOWING.

SIR PEREGRINE MAITLAND, K. C. B.
LIEUTENANT GOVERNOR.

ANNO DOMINI 1822.

CHAP. I.

*AN ACT to repeal part of and amend the Laws now in force respecting the
practice of His Majesty's Court of King's Bench in this Province.*

[Passed 17th January, 1822.]

WHEREAS it is expedient to make certain amendments in the practice of His Majesty's Court of King's Bench 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 ninth clause of an Act passed in the thirty-fourth year of His late Majesty's reign, intituled, "An Act for the regulation of Juries;" and an Act passed in the thirty-fourth year of His late Majesty's reign, intituled, "An Act to establish a Superior Court of Civil and Criminal Jurisdiction, and to regulate the Court of Appeal," with the exception of the first, thirty-third, thirty-fourth, thirty-fifth, and thirty-sixth clauses; and the second clause of an Act passed in the thirty-fifth year of His late Majesty's reign, intituled, "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.

(See 2 Wm. IV. Chap. 8;

4 Wm. IV. Chap. 2;

4 Wm. IV. Ch. 5, 6, & 8;

5 Wm. IV. Ch. 1, 2, & 3;

7 Wm. IV. Chap. 1, 3;

1 Vic. Chap. 15;

2 Vic. Chap. 1;

3 Vic. Chap. 2;

3 Vic. Chap. 2;

Act of Union, Sec. 44, 46,

and 47;

Statutes of Canada

4 & 5 Vic. Chap. 5.)

9 Sec. of 34 Geo. III. Ch. 1;

34th Geo. III. Chap. 2,

except the 1st, 33rd, 34th,

35th and 36th secs.;

2nd sec. of 35th Geo. III.

Chap. 4;

37th Geo. III. Chap. 4;

38th Geo. III. Ch. 4;

41st Geo. III. Ch. 9;

3rd and 4th sec. of 49th

Geo. III. Ch. 4;

51st Geo. III. Ch. 3,

repealed.

and an Act passed in the thirty-seventh year of His late Majesty's reign, intituled, "An Act for regulating the practice of the Court of King's Bench;" and an Act passed in the thirty-eighth year of His late Majesty's reign, intituled, "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 Appeal; 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;' and an Act passed in the forty-first year of His late Majesty's reign, intituled, "An Act the better to adapt the establishment of the Court of King's Bench to the present situation of this Province;" and the third and fourth clauses of an Act passed in the forty-ninth year of His late Majesty's reign, intituled, "An Act for the more effectual preventing of frivolous and vexatious suits, and to authorise the levying of poundage upon executions in certain cases, and to regulate the sales by Sheriffs and other Officers;" and also, an Act passed in the fifty-first year of His late Majesty's reign, intituled, "An Act to extend personal arrest to the sum of forty shillings, and otherwise to regulate the practice in cases of personal arrest," be and the same are hereby repealed.

II. [Repealed by 6 Geo. IV. Ch. 1.]

III. *Provided always, and be it further enacted by the authority aforesaid,* 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.

IV. *And be it further enacted by the authority aforesaid,* That the original process for compelling the appearance of the defendant or defendants in any suit hereafter to be brought in His Majesty's Court of King's Bench, shall be a writ of *capias ad respondendum*, tested in the name of the Chief Justice or senior Puisne Judge of the said Court, for the time being; a copy of which process, in actions not bailable, shall be personally served on the defendant or defendants by the Sheriff to whom the process shall be directed, or his lawful Deputy or Bailiff, being a literate person; and that upon every copy of such process to be served upon any defendant, there shall be written a notice to such defendant of the intent and meaning of such service, to the effect following:

"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, by filing your appearance in the Office of the Clerk of the Crown, (or Deputy as the case may be) in the ——— District, at the return thereof, being the ——— day of ———, or within eight days thereafter, in order to your defence in this action."

Term of sitting:
At what periods the
same shall commence
respectively.

(See 1 Vic. Ch. 15.)

Court may adjourn
from one return day
to another.

Original process;
A Writ of *Capias ad
Respondendum*;

(See 2 Geo. IV. Sess. 1,
Ch. 7.)

Copy whereof to be
served on defendant in
actions not bailable.

English notice on Process
not bailable.

And that in all actions hereafter to be brought, wherein the defendant or defendants shall not be arrested and held to special bail, if the defendant or defendants do not appear at the return of such process, or within eight days after the return thereof, it shall and may be lawful for the plaintiff or plaintiffs, upon affidavit being made and filed of the personal service of such process, to enter common bail for the defendant or defendants, and to proceed thereon as if such defendant or defendants had put in and perfected bail to the action.

V. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for each and every defendant, personally or by Attorney, to enter his, her or their appearance, at the Office from which such process notailable has issued, at any time within eight days after the return of such process or writ; and that in all actions or suits where the defendant or defendants have appeared, as aforesaid, the plaintiff or his Attorney shall, after filing a declaration in the Office from whence the writ issued, and service of a copy thereof on the defendant, by a demand in writing, call for a plea, and that if after the expiration of eight days from the service of such demand no plea be filed, it shall and may be lawful for the plaintiff or plaintiffs to sign judgment in the cause.

Manner of proceeding on process notailable.

VI. *And be it further enacted by the authority aforesaid,* That for and notwithstanding any thing in this Act contained, it shall and may be lawful to proceed by bill in any case where by reason of any privilege such proceeding is practised in the Court of King's Bench in England, and that the like proceeding shall be had in actions so commenced, as in the said Court, unless otherwise altered by the rules of His Majesty's Court of King's Bench in this Province.

Privileged persons may proceed by bill, unless altered by rule of Court.

VII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for any defendant or defendants in any action or suit in the said Court, to plead as many several matters thereto as he shall think necessary without leave of the said Court, where he would be entitled to do so by obtaining such leave, under the same regulations and restrictions as are declared by the British Statute passed in the fourth year of the reign of Queen Anne, chapter sixteen, section four, any thing in the said clause to the contrary notwithstanding.

Defendants may plead several matters without leave of the Court.

(See 7 Wm. IV. Ch. 3.)

VIII. *And whereas* much inconvenience is felt by conscientious creditors in the recovery of their just debts, from the difficulty of ascertaining whether any person or persons design leaving the Province with an intent to defraud their creditors, an affidavit of which is required by the Laws now in force before a *capias ad respondendum* could issue: *be it therefore 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, where the cause of action shall not amount to *five pounds* of lawful money of this Province; and where the cause of action shall amount to *five pounds* and upwards, it shall not be lawful for the plaintiff to proceed

No person to be arrested for a sum under £5;

Ten pounds by 5 Wm. IV. Chap. 3, Secs. 1 and 2; 3 Vic. Chap. 6;

Affidavit to be made by plaintiff previous to arrest.

And may be sworn before any Judge, &c.

And is to be paid for oath;

Sum sworn to, shall be endorsed on bailable process.

Commissioners for taking affidavits and Deputy Clerks of the Crown to issue bailable process.
(See 4 Wm. IV. Chap. 6.)

Judges may order arrests in certain cases.

Condition of recognizances of bail;
(See 4 Wm. IV. Chap. 5.)

to arrest the body of the defendant or defendants, unless an affidavit be first made by such plaintiff, his servant or agent, of such cause of action, and the amount justly and truly due to the said plaintiff from the said defendants; and also that such plaintiff, his servant or agent, is apprehensive that the defendant will leave this Province without satisfying the said debt, and that the said plaintiff, his servant or agent, does not sue out such process from any vexatious or malicious motive whatever; which affidavit shall be filed, and may be made before any Judge or Commissioner of the Court out of which such process shall issue authorised to take affidavits in such Court, or before the officer who shall issue such process, or his deputy, which oath such officer or his deputy is hereby authorised to administer, and for the said affidavit one shilling shall be paid, and no more; and the sum or sums specified in such affidavit shall be endorsed on such writ or process, which sum or sums so endorsed, the Sheriff, or other Officer to whom such writ or process shall be directed, shall take bail, and for no more.

IX. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for any plaintiff, his servant or agent, having made such affidavit, as aforesaid, to sue out from any Commissioners of His Majesty's Court of King's Bench for taking affidavits in each and every District, a writ of *capias ad respondendum*, with which the said Commissioners, as well as the several Deputies appointed by the Clerk of the Crown, shall be from time to time supplied, signed by the proper officer of the Court, on which shall be endorsed the sum sworn to, and to which the said affidavit shall be annexed; whereupon it shall and may be lawful for any Constable in the District to arrest the said defendant, and deliver him, her or them, over to the Sheriff, in order that he, she or they, may be held to bail for the amount of the sum so endorsed.

X. *And be it further enacted by the authority aforesaid,* That in all cases in which the cause of action shall be other than a debt certain, of which affidavits may be made as herein before mentioned, it shall and may be lawful to hold the defendant or defendants to bail, a Judge's order having been first obtained for that purpose, in such cases and in such manner as is provided by the law and practice of the Court of King's Bench in England.

XI. *And be it further enacted by the authority aforesaid,* That each and every recognizance of bail to be taken in cases of personal arrest, as herein before mentioned, shall be, that if the defendant or defendants shall be condemned in the action at the suit of the plaintiff or plaintiffs, he, she or they, will satisfy the costs and condemnation money, or render himself, herself or themselves, to the custody of the Sheriff of the District in which such action shall be brought, or that the cognizers shall do so for such defendant or defendants:

XII. *And be it further enacted by the authority aforesaid,* That whenever any bail in any action or suit now pending or hereafter to be brought in any District, shall be desirous of surrendering their principal in discharge of themselves, it shall and may be lawful for the Sheriff of such District, and he is hereby required, to receive such principal into his custody at the gaol of his District, and to give such bail a certificate under his hand and seal of office, of such surrender, which certificate shall be a sufficient authority for any Judge of the Court in which such action shall be pending, and he is hereby required on production thereof, to order an exoneretur to be entered on the bail piece, in the same manner as if such principal had been surrendered in person before him at his chambers, for which certificate the said Sheriff shall receive the sum of five-shillings, and no more.

Bail may surrender their principal to the Sheriffs of the respective District where defendants are held to bail, and Sheriffs to give certificates of surrender, and Judge to order an exoneretur on production thereof;

[See 4 Wm. IV. Chap. 5.]

XIII. *And be it further enacted by the authority aforesaid,* That if any defendant or defendants shall be taken or detained in custody in any District of this Province, on mesne process issuing out of any Court of Record in this Province, at the suit of any plaintiff or plaintiffs, and shall be detained or imprisoned thereon after the return of such process, it shall and may be lawful for such defendant or defendants, except in term time within the Home District of this Province, or District where the Court shall be holden, and upon due notice thereof given to the attorney of the plaintiff or plaintiffs in such process, to put in and justify bail before any of the Justices of the Court out of which such process shall have issued, or before any Commissioner duly appointed for taking bail in such Court, which Justice, or in case bail shall have been put in and justified before a Commissioner, any Justice of the said Court upon receipt of the said bail piece and recognizance from such Commissioner, may, if he shall think fit, order a rule to issue for the allowance of such bail, and may further order such defendant or defendants to be discharged out of custody by Writ of Supersedeas, in the like manner as may be done by order of the Court in term time.

(See 4 Wm. IV. Chap. 5. Sec. 2.)

Defendants may put in special bail in vacation;

Rule for allowance thereof may be issued by a Judge.

XIV. *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, shall at any time after action brought, and before final judgment, be apprehensive that the defendant will leave this Province without paying his debt, 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 an alias 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 common bail being filed, shall be bail to the action.

Defendants may be held to bail in action previously pending.

XV. *And be it further enacted by the authority aforesaid,* That in all cases in which the party has been held to special bail, it shall not be necessary to make or file any further or other affidavit before suing out a capias ad satisfaciendum upon the judgment obtained in the same

No further affidavit required in bailable action previous to suing out Ca. Sa. otherwise in actions not bailable; [See 5 Wm. IV. Chap. 3. Sec. 2.]

action; and that in cases where the party has not been held to special bail, a writ of *capias ad satisfaciendum* may issue after judgment, upon an affidavit of the same form as is hereby required to be made for the purpose of suing out a *capias* in mesne process, or upon affidavit by the plaintiff, his servant or agent, that he hath reason to believe that the defendant hath parted with his property, or made some secret and fraudulent conveyance thereof in order to prevent its being taken in execution.

Issues joined in the Home District may be tried before any Judge; [See 7 Wm. IV. Chap. 1, Sec. 8.]

Chief Justice or other Judge to issue his Precept to the Sheriff to summon Jurors to try such issues, not less than 30 days after Hilary and Trinity Terms.

XVI. *And be it further enacted by the authority aforesaid,* That upon all issues joined in the Court in any suit or action that shall arise or be triable in the Home District, or in the District where the Court shall be holden under any Commission of Assize and Nisi Prius issued after the Terms of *Hilary* and *Trinity*, respectively, and tested on the last day of each of those Terms, the Chief Justice, or any other Judge of the said Court, shall, as Judge of Assize and Nisi Prius for the said District, try all manner of issues joined in the said Court which ought to be tried by a Jury of the said District, and that the Chief Justice, or any other Judge of the said Court, 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, so that the same may be in no instance holden sooner than thirty days from the end of the *Hilary* and *Trinity* Terms, respectively.

Commissions may be issued for the examination of witnesses.

XVII. *And be it further enacted by the authority aforesaid,* That when the plaintiff or plaintiffs, defendant or defendants, in any action now pending, or hereafter to be brought, shall be desirous of procuring the testimony in such suit or suits of any aged or infirm person resident within the jurisdiction of His Majesty's Court of King's Bench in this Province, or any person who is about to withdraw himself or herself beyond such jurisdiction, or who is residing without the limits of this Province, it shall and may be lawful to and for His Majesty's said Court, or for any Judge thereof in vacation, upon hearing the parties upon the motion of such plaintiff or plaintiffs, defendant or defendants, to issue one or more Commission or Commissions under the seal of the said Court, to one or more Commissioner or Commissioners, to take the examination of such person or persons, respectively, 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 when executed in a foreign country to be returned under the hands and seals of Commissioners.

XVIII. *And be it further enacted by the authority aforesaid,* That in cases of witnesses residing without the limits of this Province, such Commission or Commissions, with the examination of the witness or witnesses taken pursuant thereto, returned to the said Court with an affidavit of the due taking thereof thereto annexed, sworn before and certified by the Mayor or Chief Magistrate of the city or place where the same shall or may be taken, close under the hand and seal, or hands and seals of one or more of such Commissioners, shall be taken, *prima facie*, to have been

duly executed and returned, and shall be received as evidence in the said cause; *Provided always*, That such examination or examinations shall not be read or given in evidence in the said cause, in case the deponent or deponents respectively shall be living within the jurisdiction of the said Court, and of sound mind, memory and understanding, at the time such examination or examinations shall be offered to be given in evidence; *and provided* it is made appear to the Court before which such examination or examinations is or are put in, that the same has or have not been duly taken.

Examination not to be read, if deponent is living within the jurisdiction of the Court at the time of trial and of sound mind.

XIX. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful in any execution against the person, lands or goods, of any debtor or debtors, for the Sheriff to levy the poundage fees and the expense of the said execution, over and above the sum recovered by the judgment, together with the legal interest upon the amount so recovered from the time of entering the said judgment.

Poundage fees, expenses of execution, and interest to be levied; [See 7 Wm. IV. Ch. 3, Sec. 32]

XX. *And whereas*, it is expedient to provide for the more public and certain notification of sales of lands under execution, in order that all persons having claims thereto may be apprised thereof: *Be it further enacted by the authority aforesaid*, That before the sale of any Real Estate be had upon any execution to be sued out after the passing of this Act, the Sheriff shall cause an advertisement to be inserted in the Upper Canada Gazette at least six times before such sale, specifying the particular property to be sold, the names of the plaintiff or plaintiffs, and defendant or defendants, and the time and place at which it is intended to proceed to the sale thereof; and the same shall also be advertised in any one public Newspaper of the District in which the lands lie, or by notice put up in the Office of the Clerk of the Peace, or on the door of the Court House or place in which the Court of General Quarter Sessions for such District are usually holden, for three months before such sale; *Provided, always, nevertheless*, that nothing herein contained shall be taken to prevent such adjournment of such sale to a future day.

Sales of Lands to be advertised in the Upper Canada Gazette; [See 43 Geo. III. Chap. 1]

And in any Newspaper where land lies.

XXI. *And be it further enacted by the authority aforesaid*, That from and after the first day of July next ensuing, it shall not be lawful for any Sheriff or his Deputy in any District of this Province, directly or indirectly, to trade, traffic, sell or vend goods, wares or merchandize, either by wholesale or retail, or keep a shop, or expose for sale, any such goods, wares or merchandize, or to maintain any action at law for the recovery of any debt, the amount, consideration or account, being for such goods, wares or merchandizes, excepting always such as by the duties of his office he is legally commanded to do.

Sheriffs not to trade as merchants or shop keepers.

XXII. *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 of all periods limited by this Act, and Rules of Court, inclusive.

[See 7 Wm. IV. Chap. 3,
Sec. 1.]

XXIII. *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 a most compendious manner, and that in all actions founded on a common undertaking, the following form of declaration may be adopted:

Form of declaration.

“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”

Statutes of jeofails,
limitation and amend-
ments, declared to be in
force in this Province.

XXIV. *And be it further enacted by the authority aforesaid,* That each and every of the Statutes of jeofails, 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.

Defendant may pay
money into Court;

[See 7 Wm. IV. Chap. 3,
Sec. 13.]

XXV. *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 shall admit to be justly due: be it enacted by the authority aforesaid,* 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, authorising such payment to be made, upon the plaintiff or his Attorney, at the time filing his plea of the general issue to such plaintiff's declaration.

Officer to receive one
per cent. on monies
paid into Court.

XXVI. *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.

XXVII. [Repealed by 7 Wm. IV. Ch. 1.]

Commissions of Assize and Nisi Prius to be issued yearly, and when circumstances require it, twice a year.

XXVIII. *Provided always, and be it further enacted by the authority aforesaid,* 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.

Special Commissions may also be issued to try offenders; [See 7 Wm. IV. Chap. 1, Sec. 9.]

XXIX. *And be it further enacted by the authority aforesaid,* That no writ of inquiry 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.

No Writ of Inquiry to issue to any Sheriffs, but damages to be ascertained as if parties had pleaded to issue.

XXX. *And be it further enacted by the authority aforesaid,* That every common juror shall be allowed the sum of one shilling and three pence, in every cause in which he shall be sworn as a juror, to be paid by the plaintiff or his attorney, and to be accounted for in costs by the party charged with the payment thereof.

Jurors allowed 1s. 3d. each.

XXXI. *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.

Sheriffs to return writs of Nisi Prius and attend the Judges on their Circuits. (See 3d Geo. III. Ch. 1; 7 Wm. IV. Ch. 1, sec. 10.)

XXXII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Clerk of the Crown and Pleas to have, and he is hereby required to have in each and every District of this Province, except the Ottawa, an office, the duties of which shall be discharged by Deputy, in which actions in the said Court may be instituted, and all necessary proceedings had before final judgment; and a writ of *capias ad satisfaciendum* after such final judgment, may be issued in the same manner as the same may be done in the principal office of the said Clerk.

Clerk of the Crown to have an office in each District.

XXXIII. *Provided always, and be it further enacted by the authority aforesaid,* That the precipe and affidavit (where one shall be required)

Precipe and Affidavit filed in the said offices on suing out *Ca. sa.* to be transmitted to the principal office.

filed in the said District office, on issuing any *capias ad satisfaciendum*, shall be transmitted to the principal office within one month after the same shall have been filed, as aforesaid.

Deputy Clerks of the Crown to certify proceedings if required.

XXXIV. *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 proceedings 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.

All proceedings to be transmitted to the principal office before final judgment.

XXXV. *And be it further enacted by the authority aforesaid*, That before final judgment, 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.

Eight days notice of trial to be given in all cases, and four days notice of countermand.

XXXVI. *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 of this Province, 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.

Dilatory pleas may be argued before a Judge in vacation.

XXXVII. *And be it further enacted by the authority aforesaid*, That whenever the defendant in any action shall, in term time, plead any dilatory plea, in case such plea shall be a matter in 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.

XXXVIII. *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.

Costs in civil suits to be regulated by the Laws of England.

XXXIX. *And be it further enacted by the authority aforesaid,* 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 had in the said respective Courts; and that it shall and may be lawful for any Judge of Assize, and 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: *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.

Commissioners to be appointed for taking affidavits.

[See 2 Vic. Ch. 2.]

Penalties of perjury for false swearing;

1s. for Oath.

XL. *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 as 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

(See 2 Vic. Chap. 2.)

Commissioners may be appointed for taking bail;

(See 4 Wm. IV. Chap. 5.)

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 filed in the office of the Clerk of the Crown in the District where the same shall be taken, together with an affidavit of the due taking the recognizance of such bail or bail piece, by some credible person present at the taking thereof; which recognizance of bail or bail piece, so taken and filed, shall be of the like effect as if the same were taken in open Court; 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: *Provided always, nevertheless*, that nothing herein contained shall extend to preclude any party from excepting to the bail in the manner and within the time prescribed by law.

Justices to make orders regulating the justifying of bail before Commissioners;
(See 4 Wm. IV. Chap. 5, Sec. 2.)

XL I. And be it further enacted by the authority aforesaid, 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.

Judges of assize may take bail.

XL II. And be it further enacted by the authority aforesaid, 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.

Ordinances of Quebec repealed.

XL III. And be it further enacted by the authority aforesaid 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.

No Attorney to trade as a shop keeper.

XL IV. And be it further enacted by the authority aforesaid, That after twelve months from the passing of this Act, no Attorney of this Court being a merchant, or in any wise concerned by partnership, public or private, in the purchasing and vending of merchandize in the way of trade as a merchant, shall be permitted to practise in the said Court during the time he may be such merchant or so engaged, as aforesaid, nor until twelve months after he shall have ceased to be such merchant or so engaged, as aforesaid,

XLV. *And be it further enacted by the authority aforesaid,* That from and after the first day of Easter term next, it shall and may be lawful to and for the said Court of King's Bench, and they are hereby required 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 and may be taken, or be allowed to be taken by any Clerk of the Crown, Counsel, Attorney, Sheriff, Officer, or other person, from or in respect of any business after the first day of Easter term, to be done or transacted in the Court of King's Bench, as well in civil causes as in criminal prosecutions, as in all matters and things, causes and proceedings, which thereafter shall or may be depending in the said Court, which regards 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.

Judges to establish fees to be taken by all officers the Court.

XLVI. *And be it further enacted by the authority aforesaid,* That nothing in this Act contained shall extend to annul any existing Commission or authority of any Officer or Commissioner heretofore appointed to any office which may require to be continued by the provisions of this Act, or to make void any proceedings now depending in the said Court of King's Bench, but that the said office shall be conducted, and the said proceedings be continued and carried on, according to the several provisions herein contained.

No Commissions or proceedings to be hereby avoided.

CHAP. II.

AN ACT to reduce into one Act the several Laws now in force for establishing District Courts, and regulating the practice thereof, and also to extend the powers of the said District Courts.

[Passed 17th January, 1822.]

WHEREAS it is expedient to amend and reduce into one Act the several Laws now in force for establishing and regulating the practice of the several District Courts 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*

Preamble.

(See 4 Wm. IV. Chap. 5;
5 Wm. IV. Chap. 2, 3, 4;
3 Vic. Chap. 6;
Statutes of Canada 4 &
5 Vic. Chap. 3. Secs. 5,
and 6; and Chap. 8.)

34th Geo. III. Chap. 3;
37th Geo. III. Chap. 6;
38th Geo. III. Chap. 3;
1st Sec. 51st Geo. III.
Chap. 6;
50th Geo. III. Chap. 9;
repealed.

same, That an Act passed in the thirty-fourth year of His late Majesty's reign, intituled, "An Act to establish a Court for the cognizance of small causes in each and every District in this Province;" also, an Act passed in the thirty-seventh year of His late Majesty's reign, intituled, "An Act to extend the jurisdiction and regulate the proceedings of the District Court and Court of Requests;" also, an Act passed in the thirty-eighth year of His late Majesty's reign, intituled, "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;" also, the first clause of an Act passed in the fifty-first year of His late Majesty's reign, intituled, "An Act to amend the process of the District Courts, and also further to regulate the proceedings of Sheriffs in the sale of goods and chattels taken by them in execution;" and also an Act passed in the fifty-ninth year of His late Majesty's reign, intituled, "An Act to repeal and amend certain parts of an 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," and also an Act passed in the thirty-seventh year of His Majesty's reign, intituled, "An Act to extend the jurisdiction and regulate the proceedings of the District Court and Courts of Requests," be and the same are hereby repealed.

District Courts
established.

See Statutes of Canada,
4 & 5 Vic. Chap. 3, Sec. 6,
and Chap. 8, Secs. 2 & 3;

II. *And be it further enacted by the authority aforesaid,* That there be constituted and established in each and every District within this Province, a Court of Record, which shall be known by the name and style of the District Court of each respective District, to be holden by one or more Judge or Judges, to be appointed under the Great Seal of this Province.

Jurisdiction of the said
Courts.

III. *And be it further enacted by the authority aforesaid,* That the said Courts shall hold plea in all matters of contract from forty shillings to fifteen pounds; and when the amount is liquidated or ascertained, either by the act of the parties or the nature of the transaction, to forty pounds; and also in all matters of tort respecting personal chattels, when the damages to be recovered shall not exceed fifteen pounds, and the title to the lands shall not thereby be brought into question.

Terms of sitting.

IV. *And be it further enacted by the authority aforesaid,* That the periods of sitting, or terms for the said Court, in each and every year, shall severally commence on the Monday in the week next but one preceding the week and at the place in which the Quarter Sessions are respectively holden in each District, and shall end on the Saturday in the same week.

Course of proceeding
in actions notailable.

V. *And be it further enacted by the authority aforesaid,* That in all actions notailable, the course and proceedings in the said Courts shall be by summons issuing in the King's name, directed to the Sheriff of the District where the Court shall be holden, tested in the name of the first Judge of the said Court, which may be in the following form:

“—District, } George the Fourth, by the grace of God, of the United
 to wit. } Kingdom of Great Britain and Ireland, King, Defender of
 the Faith.—To the Sheriff of the said District; Greeting: Form of summons.

“ We command you that you summon A. B. to appear, either in person or by his Attorney, at our District Court, to be holden at—, in the said District, on the— day of—, (next or instant, as the case may be, being some day in term,) to answer the complaint of C. D. in a plea of—, as the case may be, (here state the cause of action,) to the damage of the said C. D. of—, for which he brings the suit.”

VI. *And be it further enacted by the authority aforesaid,* That the said process shall be personally served on the defendant or defendants by a literate person, at least eight days before the return day thereof; and in case the defendant or defendants shall not appear, either in person or by Attorney on the return thereof, 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, in case the defendant shall not have appeared and discharged the costs of such entry, either in person or by his Attorney, it shall and may be lawful for the plaintiff to sign judgment. Service of process;

Appearance may be entered by plaintiff for defendant;

Plaintiff may, in default of defendant's appearance, sign judgment.

VII. *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 the same shall be an action of assumpsit, and he means to defend the suit and to plead the general issue, may be in the following form: Defendant may appear and plead;

Appearance and plea of the general issue by defendant.

“ The said A. B. appears in person, or by G. N. 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.

VIII. *And whereas* it is expedient to authorise the said Courts to issue writs of *capias in all actions* of contract within their respective jurisdiction: *Be it therefore enacted by the authority aforesaid,* That the said District Courts, and each and every of them, are hereby authorised and empowered to issue writs of *capias ad respondendum* in all actions of contract within their jurisdiction, and in like manner to issue writs of *capias ad satisfaciendum* on all judgments regularly entered in said Courts, or which at any time hereafter may be so entered. (See 4 Wm. IV. Chap. 6;
5 Wm. IV. Chap. 3;
3 Vic. Chap. 6.)

Writs of *capias ad respondendum* and *ad satisfaciendum* may issue

IX. *And be it further enacted by the authority aforesaid,* That before any such writ, as aforesaid, shall be sued out, the same affidavit as may by law be required to authorise the issuing of a like writ from the Court of King's Bench in this Province, shall be made before a Judge of the District Court, the Clerk thereof, or before a Commissioner of the said Court of Affidavit to be made previous to suing out *capias ad respondendum* or *satisfaciendum*.
(See 2 Geo. IV. Ch. 1, Sec. 8.)

King's Bench duly appointed to take affidavits, and the said affidavit so made shall be filed with the aforesaid Clerk.

Bail bond to be taken and assigned.

X. *And be it further enacted by the authority aforesaid,* That the Sheriff to whom a writ of *capias ad respondendum* issuing out of any District Court may be directed, shall take bail thereon, and assign the bail bond, if required, in like manner as the law does or shall direct in cases where the like process may be issued from the said Court of King's Bench, and such assignment shall have the like validity and effect in the one instance as in the other.

Time for, and manner of perfecting bail.

XI. *And be it further enacted by the authority aforesaid,* That the defendant or defendants in everyailable action shall be allowed two days after the return of the writ to enter and perfect bail to such action, and to give notice thereof to the plaintiff or plaintiffs, or his or their Attorney, and the recognizance of such bail shall be the same in substance as the recognizance taken in the said Court of King's Bench, and may be acknowledged before any Judge of the District Court issuing the writ, or before a Commissioner of the said Court of King's Bench duly appointed to take recognizances of bail in the same District.

Bail may justify by affidavit.

XII. *And be it further enacted by the authority aforesaid,* That all affidavits of justification of bail may be taken before a Judge of the said District Court, or before the Clerk thereof, or a Commissioner for taking affidavits in the Court of King's Bench, and shall be duly filed by such Clerk, and the practice of the said Court of King's Bench shall be the rule of decision in all matters respecting the justification of such bail.

Bail may be relieved on application to the said courts.

XIII. *And be it further enacted by the authority aforesaid,* That each of the said District Courts shall have power to grant such relief to the debtor, the bail to the Sheriffs, or the bail to the action, as might be done by the said Court of King's Bench, in case such action had been instituted in the said last mentioned Court.

Declaration may be filed *de bene esse*, and defendant bound to plead within two days after bail perfected, without any demand of plea.

XIV. *And be it further enacted by the authority aforesaid,* That the plaintiff or plaintiffs may file a declaration *de bene esse* in any suit where a *capias* in the first instance shall issue; and if the defendant or defendants shall enter and perfect bail to the action in due time, as hereinbefore mentioned for that purpose, he or they shall be bound to plead to such declaration within two days after the perfecting of such bail, without any demand of plea, and the conditional filing of the said declaration shall in no case discharge the defendant or defendants from the necessity of entering and perfecting bail to the action, aforesaid.

Action may be prosecuted on bail bonds taken in causes instituted in the said courts, although the penalty exceeds £40.

XV. *And be it further enacted by the authority aforesaid,* That whenever the amount of the penalty of the aforesaid bail bond to be taken by the Sheriff shall exceed the sum of forty pounds, an action on such bail bond, so exceeding the said sum, may be brought in the aforesaid Court, and

proceeded upon to final judgment and execution as in other actions therein; any thing herein contained to the contrary notwithstanding.

XVI. *And be it further enacted by the authority aforesaid,* That where there are mutual debts between the 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 debts is to be insisted on in evidence, notice be given of the particular sum or debts so to be insisted on; and on what account it became due.

Notice of set off may be given.
(See 11 Geo. IV. Ch. 5)

XVII. *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.

Court may grant further time to plead.

XVIII. *And be it further enacted by the authority aforesaid,* That four days notice of trial and assessment of damages 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 time appointed for the trial of the said issue, or the assessment of damages.

Four days notice of trial and assessment of damages to be given, and two days countermand thereof.

XIX. *Provided always, and be it further enacted by the authority aforesaid,* 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 cases of a non-suit.

Costs may be awarded for not proceeding to trial pursuant to notice;

Judgment as in case of a non-suit may be given.

XX. *And to the end that the trial of all issues to be joined in the said Court, as well as the assessment of damages 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, on the same day on

Judges of the said courts to issue their precept to the sheriffs of their respective Districts, to summon not more than forty-eight nor less than thirty-six jurors, to appear at the time and place of holding the General Quarter Sessions

which the said Sessions do severally commence to be holden, from whom a jury shall be taken for the trial of each issue, and the assessment of damages, as in like manner directed in all cases to be tried at Nisi Prius; and each person sworn for the trial of any issue joined, or for the assessment of damages, as aforesaid, shall be entitled to receive six pence, and no more.

Jurors to receive six pence each.

Judges may compute principal and interest on promissory notes where judgment by default has been signed, and give final judgment without the intervention of a jury.

XXI. *Provided always, and be it further enacted by the authority aforesaid,* That in all actions upon promissory notes, when judgment by default shall be signed in the said District Courts, it shall and may be lawful for the Judge of the said Court, in term time only, upon proof of the service of notice of such intended proceeding, to compute the principal and interest due on any such note or notes, and proceed to final judgment and execution, in the same manner as if the damages had been assessed by a jury, any thing to the contrary thereof in any wise notwithstanding.

Plaintiff may enter judgment on verdicts on the third day of the term next after trial.

XXII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the party for whom any verdict shall be rendered, or his Attorney, to sign final judgment on the third day of the term next after the giving of the said verdict, and to proceed to sue out execution immediately.

Either plaintiff or defendant may move in arrest of judgment or for a new trial;

XXIII. *And be it further enacted by the authority aforesaid,* That when the party defendant shall have any material or just cause to show why judgment should be arrested, or the party, plaintiff or defendant, any such cause to show why a new trial should be had, it shall and may be lawful for the said party, either in person or by his Attorney, on the first and 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 show cause to the effect above mentioned; and in case the Court shall see sufficient grounds for the granting of such rule, notice thereof shall be served on the opposite party, or his Attorney, and on hearing the parties, the said rule shall be made absolute or discharged in the course of the said term.

And Court on sufficient grounds may grant the same.

Courts may issue attachments in certain cases of contempt.

XXIV. And in order to enforce obedience to the orders of the Judges of the said Courts, *Be it therefore enacted by the authority aforesaid,* That it shall and may be lawful for the Judge or Judges of the said Courts, respectively, and they are hereby authorised, upon due proof of disobedience to the regular order of the said Courts, or of any wilful contempt or resistance to the regular process or order of the said Courts, to proceed against the parties so withstanding, disobeying or offending, by attachment, to be directed to the Sheriff; and in case the Sheriff shall be party in the said process or order, to be directed to the Coroner of the District, who is hereby authorised and required to execute the same, and upon the appearance of the said party so offending, upon the return of the said attachment, it shall and may be lawful for the Judge issuing the same, to proceed thereon in the same manner as is now practised in the Court of King's Bench.

XXV. Provided always, and be it further enacted by the authority aforesaid, That the said Judge or Judges, respectively, shall not have power or authority to order the party offending to be fined a greater sum than ten pounds, nor be imprisoned a longer period than one calendar month.

But party offending not to be fined more than £10, or imprisoned beyond one month.

XXVI. Provided also, and it is hereby enacted by the authority aforesaid, That nothing in this Act contained shall extend, or be construed to extend, to annul or make void any existing commission of Judge of the District Court, in any District in this Province, or to interfere with or obstruct any proceeding now depending in any District Court in this Province, but that the same shall continue and proceed as if this Act had never been passed.

No commissions or proceedings to be avoided by this Act.

XXVII. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the persons hereinafter named, to demand and receive the following fees :

JUDGE.

	£	s.	D.
On every writ of <i>capias ad respondendum</i> , and summons issued	0	2	6
For every special motion	0	5	0
Taxing costs and entering final judgment	0	10	0
Every verdict of Jury	0	5	0
Taking recognizance of bail	0	1	6
Taking every affidavit	0	1	0

Table of fees.

(See Statutes of Canada, 4 & 5 Vic. Chap. 8, Sec. 1, and Schedule.)

COMMISSIONER.

Taking recognizance of bail	0	1	6
Taking affidavit	0	1	0

ATTORNEY.

Instruction to sue or defend	0	5	0
Declaration	0	4	0
Copy of every paper, half the amount allowed for the original.			
General issue, appearance, interlocutory judgment, notice of set off, <i>cognovit</i> , or entering final judgment	0	2	6
Every special plea	0	3	9
Every notice	0	1	0
Drawing bill of cost	0	1	0
Every necessary attendance	0	1	0
Special motion	0	5	0
Brief and fee	0	10	0
Drawing bail piece	0	4	0
Recognizance	0	2	0
Drawing affidavit	0	2	6

SHERIFF.

	£	s.	d.
For every jury sworn.....	0	4	0
Service of summons of capias.....	0	2	6
Filing every execution.....	0	5	0
Poundage on all writs of execution, at 2½ per cent.			
Milage, Four pence per mile.			
Returning writ of execution.....	0	1	0
Bail bond.....	0	2	6
Assignment thereof.....	0	1	0

(See Statutes of Canada,
4 & 5 Vic. Chap. 8, Sec. 1.)

CLERK.

Every writ of summons, subpœna, or capias ad respondendum issued, and filing præcipe therefor.....	0	2	6
Filing every other separate paper.....	0	0	6
Taking verdict.....	0	2	6
Entering Judgment.....	0	2	6
Taking every affidavit.....	0	1	0
Every writ of execution and filing præcipe.....	0	5	0

[See Statutes of Canada,
4 & 5 Vic. Chap. 8, Sec.
1.]

CRIER.

Swearing Jury.....	0	1	0
For calling each cause.....	0	0	4

XXVIII. *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 District Court, whether as Judge, Commissioner, Attorney, Sheriff, Clerk or Crier, than is set down for him in this Act, or any fee for any business done by him in the said Court, other than the business which is prescribed and directed by Law, nor shall any such fee be allowed in any bill of costs.*

No other fees to be allowed than those enumerated in this Act

[See Statutes of Canada,
1 & 5 Vic. Chap. 4.]

CHAP. III.

AN ACT to repeal part of and amend the Laws now in force for raising and training the Militia of this Province.

[Passed 17th January, 1822.]

[EXPIRED.]

CHAP.

CHAP. IV.

AN ACT to render ineligible to a seat in the Commons House of Assembly of this Province, certain descriptions of persons therein mentioned.

[Passed 17th January, 1822.]

[REPEALED BY 4 GEO. IV. SESS. 2. CH. 3.]

CHAP. V.

AN ACT to repeal part of and amend an Act passed in the thirty-seventh year of His late Majesty's reign, intituled, "An Act for the better regulating the practice of the Law," and to extend the provisions of the same.

[Passed 17th January, 1822.]

WHEREAS it is expedient to repeal part of and amend an Act passed in the thirty-seventh year of His late Majesty's reign, intituled, "An Act for the better regulating the practice of the Law," and to extend the provisions 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 the Treasurer and Benchers of the Law Society, for the time being, and their successors, to be nominated and appointed according to the rules and by-laws of the said Society, shall be and they are hereby declared to be one body corporate and politic, in deed and in law, by the name of the Law Society of Upper Canada; and shall have perpetual succession and a common seal, with power to change, alter, break or make new the same; and they and their successors, by the name aforesaid, may sue and be sued, implead and be impleaded, answer and be answered unto, in all or any Court or Courts of Record and places of jurisdiction within this Province; and that they and their successors, by the name aforesaid, shall be able and capable in law to have, hold, receive, enjoy, possess and retain, for the end and purposes of this Act, and in trust and for the benefit of the said Society, all such sum or sums of money as have been paid or given, or shall at any time or times hereafter be paid, given,

Preamble.

[See 37 Geo. III Ch. 13;
4 Wm. IV. Chap. 9;
7 Wm. IV. Chap. 15.]

Treasurer and Benchers
of the Law Society in-
corporated.

To have a common seal.

May hold lands to the use of the society.

devised or bequeathed, by any person or persons, to and for the use of the said Society; and that they and their successors, by the name aforesaid, shall and may at any time hereafter, without any licence of mortmain, purchase, take, receive, have, hold, possess and enjoy, any lands, tenements or hereditaments, or any estate or interest derived or arising out of any lands, tenements or hereditaments, for the purposes of the said Society, and for no other purposes whatsoever; and may also in the same manner, sell, grant, lease, demise, alien or dispose of the same, and do or execute all and singular other matters and things that to them shall or may appertain to do.

[37 Geo. III. Chap. 13, Sec. 5, repealed in part.]

Certain persons coming from Great Britain, Ireland, or British Provinces in America, may be called to the bar in this Province.

II. *And be it further enacted by the authority aforesaid,* That so much of the fifth clause of the said Act, passed in the thirty-seventh year of His late Majesty's reign, as respects the admission of persons to practise in this Province, who have 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, shall be and the same is hereby repealed; and that from and after the passing of this Act, it shall and may be lawful for any person having been duly called to practise at the Bar of any of His Majesty's Superior Courts, not having merely local jurisdiction in England, Scotland or Ireland, or in any of His Majesty's Provinces in North America, in which the same privilege would be extended to Barristers from this Province, on producing sufficient evidence thereof, and also on producing testimonials of good character and conduct, to the satisfaction of the Law Society of this Province, to be called by the said Law Society to the degree of a Barrister, upon his entering himself of the said Society, and conforming to all the rules and regulations thereof.

[37 Geo. III. Chap. 13, Sec. 6, repealed in part.]

No person to be admitted to practice as an attorney under five years actual service.

[See 7 Wm. IV. Chap. 15.]

III. *And be it further enacted by the authority aforesaid,* That the sixth clause of the said Act, passed in the thirty-seventh year of His late Majesty's reign, shall be and the same is hereby repealed; and that from and after the passing of this Act, no person shall be admitted by the Court of King's Bench to practise as an Attorney in this Province, unless upon an actual service under articles for five years, with some practising Attorney in this Province: *Provided nevertheless,* that nothing in this Act contained shall extend or be construed to extend to any Student now serving with any person in this Province, duly authorised to take a Clerk; and who shall have been proposed or entered on the books of the Law Society as a Student.

CHAP. VI.

AN ACT for assigning limits to the respective Gaols within this Province.

[Passed 17th January, 1822]

[REPEALED BY 11 GEO. IV. Ch. 3.]

CHAP. VII.

AN ACT to amend an Act passed in the fifty-ninth year of His late Majesty's reign, and promulgated by Proclamation bearing date the twenty-first day of April, in the year of our Lord one thousand eight hundred and twenty-one, intituled, "An Act to incorporate sundry persons under the style and title of the President, Directors and Company, of the Bank of Upper Canada."

[Passed 17th January, 1822.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. VIII.

AN ACT to make further regulation respecting the weekly maintenance of Insolvent Debtors.

[Passed 17th January, 1822.]

WHEREAS it is necessary for the prevention of fraudulent conveyances of property by insolvent debtors claiming the weekly allowance granted by law, to compel the said debtors when required to answer such interrogatories as shall be filed by the plaintiff at whose suit he shall be confined; *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 when and so often as any prisoner or prisoners in custody, and charged in execution for debt in any civil suit, shall apply to the Court whence such process or execution issued, either to be discharged or allowed a weekly maintenance, by reason of any alleged insolvency, it shall and may be lawful for the plaintiff or plaintiffs at whose suit such prisoner is detained, his, her or their Attorney, to file such interrogatories as he, she or they, shall be advised or think expedient, touching or concerning, or for the purpose of discovering any property or credits which the said prisoner may be possessed of, or which he or she may be suspected for having secreted or fraudulently parted with; which interrogatories the said prisoner is hereby required to answer upon oath, before some person authorised to receive and take affidavits in the Court in which such suit shall be depending, who is hereby authorised to administer the same.

Preamble.

[See 45 Geo. III. Ch. 7;
8 Geo. IV. Ch. 8;
11 Geo. IV. Ch. 4;
4 Wm. IV. Ch. 3;
5 Wm. IV. Ch. 3;
3 Vic. Chap. 6.]

Plaintiff may tender interrogatories to insolvent debtors claiming weekly allowance, touching their solvency;

Answer may be sworn before commissioners for taking affidavits.

Debtors to receive no benefit from any order for a weekly allowance, until he has answered the said interrogatories.

II. *And be it further enacted by the authority aforesaid,* That after any interrogatories shall have been filed, as aforesaid, and a copy thereof delivered to the said prisoner, his or her Attorney, the said prisoner shall not receive any further benefit from his or her application, and the orders and other proceedings thereon shall be stayed, until the said prisoner shall have fully answered the same, and filed such answer or answers thereto, in the Court from whence the writ on which he or she shall be confined shall have issued, and given notice thereof to the plaintiff or his Attorney in such suit.

Court in term time, or judge in vacation, may order prisoners to be discharged on non-payment of their weekly allowance; Such discharge not to operate as a release of the debt.

III. [Repealed by 8 Geo. IV. chap. 8.]

CHAP. IX.

AN ACT to continue an Act passed in the forty-sixth year of His late Majesty's reign, intituled, "An Act to make provision for certain Sheriffs in this Province," and a certain other Act of Parliament of this Province passed in the fifty-seventh year of His late Majesty's reign, intituled, "An Act further to continue an Act passed in the forty-sixth year of His Majesty's reign, intituled, "An Act to make provision for certain Sheriffs in this Province," and also to extend the provisions of the said Act, and to protect the interest of suitors in certain cases.

[Passed 17th January, 1822.]

[EXPIRED.]

CHAP. X.

AN ACT to repeal an Act passed in the fifty-sixth year of His late Majesty's reign, intituled, "An Act for granting to His Majesty a sum of money, and to provide for the appointment of a Provincial Agent for this Province.

[Passed 17th January, 1822.]

Preamble.

WHEREAS an Act was passed in the fifty-sixth year of His late Majesty's reign, intituled, "An Act for granting to His Majesty a sum of money, and to provide for the appointment of a Provincial Agent;" *And whereas* the appointment of a Provincial Agent has not been productive

of the advantages contemplated at the time of passing the said law: *And whereas* the said office has become vacant by the decease of the late William Halton, Esq. and it is expedient to repeal 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 said Act shall be and the same is hereby repealed.

56 Geo. III. Chap. 35.
repealed.

CHAP. XI.

AN ACT to repeal in part a certain part of an Act passed in the forty-third year of His late Majesty's reign, intituled, "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," and further, to enable the Magistrates in their respective Districts in this Province, in General Quarter Sessions assembled, to make such rules and regulations as may restrain Swine running at large in the respective Towns in this Province where a Police is or may hereafter be established by law.

[Passed 17th January, 1822.]

WHEREAS the laws now in force for restraining the custom of permitting swine to run at large in certain towns in this Province, have been found ineffectual and insufficient to abate an increasing nuisance: *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 the fourth section of a certain Act passed in the forty-third year of His late Majesty's reign, intituled "An Act to extend the provisions of an Act passed in the thirty-fourth year of

Preamble.

So much of 4 Sec. 43 Geo. III. Chap. 10, as relates to York, Niagara, Sandwich, Amherstburgh, and Kingston, repealed.

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 the towns of York, Niagara, Sandwich, Amherstburgh and Kingston, he and the same is hereby repealed.

Magistrates in town where a police is established, to make rules respecting swine running at large. [See 4 Wm. IV. Chap. 23. Sec. 22. and the Police Acts for the several towns.]

II. *And be it further enacted by the authority aforesaid, That from and after the passing of this Act, it shall and may be lawful for the Magistrates, or the majority of them, in General Quarter Sessions assembled, for any District in this Province, wherein a Police in any town therein is now or may hereafter be established by law, to make, ordain, constitute and publish, such prudential rules and regulations, from time to time, as they may deem expedient, relative to restraining Swine running at large in any such town, subject to the provisions and enactments contained in any law establishing a Police in such respective town in this Province.*

CHAP. XII.

AN ACT to enable persons who have preferred claims to or out of certain Forfeited Estates in this Province to withdraw the same.

[Passed 17th January, 1822.]

[EXPIRED.]

CHAP. XIII.

AN ACT requiring the publication of the expenditure of monies raised under any Law, establishing a Police in any Town or Towns in this Province.

[Passed 17th January, 1822.]

WHEREAS it is expedient that an account of the expenditure of the monies authorised to be raised and collected by the laws now in force, establishing a Police in several towns in this Province, should be annually published: *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*

Pro. 104.
[See 31 Geo. III. Chap. 5;
43 Geo. III. Chap. 10;
57 Geo. III. Chap. 2;
and the several Police
Acts in the Province
of Upper Canada;
and Statute of Canada
1 & 5 Vic. Chap. 16.]

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 Justices of the Peace for the several Districts of this Province, wherein a Police now is or hereafter may be established, for any town or towns within the same, shall, at the General Quarter Sessions next after the first day of April, in each year, direct the Clerk of the Peace in each of the said Districts, to make up an account of all monies raised and levied under and by virtue of any Act now or hereafter to be made, regulating the Police in any town or towns, as aforesaid, together with an account of the expenditure thereof, which account they are hereby required to publish immediately after the Sessions at which the same shall be required to be stated, either by causing a copy thereof to be put on the door of the Court House in such District, or by publishing the same at the expense of the District in any newspaper circulated therein.

Justices of the Peace to render an account annually of the receipt and expenditure of the Police-tax levied in their respective Districts, and to cause the same to be published.

CHAP. XIV.

AN ACT to establish the division line between the second and third concessions of the Township of Osnabruck, in the Eastern District.

[Passed 17th January, 1822.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XV.

AN ACT to establish a Market in the Town of Perth, in the County of Carleton.

[Passed 17th January, 1822.]

[See Local and Private Acts, in 2nd Volume.]

CHAP.

C H A P . X V I .

AN ACT to authorise the Surveyor General of this Province to receive the like sum for all original Schedules of new Townships furnished, or to be furnished, since the first day of July one thousand eight hundred and twenty, as he is authorised to receive by law for such Schedules furnished before that period.

[Passed 17th January, 1822.]

Preamble.

WHEREAS an Act was passed in the fifty-ninth year of the reign of His late Majesty King George the Third, intituled, "An Act to repeal the several Laws now in force relative to levying and collecting Rates and Assessments in this Province, and further to provide for the more equal and general Assessment of Lands and other ratable property throughout this Province," whereby it is enacted, that His Majesty's Surveyor General of this Province, for the time being, should, on or before the first day of July in the year of our Lord one thousand eight hundred and twenty, furnish the Treasurer of each and every District of this Province with a list or schedule of the lots in every town, township or reputed township, of his respective District, containing certain particulars specified in the said Act; and should, on or before the first day of July, in every year thereafter, transmit to the Treasurer of such District, respectively, a schedule of all such lots or parcels of lands, specifying the number of acres or other less quantity of land in each, as have been granted or set to lease by His Majesty since the last schedule by him furnished, as by the said Act directed.

II. And it is by the said Act further provided, that for every schedule for each township so furnished by the Surveyor General, on or before the first day of July one thousand eight hundred and twenty, he should be entitled to receive the sum of twenty shillings, and for every supplementary schedule thereafter, the sum of two shillings and six pence.

III. *And whereas* several original schedules of new townships surveyed and located since the passing of the said Act, have been furnished by the Surveyor General, since the first day of July one thousand eight hundred and twenty, for which it is proper the same allowance should be made as for the original schedules furnished before the first day of July one thousand eight hundred and twenty: *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 for every original schedule of any township in this Province, which has been, or may hereafter be furnished under the provisions of the above recited Act; by the Surveyor General of this Province, for the time being, there shall be paid the sum of twenty shillings, to be paid and accounted for in the manner directed by the said Act.

Surveyor General to receive 20s. for every original schedule furnished under the provisions of 59th Geo. III. Chap. 7.

CHAP. XVII.

AN ACT granting to His Majesty a sum of money, for the purpose of purchasing and erecting Machinery within this Province, to prepare Hemp for exportation.

[Passed 17th January, 1822.]

[TEMPORARY.]

CHAP. XVIII.

AN ACT granting to His Majesty a certain sum of money for the purposes therein mentioned.

[Passed 17th January, 1822.]

[TEMPORARY.]

CHAP. XIX.

AN ACT to authorise the appointment of a Commissioner for the purposes therein mentioned.

[Passed 17th January, 1822.]

[TEMPORARY.]

CHAP.

CHAP. XX.

AN ACT granting to His Majesty a sum of money to provide for the appointment of a Commissioner, for the purposes therein mentioned.

[Passed 17th January, 1822.]

[TEMPORARY.]

CHAP. XXI.

AN ACT to authorise His Majesty's Justices of the Peace for the Midland District to obtain, by loan, a sum of money for the purpose of erecting a Gaol and Court House in the Town of Kingston.

[Passed 17th January, 1822.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXII.

AN ACT to appoint Trustees to the Will of William Weeks, late of York, Esquire, deceased, to carry into effect the provisions thereof.

[Passed 17th January, 1822.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXIII.

AN ACT for the relief of John Cryslor, Esquire.

[Passed 17th January, 1822.]

[EXPIRED.]

CHAP.

CHAP. XXIV.

AN ACT for the relief of Peter Miller.

[Passed 17th January, 1822.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXV.

AN ACT for the relief of John White.

[Passed 17th January, 1822.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXVI.

AN ACT to make good certain monies issued and advanced by His Excellency the Lieutenant Governor, in pursuance of an Address of the House of Assembly.

[Passed 17th January, 1822.]

[TEMPORARY.]

CHAP. XXVII.

AN ACT to remunerate the Commissioners appointed to treat on behalf of this Province with the Commissioners of Lower Canada, on the subject of our commercial relations with that Province.

[Passed 17th January, 1822.]

[TEMPORARY.]

STATUTES OF UPPER CANADA,

PASSED IN THE

THIRD SESSION OF THE EIGHTH PROVINCIAL PARLIAMENT OF UPPER CANADA :

MET AT YORK, ON THE FIFTEENTH DAY OF JANUARY, IN THE THIRD YEAR OF THE
REIGN OF OUR SOVEREIGN LORD GEORGE THE FOURTH, AND PROROGUED ON
THE NINETEENTH DAY OF MARCH FOLLOWING.

SIR PEREGRINE MAITLAND, K. C. B.

LIEUTENANT GOVERNOR.

ANNO DOMINI 1823.

CHAP. I.

*AN ACT to amend and extend the provisions of an Act passed in the
Second year of His Majesty's reign, intituled, "An Act to make pro-
vision for the improvement of the internal navigation of this Province."*

[Passed 29th January, 1823]

[EXPIRED.]

CHAP. II.

*AN ACT to provide for the establishment of Courts in the District of
Bathurst, and for other purposes therein mentioned.*

[Passed 29th January, 1823.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. III.

*AN ACT providing for the publication of reports of the decisions of His
Majesty's Court of King's Bench in this Province.*

[Passed 19th March, 1823.]

[REPEALED BY 3 VIC. CH. 2.]

CHAP. IV.

AN ACT to provide for the appointment of Commissioners to investigate the claims of certain inhabitants of this Province, for losses sustained by them during the late War with the United States of America, and for other purposes therein mentioned.

[Passed 19th March, 1823.]

[EXPIRED.]

CHAP. V.

AN ACT to repeal part of the tenth clause of an Act passed in the forty-eighth year of His late Majesty's reign, intituled "An Act to explain, amend and reduce to one Act of Parliament the several laws now in being for the raising and training the Militia of this Province;" and also part of an Act passed in the last Session of the present Parliament, intituled "An Act to repeal part of and amend the laws now in force for the raising and training the Militia of this Province," and to increase the strength of the Companies of Militia.

[Passed 19th March, 1823.]

[REPEALED BY 1 VIC. CH. 8.]

CHAP. VI.

AN ACT to provide a Salary for the Adjutant General of Militia in this Province, and for other purposes therein mentioned.

[Passed 19th March, 1823.]

MOST GRACIOUS SOVEREIGN:

WHEREAS it is necessary to make better provision for the office of Adjutant General of Militia of this Province; *Be it therefore enacted* Preamble. 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 a certain Act of the Parliament of this Province, passed in the forty-eighth year of His late Majesty's reign, intituled, "An Act for granting to His Majesty an annual sum of money, for the purposes therein mentioned;" and the second clause of an Act of the Parliament of this Province, passed in the fifty-sixth year of the reign of His late Majesty, intituled, "An Act to amend an Act passed in the forty-eighth year of His Majesty's reign, intituled, 'An Act to explain, amend and reduce to one Act of Parliament, the several Laws now in being for the raising and training the Militia of this Province," be and the same are hereby repealed.

4th Geo. III. Chap. 3;
and 2nd Sec. of 50th
Geo. III. Chap. 7,
repealed.

As the amount annually
to His Majesty to be
applied is as follows:

1. To the Salary to the
Adjutant General;
2. To the Salary to an
Assistant Adjutant
General;

3. To the Salary to the
Lieutenant Governor;
4. To the Salary to the
Person administering the
Government of this
Province;

and the same shall be
paid out of the
Treasury of His Majesty.

As the amount annually
to His Majesty to be
applied is as follows:

II. *And be it further enacted by the authority aforesaid, 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 public uses of this Province, there be granted annually to His Majesty, His Heirs and Successors, the sum of six hundred pounds, to be applied as follows: that is to say, the sum of three hundred and sixty five pounds to provide a salary for the Adjutant General of the Militia of this Province, for the time being; the sum of one hundred and fifty pounds to provide a salary for an Assistant Adjutant General, to be appointed by the Governor, Lieutenant Governor, or Person Administering the Government of this Province, for the time being; and the sum of eighty-five pounds to be paid to the Adjutant General of Militia, in lieu of all contingencies; which said several sums shall commence and be payable from and after the passing of this Act.*

That the said Act to issue his
Warrant for payment
thereof.

As the amount annually
to His Majesty to be
applied is as follows:

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, from time to time, to issue his warrant or warrants to the Receiver General of this Province, for the said several sums of money half yearly; 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, in such manner and form as His Majesty, His Heirs and Successors, shall be graciously pleased to direct.*

CHAP. VII.

AN ACT to afford relief to persons claiming Lands in this Province, under assignments from Heirs, Devisees, or Assignees of the original Nominees of the Crown, in cases where no Patents had issued, and for other purposes therein mentioned.

[Passed 19th March, 1823.]

WHEREAS there are many persons entitled to hold lands in this Province under and by virtue of claims derived from persons who have held the same as heirs, devisees or assignees of the original nominees of the Crown, and who may have died or departed from the Province, and such persons so entitled to claim lands cannot at present by Law obtain Patents for the same in their own names, and it is expedient to enable them to do so: *And whereas* it is also expedient to extend the provisions of a certain Act of the Parliament of this Province, passed in the forty-eighth year of His late Majesty's reign, intituled, "An Act to continue an Act passed in the forty-fifth year of His Majesty's reign, intituled, 'An Act to afford relief to those persons who may be entitled to claim lands in this Province as heirs or devisees of the original nominees of the Crown, in cases where no Patent hath issued for such lands, and further to extend the benefits of 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 from and after the passing of this Act, it shall and may be lawful for any person or persons holding or claiming lands in this Province under any claims or titles derived from any heir or heirs, devisee or devisees, or assignee or assignees of the original nominee or nominees of the Crown, to claim such lands before the Commissioners appointed or to be appointed under and by virtue of the said Act, passed in the forty-fifth year of His late Majesty's reign, in the same manner and at the same time as any heir or heirs, devisee or devisees, or assignee or assignees of the original nominee or nominees of the Crown are or may be authorised by Law to do; and it shall and may be lawful for the said Commissioners, or the majority of them, to allow any lands so claimed to the person or persons claiming the same, provided sufficient proof shall be adduced to satisfy the said Commissioners, or the majority of them, that the person or persons claiming the same is or are *bona fide* the owner or owners thereof; and that due notice hath been given of such claim, by affixing such notice of the claim in some public place in the

Preamble.

(See 45 Geo. III. Chap. 2;
48 Geo. III. Chap. 10;
52 Geo. III. Chap. 9;
56 Geo. III. Chap. 21;
59 Geo. III. Sess. 2, Ch. 18;
10 Geo. IV. Chap. 4;
Statutes of Canada 1 &
5 Vic. Chap. 1.)

Persons claiming lands as heirs, devisees or assignees, of the original Nominees of the Crown to claim the same before Commissioners;

Notice to be put up in the Court House of the District where lands are situated, three months before the sitting of the Commissioners.

Court House of the District in which such lands shall be situated, for at least three months next preceding to the sitting of such Commission, and the same to be proclaimed in open Court by the Cryer thereof, immediately after the charge to the Grand Jury.

Provisions of the 48 Geo. III. extended.

II. *And whereas* the second clause of the said Act, passed in the forty-eighth year of His late Majesty's reign, only authorises the said Commissioners to hear and determine upon claims preferred by the assignee or assignees of original nominee or nominees who was or were dead, or who had left the Province previous to the passing of the said Act, and it is expedient to extend the power of the said Commissioners in that respect, *Be it therefore enacted by the authority aforesaid*, That it shall and may be lawful for the said Commissioners, or the majority of them, to hear and determine all such claim or claims as may regularly be brought before them, for any lot or lots, parcel or parcels of land, when the original nominee or nominees of the Crown for such lands is or are dead, or may have left the Province, or in any case hereafter where such nominee or nominees may die or leave the Province without obtaining a Patent for such lands.

Patents to issue for lands contained in Commissioners' report.

III. *And be it further enacted by the authority aforesaid*, That when any claim or claims shall be allowed and reported by the said Commissioners, or the majority of them, it shall and may be lawful for the Governor, Lieutenant Governor, or Person Administering the Government, for the time being, to issue His Majesty's Letters Patent for the lot or lots, parcel or parcels of land specified in the report of the said Commissioners, as allowed to such claimant or claimants, to or in trust for the person or persons to whom the same may have been allowed; and that all and every the provisions, regulations, restrictions, matters and things, which in and by the said Acts, passed in the forty-fifth and forty-eighth years of His late Majesty's reign, are enacted or contained, of and concerning or in any wise touching or relating to the claim or claims of the heir or heirs, devisee or devisees, or assignee or assignees of the nominee or nominees of the Crown, mentioned in the said Acts, shall be and are hereby extended to the person or persons authorised to claim lands under this Act.

Affidavits touching claims may be taken before Commissioners;

False swearing, perjury.

IV. *And be it further enacted by the authority aforesaid*, That the Commissioners appointed in any District in this Province to take affidavits touching any claim or claims to lands under the said Acts, passed respectively in the forty-fifth and forty-eighth years of His late Majesty's reign, shall have full power and authority to take any affidavit relating to claims to be brought forward under this Act; and if any person or persons shall forswear him, her or themselves, before any Commissioner duly authorised to take such affidavits, he, she or they, shall on conviction thereof be subject to all the pains and penalties of wilful and corrupt perjury.

CHAP. VIII.

AN ACT to provide for constructing a navigable Canal between Burlington Bay and Lake Ontario.

[Passed 19th March, 1823.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. IX.

AN ACT to make additional provision for the improvement of the Inland Navigation of this Province.

[Passed 19th March, 1823.]

[EXPIRED.]

CHAP. X.

AN ACT to permit the Importation of Machinery into this Province free from Duty, for a limited time.

[Passed 19th March, 1823.]

[EXPIRED.]

CHAP. XI.

AN ACT to amend and repeal part of an Act, intituled, "An Act to incorporate sundry persons under the style and title of the President, Directors and Company, of the Bank of Upper Canada."

[Passed 19th March, 1823.]

[See Local and Private Acts, in 2nd Volume.]

CHAP.

CHAP. XII.

AN ACT granting to His Majesty a sum of money, to defray certain charges for the Administration of Justice, and support of the Civil Government of this Province.

[Passed 19th March, 1823.]

[TEMPORARY.]

CHAP. XIII.

AN ACT prescribing the mode of measuring the contents of Wooden Stills; also for fixing the rate of Duty to be paid on all Stills used for the Distillation of Spirituous Liquors within this Province.

[Passed 19th March, 1823.]

MOST GRACIOUS SOVEREIGN :

WHEREAS it is expedient more particularly to define the manner in which wooden Stills shall be measured or gauged in this Province, and to ascertain and declare what proportion of the same shall be liable to the payment of duties ; also to continue the duty on all Stills used for the purpose of Distilling Spirituous Liquors within this Province ; wherefore, *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 each and every wooden Still or Stills which shall or may be used for the Distillation of Spirituous Liquors, shall be measured or gauged, and shall be liable to the payment of duties in manner and form as is hereinafter directed.

Provable

(See 1 H. C. IV. Chap. 49;
2 P. C. Chap. 24,
3 P. C. Chap. 19.)

All wooden stills to be gauged, and liable to the payment of duties.

Every requisition for a licence to use a wooden still shall express the number of gallons the same is capable of holding;

* II. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, every person requiring a licence to use or work a wooden Still, shall expressly state in the requisition for that purpose, to be made to the Inspector of the District in which such Still shall be situate, the whole number of gallons, the entire capacity of the Still for which a licence so required, shall or may be capable of containing ; which requisition may be in the following form :

“I, A. B. do require a licence to work one wooden Still, the entire capacity of which, by admeasurement, (or being gauged, as the case may be,) is capable of containing — gallons, and no more. As witness my hand, this — day of —” Form of requisition.

A. B.

Owner and proprietor of the said Still.

To J. L.

Inspector of the District of —”

which requisition shall be filed and preserved by the Inspector, as is heretofore by law required. Requisition to be filed with the Collector.

III. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the said Inspector, and he is hereby required, to deduct one-half the amount specified in such requisition as a necessary allowance for the operation of steam in wooden Stills, and the remaining half of the contents thereof shall be subject and liable to the payment of all such duties as now are, or may hereafter be imposed by this or any other law enacted to be paid on Stills in this Province; *Provided nevertheless,* that every wooden Still having an additional tub or vessel, whether placed on the top or in any other manner attached to such Still, serving the purpose of a cap or receiver of steam; and also every tub or wooden Still that shall be separated into different divisions, for the purpose of receiving or running the low wines, or for heating and preparing the beer or wash for charging such Still, or that may be so divided, as aforesaid, for any purpose whatever, every such tub or wooden Still shall be liable to and chargeable with the payment of duties upon the whole capacity of the same. One half of the entire contents of every wooden still shall be liable to the payment of duties; Every tub or vessel attached to the still shall be liable to pay duty for its whole capacity.

IV. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Inspector of each and every District, when and so often as he shall think it proper, to ascertain the contents of any wooden Still or Stills by measuring or gauging the same, at his discretion, to bore one or more hole or holes in such wooden Still or Stills, not exceeding two inches in diameter, that the said Inspector may be the better enabled to measure or gauge the same: *Provided nevertheless,* that every Still which shall be specified in the requisition to have been measured, shall be measured, and every Still specified to have been gauged, shall be gauged. How the Collectors are to ascertain the capacity of stills.

V. *And be it further enacted by the authority aforesaid,* That any person or persons who shall use or work any wooden Still or Stills without having first obtained a licence for that purpose, or who shall use any other or larger wooden Still or Stills than are specified in his or their requisition, or who shall have or use any tub or vessel as a cap, or otherwise attached to any such wooden Still or Stills, for the purpose of receiving the steam, or who shall have or use any wooden Still or Stills in which there shall be any false head or heads, by which such Still shall be separated into different divisions, and who shall not state the same in his or their requisition at the time of applying for and taking out a licence Penalty for distilling without a licence, and using tubs, &c. not mentioned in the requisition.

for the same, and shall be convicted thereof before any two or more of His Majesty's Justices of the Peace in and for the District in which the offence shall be charged to have been committed, shall be liable to all the pains, penalties and forfeitures, and shall be disposed of in the same manner and form as are directed by any Law now in force or that may hereafter be passed for laying and collecting a duty on Stills.

What shall be deemed a still.

VI. *And be it further enacted by the authority aforesaid,* That the tub or receiver of the beer or wash only, shall be deemed and taken to be a Still, and subjected to the payment of duties, according to the intent and meaning of this Act.

Duty of 1s. 3d. per gallon to be levied on the capacity of all stills.

VII. *And be it further enacted by the authority aforesaid,* That in addition to the duty of one shilling and three pence per gallon, now raised, levied, collected and paid, yearly and every year, there shall be raised, levied, collected and paid, unto His Majesty, His Heirs and Successors, to and for the public uses of this Province, from all persons using a Still or Stills for the purpose of distilling spirituous liquors, the sum of one shilling and three pence, lawful money of this Province, for every gallon which such Still or Stills shall contain, agreeably to measurement prescribed by Law for ascertaining the contents of the same.

How duties shall be levied and paid.

VIII. *And be it further enacted by the authority aforesaid,* That the said duty hereby granted to His Majesty, shall be raised, levied, collected and paid, in the same manner, and under the same penalties and restrictions, as are imposed by any former Act of this Province imposing a duty on Stills for the purpose of distilling spirituous liquors.

Remuneration of, and fees payable to Collectors.

IX. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for each and every Inspector to demand and receive the same fees for filing a requisition and for issuing a licence, and also to take and retain to and for his own use the like per centage on all monies that may or shall come into his hands for licences issued by virtue of this Act, as is granted by a certain Act passed in the forty-third year of the reign of His late Majesty, intituled, "An Act for the better securing to His Majesty, His Heirs and Successors, the due collection and receipt of certain duties therein mentioned."

No Collector to receive more than £100 in any one year as per centage.

X. *Provided always, and be it further enacted by the authority aforesaid,* That nothing in this or any other Act contained, shall authorise any Inspector to receive in any one year more than one hundred pounds as per centage.

Monies to be paid by Inspectors to the Receiver General, and accounted for through the Lords Commissioners of His Majesty's Treasury.

XI. *And be it further enacted by the authority aforesaid,* That all monies collected by virtue of this Act shall be paid into the hands of His Majesty's Receiver General of this Province, by the Inspector or Inspectors receiving the same, to and for the public uses of this Province; and to 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 shall be graciously pleased to direct.

XII. *And be it further enacted by the authority aforesaid, That this Act shall be and the same is hereby declared to be in force until the fifth day of January, one thousand eight hundred and twenty-seven, and from thence to the end of the then next ensuing Session of Parliament.*

Continuation of this Act, (Continued by 3 Geo IV. Chap. 9; revised and continued by 4 Wm. IV. Chap. 49, which was intended to be continued by 2 Vic. Ch. 21, but the latter Act is erroneous.)

CHAP. XIV.

AN ACT granting to His Majesty a sum of money for the purpose therein mentioned.

[Passed 19th March, 1823.]

[EXPIRED.]

CHAP. XV.

AN ACT to restrain the selling of Beer, Ale, Cider and other Liquors, not Spirituous, in certain Towns and Villages in this Province, and to regulate the manner of Licencing Ale-Houses within the same.

[Passed 19th March, 1823.]

Preamble; Licences to be taken out by persons keeping Ale Houses; Form of licence; 2s. 6d. to be paid therefor; Security to be taken for the orderly keeping of houses licenced; For which 1s. shall be paid; Form of recognizance; Duties on licences; Monies paid for licences to be paid to the Receiver General, and accounted for through the Lords of His Majesty's Treasury.

Time of Magistrates meeting to grant licences; Six days notice to be given.

- I. } [Repealed by 3 Vic. Chap. 20.]
- II. }
- III. }
- IV. [Repealed by 8 Geo. IV. Chap. 11.]

Penalty for keeping an Ale House without a licence;

V. *And be it further enacted by the authority aforesaid, That if any person or persons shall presume to open a house for the sale of ale, beer, cider, or other liquors not spirituous, by retail, after the first Monday in the month of May next, contrary to the provisions of this Act, he, she or they, shall upon conviction thereof before any two of His Majesty's Justices of the Peace, within the District where such person or persons shall reside, upon the oath of one or more credible witness or witnesses, or*

upon the confession of the party charged, forfeit and pay a sum not less than two pounds, nor more than five pounds, for each and every offence of which he, she or they, shall be convicted; to be levied by distress of the goods and chattels of the offender or offenders, by and under the authority of a warrant from the Magistrates before whom such conviction shall happen, together with all lawful costs and charges; and for want of sufficient distress, the body of such offender or offenders shall, by order of such Magistrates, be committed to the Common Gaol of the District, for a period not less than ten days nor more than thirty days.

To be levied by distress.

And in default thereof, offender to be imprisoned.

Application and division of penalties.

VI. *And be it further enacted by the authority aforesaid,* That one half of every pecuniary penalty which shall be levied under and by virtue of this Act, shall be paid by the person receiving the same 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, to be accounted for through the Lords Commissioners of His Majesty's Treasury, for the time being, and the other moiety to the informer or person who shall sue for the same.

How recognizances to be forfeited;

VII. *And be it further enacted by the authority aforesaid,* That any Justice, on complaint or information that any person or persons licenced as aforesaid, whereby in the judgment of such Magistrate the recognizance hereinbefore stated shall be forfeited, or the condition thereof broken, may by summons under his hand and seal, require such person or persons to appear at the next General and Quarter Sessions, to answer such complaint or information, and also shall bind the person who shall make complaint, or any other person, in a recognizance to appear and give evidence; at which said Sessions, a Jury shall be empannelled to inquire of the complaint preferred; and if such Jury shall, upon hearing evidence, determine that the person complained of hath done any act or thing whereby the condition of his recognizance is broken, such act being by them named, the Justices before whom such matter shall have been tried shall order the recognizance of such person or persons to be estreated into His Majesty's Court of King's Bench of this Province, and such person or persons shall be disabled from obtaining a licence for the sale of beer, ale, cider or other liquors, not spirituous, as aforesaid, for the space of one year then next ensuing.

Upon forfeiture of recognizance, party disabled keeping Ale House for one year.

During fairs persons may sell ale, &c. in booths without licence.

VIII. *And be it further enacted by the authority aforesaid,* That in such town or places where any fair shall be kept, for the time only of said fair, it shall be lawful for every person to use common selling of ale, beer or cider, or other liquors not spirituous, in booths or other places in such town or place, as aforesaid, without being required to take out a licence for so doing.

Justices shall determine the number of Ale Houses proper to be kept in each town or village.

IX. [Repealed by 3 Vic. Chap. 20.]

X. *And be it further enacted by the authority aforesaid, That this Act shall be and continue in force for two years from the passing thereof, and from thence to the end of the then next ensuing Session of Parliament, and no longer.*

Continuance of this Act.
(Continued by 7 Geo. IV.
Chap. 11;
2 Wm. IV. Chap. 21,
which last Act, and not
this, is continued by 7 Wm.
IV. Chap. 28, for four
years, and to end of next
Session.)

CHAP. XVI.

AN ACT to repeal an Act passed in the thirty-second year of His Majesty's reign, intituled, "An Act to establish the Winchester Measure, and a standard for other weights and measures throughout this Province," and to appropriate a sum of money for the purpose of obtaining a standard for weights and measures for this Province.

[Passed 19th March, 1823.]

MOST GRACIOUS SOVEREIGN :

WHEREAS an uniformity of weights and measures is much desired in this Province; *And whereas* an Act passed in the thirty-second year of His late Majesty's reign, intituled, "An Act to establish the Winchester Measure, and a standard for other weights and measures throughout this Province," is found ineffectual to the attainment of that object; *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 repealed.

Preamble.
(See 5 Wm. IV. Chap. 2;
3 Vic. Chap. 17.)

32d Geo. III. Chap. 3,
repealed.

II. *And whereas* a sum of money is required to defray the expenses of procuring a standard for weights and measures to be used in this Province, we Your Majesty's most dutiful and loyal Subjects, the Commons of Upper Canada, in Provincial Parliament assembled, beseech Your Majesty that it may be enacted, *And be it enacted by the authority aforesaid, That* from and out of the duties raised, levied and collected, or hereafter to be raised, levied and collected, to and for the public uses of this Province, and unappropriated, there be granted to His Majesty, His Heirs and Successors, the sum of seventy-five pounds, sterling, which said sum of seventy-five pounds, sterling, shall be disposed of, appropriated and applied, towards defraying the expenses of obtaining a complete set of weights and measures, according to the standard of His Majesty's

£75 Sterling appropriated towards purchasing a set of standard weights and measures, to be deposited with the Secretary of the Province.

Exchequer in England; which said weights and measures shall be placed and remain in the charge and custody of His Majesty's Secretary of the Province.

Secretary of the Province to furnish each District with a standard of such weights and measures as are deposited with him.

III. *And be it further enacted by the authority aforesaid,* That so soon as the majority of the Magistrates in Quarter Sessions assembled within any District of this Province, shall address the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, for that purpose, it shall and may be lawful for him to order the said Secretary forthwith, at the cost of the said District, to furnish the said District with a true standard of such weights and measures as may be required by the said address, made of such durable materials as shall, by the said Secretary, be deemed most proper for that purpose.

Magistrates of each District to appoint a person to take charge of the District standard, and to be Inspector of weights and measures.

Who shall examine and mark all such weights and measures as are presented to him, found to agree with his standard.

See 3 Geo. Ch. 17, Sec 1

IV. *And be it further enacted by the authority aforesaid,* That the Magistrates in Quarter Sessions assembled for any District of this Province, shall and may appoint a judicious and proper person as Inspector, to take charge of all such weights and measures as shall have been by such District obtained as aforesaid; the duty of which Inspector it shall be, at all proper times, when application to him for that purpose shall be made, carefully to examine and compare any and all weights and measures which shall be presented to him for that purpose, with the standard in his charge, and when found of the true weight or measure, to mark, stamp or brand the same (if a measure) as near the two ends, or top and bottom, as may be, G. IV. R.; for which he shall receive for every piece so marked, stamped or branded, as aforesaid, four pence, and no more.

Magistrates may remove Inspectors and appoint others.

Inspectors to take an oath.

V. *And be it further enacted by the authority aforesaid,* That the Magistrates as aforesaid, shall have power to remove from such office, any and all Inspector or Inspectors appointed as aforesaid, when and so often as they shall think proper, and appoint others to the said office. *Provided always,* that all and every the Inspector or Inspectors so appointed as aforesaid, before or immediately upon entering upon the duties of his office shall take and subscribe to the following oath, in open Sessions:

Form thereof.

"I, A. B., do sincerely promise and swear, that I will carefully preserve all such weights and measures as shall be given me in charge as a standard for the District of _____, and that I will honestly and faithfully discharge the duties of Inspector of weights and measures for the said District of _____, according to the true intent and meaning of an Act of the Parliament of this Province, passed in the fourth year of the reign of King George the Fourth, according to the best of my abilities and knowledge, and deliver them over to my successor in office duly appointed for that purpose, when required so to do. So help me God."

Penalty for any trading persons having in their possession any weights or measures not stamped by the District Inspector.

VI. *And be it further enacted by the authority aforesaid,* That all store-keepers, shop-keepers, millers, distillers, butchers, bakers, hucksters, and other trading persons, inhabitants of such District, for which a standard

of such weights and measures, as aforesaid, shall have been obtained, who shall, after the expiration of six months after such standard of weights and measures shall have been received, and Inspector appointed, as aforesaid, have in his possession any weights or measures whereby he sells or buys any article, for the weighing or admeasurement of which such standard of weights and measures are generally used, any other than such weights or measures as have been examined and stamped, or marked as aforesaid, shall forfeit for every offence two pounds, provincial currency, being thereof convicted before any one or more Justice or Justices of the Peace, *on the oath of one credible witness*; which said penalty, together with all reasonable costs, shall be levied by distress and sale of the offender's goods, and in default of distress, such offender shall be committed to the common Gaol of the District for a term not exceeding one month. (See 3 Vic. Ch. 17, Sec. 3.)

VII. *And be it further enacted by the authority aforesaid, That one half of the said penalty, so forfeited as aforesaid, shall be paid to the informer or informers, and the other half to His Majesty's Receiver-General, to be applied and appropriated toward the support of the Civil Government of this Province, and to be accounted for to His Majesty, through the Lords Commissioners of His Treasury, in such manner and form as His Majesty, His Heirs and Successors, may be graciously pleased to direct.* Appropriation of penalties. (See 3 Vic. Chap. 17, Sec. 2.)

VIII. Surplus of the sum hereby granted to remain at the disposal of Parliament.

IX. The sum of £75 hereby granted to be paid by the Receiver-General, and accounted for through the Lords of His Majesty's Treasury.

CHAP. XVII.

AN ACT to continue for a limited time an Act passed in the fifty-eighth year of His late Majesty's reign, intituled, "An Act granting to His Majesty a Duty on Licences to Auctioneers, and on goods, wares and merchandize, sold by Auction."

[Passed 10th March, 1823.]

Preamble;—58 Geo. III. Chap. 6, continued for four years, and from thence to the end of the next Session of Parliament.

CHAP. XVIII.

AN ACT to continue for a limited time an Act passed in the fifty-eighth year of His late Majesty's reign, intituled, "An Act to continue, repeal part of and amend, an Act passed in the fifty-sixth year of His Majesty's reign, intituled, 'An Act granting to His Majesty Duties on Licences to Hawkers, Pedlars and Petty Chapmen, and other trading persons therein mentioned,' and to extend the provisions of the same."

[Passed 19th March, 1823.]

Preamble;—58 Geo. III. Chap. 5, continued four years, and from thence to the end of the next Session of Parliament.

CHAP. XIX.

AN ACT to make good certain monies issued and advanced by His Excellency the Lieutenaat-Governor, in pursuance of the Address of the House of Assembly of this Province.

[Passed 19th March, 1823.]

[TEMPORARY.]

CHAP. XX.

AN ACT to repeal part of, and to amend and extend the provisions of an Act passed in the second year of the reign of His present Majesty, intituled, "An Act to repeal the Laws now in force relative to the preservation of Salmon, and to make further provisions respecting the Fisheries in certain parts of this Province, and also to prevent accidents by fire from persons fishing by torch or fire light."

[Passed 19th March, 1823.]

Preamble.

(See 2 Geo. IV. Sess. 1
Chap 10.)

WHEREAS it is necessary to repeal part of, and to amend and extend the provisions of an Act passed in the second year of the reign of His present Majesty, intituled, "An Act to repeal the laws now in force relative to the preservation of Salmon, and to make further provisions respecting the Fisheries in certain parts of this Province, and also to prevent accidents by fire from persons fishing by torch or fire light," *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 second clause of the said Act be, and the same is hereby repealed.

II. *And be it further enacted by the authority aforesaid*, That from and after the passing of this Act, it shall not be lawful for any person or persons, at any time from the tenth day of November till the first day of January in each and every succeeding year, to take, catch or kill, any salmon or salmon-fry, in any manner whatsoever.

Persons prohibited from catching salmon between 10th November and 1st January in each year.

III. *And whereas* by the Act aforesaid it is among other things enacted, that it shall not be lawful for any person or persons in the Home District, District of Newcastle and District of Gore, in this Province, to take, catch, or attempt to take or catch, by setting any net or nets, weir or weirs, any salmon or salmon-fry in any of the creeks or rivers in the aforesaid Districts; And forasmuch as part of the River Trent lies in the Midland District, where weirs and nets are now commonly set and used, whereby the salutary object of the said recited Act is in a great measure defeated; for remedy whereof, *be it enacted, and it is hereby enacted by the authority aforesaid*, That from and after the passing of this Act, the several clauses, provisions, fines and forfeitures, in the said recited Act contained, except in so far as they are necessarily varied or repealed in this Act, shall extend to the whole of the said River Trent, in all its windings and turnings, bays and creeks, running into, or communicating with the same.

The provisions of 2d Geo. IV. Chap 10, Sess. 1, extended to the whole of the River Trent.

IV. *And whereas* the intention of the said Act is in a great measure defeated by persons employing Indians to catch salmon after the expiration of the time limited by the said Act, *Be it further enacted by the authority aforesaid*, That from and after the passing of this Act, it shall not be lawful for any person or persons to employ, buy from or receive, under any pretence whatever, from any Indian or Indians, any salmon, taken or caught within any of the said Districts, during the period in which persons are prohibited from taking or attempting to take or catch any salmon or salmon-fry within the said Districts; and all and every person and persons convicted of having infringed the provisions of this clause, upon the oath of one or more credible witness or witnesses, before any two of His Majesty's Justices of the Peace in and for such District wherein such offence shall have been committed, shall be subject to the same penalty and imprisonment to which persons are now by the said recited Act liable for infringing the provisions thereof.

Penalty for buying salmon of Indians within the prohibited periods.

Distribution of penalties.

V. *And be it further enacted by the authority aforesaid, That one half of any such fine, as aforesaid, levied or collected, or to be levied or collected by virtue of this Act, shall be given to the informer, and the other half shall be paid into the hands of His Majesty's Receiver-General, to and for the public uses of this Province, 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 His Majesty, His Heirs and Successors, shall be graciously pleased to direct.*

CHAP. XXI.

AN ACT to provide an additional allowance to the Reverend Robert Addison, Chaplain of the House of Assembly, for his long and faithful services as Chaplain thereof.

[Passed 19th March, 1823.]

MOST GRACIOUS SOVEREIGN:

WHEREAS the Reverend Robert Addison has for thirty years, with zeal and piety, performed the duties of Chaplain to the Honourable the House of Assembly; *And whereas*, from his advanced age and long services, it is expedient to grant him, the said Reverend Robert Addison, a pension during his life, &c.

Preamble.
An annual pension of £50
granted to the Rev.
Robert Addison for life.

[EXPIRED.]

CHAP. XXII.

AN ACT vesting in the hands of certain Commissioners therein named, all the stock, debts, bonds and property, of the pretended Bank of Upper Canada, lately established at Kingston, for the benefit of the creditors of that Institution.

[Passed 19th March, 1823.]

[REPEALED BY 10th GEO. IV. CH. 7.]

CHAP. XXIII.

AN ACT to provide for the completion of the Gaol and Court House, in the London District of this Province.

[Passed 19th March, 1823.]

[EXPIRED.]

CHAP. XXIV.

AN ACT to provide for the erection of a Gaol and Court House in and for the Home District.

[Passed 19th March, 1823.]

[EXPIRED.]

CHAP. XXV.

AN ACT granting to His Majesty a sum of money, to be applied in the payment of a salary to the Sheriff of the Bathurst District.

[Passed 19th March, 1823.]

[EXPIRED.]

CHAP. XXVI.

AN ACT granting to His Majesty a sum of money for the purposes therein mentioned.

[Passed 19th March, 1823.]

[EXPIRED.]

CHAP. XXVII.

AN ACT granting to His Majesty a sum of money for the support of a Public School, in the Bathurst District.

[Passed 19th March, 1823.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXVIII.

AN ACT to provide for the establishment of a Public School, in the District of Ottawa.

[Passed 19th March, 1823.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXIX.

AN ACT for the relief of George Delong, George Bates, Alexander Gardener, Thomas Dowsley and James Smith.

[Passed 19th March, 1823.]

[TEMPORARY.]

CHAP. XXX.

AN ACT to repeal part of an Act passed in the first year of His Majesty's reign, intituled, "An Act for altering the time of holding the General Quarter Sessions of the Peace, in the Home District," and further to fix the time of holding the said Quarter Sessions.

[Passed 19th March, 1823.]

[REPEALED BY 7 WILLIAM IV. CHAP. 11.]

CHAP. XXXI.

AN ACT to authorise the Minister and Church Wardens of Saint George's Church, Kingston, to surrender certain lands therein mentioned.

[Passed 19th March, 1823.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXII.

AN ACT for the relief of Matthew Crooks, Esquire.

[Passed 19th March, 1823.]

[EXPIRED.]

CHAP. XXXIII.

AN ACT for the relief of John Boswell.

[Passed 19th March, 1823.]

[EXPIRED.]

CHAP. XXXIV.

AN ACT to continue and amend an Act passed in the fifty-ninth year of His late Majesty's reign, intituled, "An Act for establishing a Police in the Town of Niagara, in the District of Niagara, and for other purposes therein mentioned."

[Passed 19th March, 1823.]

[See Local and Private Acts, in 2nd Volume.]

CHAP.

CHAP. XXXV.

AN ACT to repeal part of an Act passed in the fifty-ninth year of His late Majesty's reign, intituled, "An Act to repeal an Ordinance of the Province of Quebec, passed in the twenty-fifth year of His Majesty's reign, intituled, 'An Ordinance concerning Land Surveyors and the admeasurement of lands,' and also to extend the provisions of an Act passed in the thirty-eighth year of His Majesty's reign, intituled, 'An Act to ascertain and establish on a permanent footing the boundary line of the different Townships of this Province; and further to regulate the manner in which lands are hereafter to be surveyed,'" in so far as it affects the Township of Cramahe, and to make further provisions for ascertaining the side lines of lots within the same, and also to authorise the correction of the Eastern side line of said Township.

[Passed 19th March, 1823.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXVI.

AN ACT for the relief of Teachers of Common Schools in the Niagara District.

[Passed 19th March, 1823.]

[TEMPORARY.]

CHAP. XXXVII.

AN ACT for the better preservation of the Herring Fishery at the outlet of Burlington Bay.

[Passed 19th March, 1823.]

[REPEALED BY 6 WM. IV. Ch. 15.]

CHAP. XXXVIII.

AN ACT for the division of the Township of Ameliasburgh, in the County of Prince Edward.

[Passed 19th March, 1823.]

[See Local and Private Acts, in 2nd Volume.]

STATUTES OF UPPER CANADA,

PASSED IN THE

FOURTH SESSION OF THE EIGHTH PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT YORK, ON THE ELEVENTH DAY OF NOVEMBER, IN THE FOURTH YEAR OF THE
REIGN OF OUR SOVEREIGN LORD GEORGE THE FOURTH, AND PROROGUED ON
THE NINETEENTH DAY OF JANUARY FOLLOWING.

SIR PEREGRINE MAITLAND, K. C. B.
LIEUTENANT GOVERNOR.

ANNO DOMINI 1824.

CHAP. I.

*AN ACT further to regulate by Law the commercial intercourse of the
Province of Upper Canada with the United States of America.*

[Passed 19th January, 1824.]

MOST GRACIOUS SOVEREIGN:

WHEREAS it is expedient further to provide for the commercial Preamble;
intercourse between this Province and the United States of America: (See 11 Geo. IV. Ch. 22;
11 Geo. IV. Ch. 21, Sec. 5;
3 Wm. IV. Ch. 26, Sec. 1;
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 Par-
liament 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 Pro-
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 passing of this Act, the following articles of the
growth, produce or manufacture, of the United States of America, may
be imported into this Province from the said United States of America,
on payment of the duties respectively affixed to the same, that is to say: Certain goods, the
produce or manufacture of
the United States of
America, may be imported
on payment of the duties
specified in this Act.
(See 3 Vic. Chap. 18;
4 & 5 Vic. Ch. 14, Sec. 2.)
Salt, per bushel, sixpence.

[Expired, except as regards the Duty on Salt.]

CHAP. II.

AN ACT further to continue an Act passed in the thirty-third year of His late Majesty's reign, intituled, "An Act to provide for the appointment of Returning Officers of the several Counties within this Province."

[Passed 19th January, 1824.]

[EXPIRED—SEE 3 WM. IV. CH. 12, and Act of Union, Sec. 22.]

CHAP. III.

AN ACT to repeal the several Statutes of this Province respecting the election of Members of the House of Assembly, and the qualification of Voters and Candidates at such Elections, and to reduce the provisions thereof with some amendments into one Act, and also to provide against fraud in obtaining qualifications to vote at Elections.

[Passed 19th January, 1824.]

Preamble.

(See 4 Wm IV Chap 14;
7 Wm IV Chap 114;
Act of Union, Secs 27 & 28;
4 & 5 Vic Chap 3, Sec 5;
4 & 5 Vic Chap 52;
4 & 5 Vic Chap 33, Sec 32.)

Acts regulating the electing members to serve in the House of Assembly, and the qualification of voters and candidates at such elections, hereby repealed, viz.

35 Geo III, Chap 2;

40 Geo III, Chap 3;

46 Geo III, Chap 11;

WHEREAS it is expedient to repeal the several Statutes of this Province respecting the election of members to serve in the House of Assembly, and the qualification of voters and candidates at such elections, and to reduce the provisions thereof with some amendments into one Act, and also to provide against fraud in obtaining qualifications to vote at elections; *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 an Act passed in the thirty-fifth year of His late Majesty's reign, intituled; "An Act to ascertain the eligibility of persons to be returned to the House of Assembly;" an Act passed in the fortieth year of His late Majesty's reign, intituled, "An Act for the more equal representation of the Commons of this Province in Parliament, and for the better defining the qualifications of electors;" an Act passed in the forty-eighth year of His late Majesty's reign, intituled, "An Act for the better representation

of the Commons of this Province in Parliament,' and to repeal part of an Act passed in the fortieth year of His Majesty's reign, intituled, 'An Act for the more equal representation of the Commons of this Province, and for the better defining the qualifications of electors;' an Act passed in the fifty-fourth year of His late Majesty's reign, intituled, "An Act to repeal and amend part of an Act passed in the thirty-fifth year of His Majesty's reign, intituled, 'An Act to ascertain the eligibility of persons to be returned to the House of Assembly;'" an Act passed in the fifty-eighth year of His late Majesty's reign, intituled, "An Act to repeal an Act passed in the thirty-fifth year of His Majesty's reign, intituled, 'An Act to ascertain the eligibility of persons to be returned to the House of Assembly;'" and also to repeal an Act passed in the fifty-fourth year of His Majesty's reign, intituled, "An Act to repeal and amend part of an Act passed in the thirty-fifth year of His Majesty's reign, intituled, 'An Act to ascertain the eligibility of persons to be returned to the House of Assembly,'" and to make further and more effectual provision for securing the freedom and constitution of the Parliament of this Province;" and an Act passed in the second year of His present Majesty, intituled, "An Act to render ineligible to a seat in the Commons House of Assembly of this Province, certain descriptions of persons therein mentioned;" be and the same are hereby repealed.

54 Geo III, Chap 4.

58 Geo III, Chap 34.

2 Geo IV, Chap 4.

II. *And be it further enacted by the authority aforesaid, That from and after the passing of this Act, no person or persons, of what condition soever, having been a *bonâ fide* resident in any country not being under His Majesty's government, or who shall have taken the oath of allegiance to any other state or power, shall be eligible to be proposed, chosen or elected, as a representative or representatives of any City, County, Riding or 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 this Province for and during the space of seven years, next before the election at which any such person or persons shall be proposed, elected or chosen, as a representative or representatives, as aforesaid.*

Persons having resided in a foreign country, or taken the oath of allegiance to a foreign state, shall not be eligible unless they have resided in this Province seven years next before the election at which they shall be chosen.

III. *And be it further enacted by the authority aforesaid, That if any person or persons, as aforesaid, not having resided in this Province for seven years, as aforesaid, shall propose or offer himself, or themselves, as a candidate or candidates to become a representative or representatives of any County, City, Riding or Borough, or other place, now or hereafter sending a representative or representatives, and shall be thereof convicted by the oath of one credible witness, he or they shall forfeit and pay the sum of two hundred pounds.*

Penalty on such persons offering themselves as candidates unless they shall have resided seven years.

IV. *And be it further enacted by the authority aforesaid, That if any person or persons, as aforesaid, not having resided in this Province for seven years, as aforesaid, whether such person or persons shall have proposed or offered him or themselves as a candidate or candidates or*

Penalty on persons so disqualified, if being elected they shall presume to sit.

not, for any County, City, Riding or 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, 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 forty 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.

Persons having abjured allegiance to His Majesty, or having held certain offices in the United States of America, or being convicted of offences in a foreign country subjecting them to infamous punishment, shall be disqualified to sit in the House of Assembly of this Province.

V. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, no person or persons now resident within this Province, or who shall or may at any time hereafter come into this Province to reside, who shall or may have taken the oath of abjuration against His Majesty's government, or who shall have been a member of the Senate or House of Representatives of the United States of America, or any one of the said United States, respectively, or who may have held any office in any of the Executive Departments of State in the said United States or State, respectively, or who shall be, or may have been, convicted in any foreign country of felony, or of any offence which if committed in this Province would subject the offender to infamous punishment, shall be capable of being elected to serve as a member in the House of Assembly of this Province, any thing in this Act, or any other law, usage or custom, to the contrary notwithstanding.

Qualification with respect to estate required for a member to serve in the Assembly.

(See Act of Union, Sec 28)

VI. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, no person or persons 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, unless he shall be possessed of an unencumbered freehold in lands or tenements in this Province, to the assessed value of eighty pounds, lawful money of this Province.

Oath which any candidate may be required to take.

VII. *Provided always, and be it further enacted by the authority aforesaid,* That every person who, from and after the passing of this Act, shall appear as a candidate, or shall, by himself or any others, be proposed to be elected to serve as a member for any County, City, Riding, Borough, or any part or place now or hereafter sending a member to the House of Assembly of this Province, shall, and he is hereby enjoined and required, upon reasonable request to him to be made at the time of such election, or before the day prefixed in the writ of summons for the meeting of Parliament, by any other person who shall stand a candidate at such election, or by any two or more persons having a right to vote at such election, take a corporal oath in the following form, or to the following effect:

[See Act of Union, Secs 28 & 29.]

"I, A. B. do swear, that I truly and *bonâ fide* have such a freehold estate, (here describe the estate) over and above all incumbrances that

may affect the same; and am otherwise qualified according to the provisions of Law, to be elected and returned to serve as a member in the Commons House of Assembly, according to the tenor and true meaning of the Act of Parliament in that behalf; and that I have not obtained the same fraudulently, for the purpose of enabling me to be returned member to the Commons House of Assembly of this Province. So help me God."

VIII. *And be it further enacted by the authority aforesaid,* That if any candidate, as aforesaid, shall have resided in the United States of America, he shall, if required, in addition to the foregoing oath, take the following; Oath as to residence required in certain cases.

"I, A. B. do sincerely and solemnly swear, that during my residence in the United States of America, I have not taken or subscribed any oath of abjuration of allegiance to the Crown of Great Britain; and further, that during my said residence, I have not held the office or appointment of Senator, or Member of the House of Representatives of the said United States, or of either of the said United States, respectively, or held or enjoyed any office in any of the Executive Departments of State in the said United States or State, respectively. So help me God." [See 4 & 5 Vic Chap 52]

IX. *And be it further enacted by the authority aforesaid,* That the oaths required by this Act shall and may be administered by the Sheriff for any such County, as aforesaid, or by the Mayor, Bailiff, or other officer or officers for any County, City, Borough, Riding, place or places, as aforesaid, to whom it shall appertain to take the poll, or make the return at such election for the same County, City, Riding, Borough, place or places, respectively, or by any two or more Justices of the Peace within this Province; and the said Sheriff, Mayor or Bailiff, or other officers, and the said Justices of the Peace, respectively, who shall administer the said oaths, are hereby required to certify the taking thereof into His Majesty's Court of King's Bench, within three months after the same, under the penalty of forfeiting the sum of two hundred pounds; and if any of the said candidates, or persons proposed to be elected, as aforesaid, shall wilfully refuse, upon reasonable request to be made at the time of election, or at any time before the day upon which such Parliament by the writ of summons is to meet, to take the oath or oaths hereby required, then the election and return of such candidate shall be void. By whom such oaths are to be administered; And certified; The electing any candidate who shall refuse to take such oaths shall be void.

X. *And be it further enacted by the authority aforesaid,* That no fee or reward shall be taken for administering any such oath, or making, receiving, or filing the certificate thereof, except two shillings and sixpence for administering the oath, and five shillings for making the certificate, and five shillings for receiving and filing the same, under the penalty of one hundred pounds. Fee for administering the oath, and giving certificate.

XI. *And be it further enacted by the authority aforesaid,* That the fines and penalties imposed by this Act may be recovered in His Majesty's

How fines imposed by this Act are to be collected and applied, and accounted for.

Court of King's Bench in this Province, by action of debt, bill, plaint or information, wherein no essoigne, privilege, protection or wager of law, shall be allowed, and only one imparlance; and one moiety thereof shall be immediately paid into the hands of the Receiver-General, for the use of His Majesty, His Heirs and Successors, towards the support of the Civil Government of this Province, and 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 please to direct, and the other moiety to the person who shall sue for the same.

Voters having taken the oath of allegiance to a foreign state, or were resident in the same, must reside seven years in the Province, and take the oath of allegiance to His Majesty, before their vote can be received.

XII. [Repealed by 4 William IV. Chap. 14.]

Voters required (except in certain cases) to have been in possession of the estate in right of which they tender their votes, above twelve months before the election.

XIII. *And be it further enacted by the authority aforesaid,* That no person shall be qualified to vote, as aforesaid, in respect of any estate sufficient to qualify him by law, not having come to him by grant from the Crown, descent, devise or marriage, unless the deed of conveyance under which he claims to hold such estate shall have been registered three calendar months before the holding of such election, or unless he shall have been in actual possession, or in the receipt of the rents and profits thereof, for his own use, above twelve calendar months next before such election.

Election not to continue beyond six days.

XIV. *And be it further enacted by the authority aforesaid,* That no Returning Officer or Officers shall continue any election more than six successive days, (Sunday, Christmas-day and Good Friday, excepted.)

Oath which voters may be required to take.

XV. [Repealed by 4 William IV. Chap. 14.]

Swearing falsely in any oath required by this Act, or by 31 Geo III. Chap 31, to be deemed wilful and corrupt perjury.

XVI. *And be it further enacted by the authority aforesaid,* That if any person or persons shall be guilty of false swearing in any oath required by this Act, or by an Act of the Parliament of Great Britain, passed in thirty-first year of His late 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," he shall, on conviction thereof, suffer the like pains and penalties to which any other person convicted of wilful and corrupt perjury is liable by the laws and statutes of this Province.

CHAP. IV.

AN ACT to repeal an Act passed in the forty-fifth year of His late Majesty's reign, intituled, "An Act to regulate the trial of controverted Elections, or Returns of Members to serve in the House of Assembly," and to make more effectual provision for such trials.

[Passed 19th January, 1824.]

WHEREAS the present mode of decision upon petitions complaining of undue elections or returns of members to serve in Parliament, frequently obstructs public business, occasions much expense, trouble and delay to the parties, and is attended with many other inconveniences: for remedy whereof, *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 an Act of the Parliament of this Province, passed in the forty-fifth year of His late Majesty's reign, intituled, "An Act to regulate the trial of controverted elections, or returns of members to serve in the House of Assembly," be and the same is hereby repealed;

Preamble.
(See 8 Geo IV, Ch. 5;
3 Wm. IV, Chap. 11;
2 Vic Chap 2.)

45 Geo III, Chap 3,
repealed.

II. *And be it further enacted by the authority aforesaid*, That after the passing of the present Act, whenever a petition complaining of an undue election, or return of a member or members, to serve in Parliament, shall be presented to the House of Assembly, a day and hour shall, by the said House of Assembly, be appointed for taking the same into consideration; and notice thereof in writing shall be forthwith given by the Speaker to the petitioner or petitioners, and the sitting member or members, or their respective agents, accompanied with an order to them to attend the House at the time appointed, by themselves, their counsel or agents; and if several parties, on distinct interests or grounds of complaint, shall present separate petitions, the like notices and orders shall be given to all such parties, or their respective agents.

Proceeding upon petition
complaining of an undue
election;

Notice to petitioners, &c.
to attend.

III. *And be it further enacted by the authority aforesaid*, That no such petition or petitions shall be taken into consideration, within fourteen days after the same shall have been first read in the House by the Clerk, unless by consent of parties: *Provided also*, that the House may alter the day and hour so appointed for taking into consideration such petition, and appoint some subsequent day and hour for the same, as occasion shall require, giving to the respective parties the like notice of such alteration and order to attend on the said subsequent day and hour, as aforesaid.

No petition to be taken
into consideration within
fourteen days from the
same having been pre-
sented, unless by consent.

Time first appointed may
be altered.

Proceedings on the day appointed for hearing;

Thirty members must be present;

Or House must adjourn from day to day.

How the House is to proceed when sufficient members attend;

Twenty-three members to be taken by ballot;

Certain persons who shall be set aside if drawn;

Members over sixty years may be excused;

Members who have served in a select Committee upon an election during the same Session shall be excused, unless the House resolves that the number is insufficient without such members:

IV. *And be it further enacted by the authority aforesaid,* That at the time appointed for taking such petition into consideration, and previous to the reading of the order of the day for that purpose, the Serjeant-at-Arms shall be directed to go with the mace to the places adjacent, and require the immediate attendance of the members on the business of the House, and that after his return the House shall be counted, and if there shall be less than thirty members present, the order for taking such petition into consideration shall be immediately adjourned to a particular hour on the following day, (Sunday, Good Friday, and Christmas day, always excepted,) and the House shall then adjourn to the said day, and the proceedings of all Committees subsequent to such notice from the said Serjeant shall be void; and on the said following day the House shall proceed in the same manner, and so from day to day, till there shall be an attendance of thirty members at the reading the order of the day to take such petition into consideration.

V. *And be it further enacted by the authority aforesaid,* That if after the summoning the members and counting the House, as aforesaid, thirty members shall be found present, the petitioners, by themselves, their counsel or agents, and the counsel or agents of the sitting member or members shall be ordered to attend at the bar, and then the door of the House shall be locked, and no member shall be suffered to enter into or depart from the House until the petitioners, their counsel, or agents for the sitting member or members, shall be directed to withdraw, as hereinafter mentioned; and when the door shall be locked, as aforesaid, the order of the day shall be read, and the names of all the members of the House written or printed on distinct pieces of parchment or paper, being all as near as may be of equal size, and rolled up in the same manner, shall be put in equal numbers, as near as may be, into three boxes or glasses, to be placed on the table for that purpose, and shall then be shaken together; and then the Clerk shall publicly draw out of the said three boxes or glasses, alternately, the said pieces of parchment or paper, and deliver the same to the Speaker, to be by him read to the House, and so shall continue to do until twenty-three names of the members then present be drawn: *Provided always,* that if the name of any member who shall have given his vote at the election so complained of, as aforesaid, or who shall be a petitioner complaining of an undue election or return, or against whose return a petition shall be then depending, or whose return shall not have been brought in fourteen days, shall be drawn, his name shall be set aside, with the names of those who are absent from the House: *Provided also,* that if the name of any member of sixty years of age or upwards be drawn, he shall be excused from serving on the select Committee to be appointed as hereinafter mentioned, if he require it, and verify the cause of such requisition upon oath: *Provided also,* that if the name of any member who has served in such select Committee during the same Session be drawn, he shall, if he require it, be excused from serving again in any such select Committee, unless the House shall, before the day appointed for taking the said petition into consideration, have resolved

that the number of members who have not served on such select Committee in the same Session is insufficient to fulfil the purposes of this Act respecting the choice of such select Committee : *Provided always, that no* Further exception. member, who after having been appointed to serve in any such select Committee, shall on account of inability or accident have been excused from attending the same throughout, shall be deemed to have served on any such select Committee,

VI. *And be it further enacted by the authority aforesaid, That if at the* How the House shall proceed if twenty-three members cannot be got, not liable to exception, nor entitled to be excused. time of drawing by lot the names of the members, in manner herein before prescribed, the number of twenty-three, not set aside nor excused, cannot be completed, the House shall proceed in the same manner as is herein before directed, in case there be less than thirty members present at the time prescribed for counting the House, and so from day to day as often as the case shall happen.

VII. *And be it further enacted by the authority aforesaid, That on the* Petition shall be the first matter proceeded in on the day appointed, except swearing in members. day appointed for taking any such petition into consideration, the House shall not proceed to any other business whatsoever, except the swearing of members, previous to the reading of the order of the day for that purpose.

VIII. *And be it further enacted by the authority aforesaid, That if any* Other excuses may be allowed by resolution of the House. other member shall offer and verify upon oath, any other excuse, the substance of the allegations, so verified upon oath, shall be taken down by the said Clerk, in order that the same may be afterwards entered on the Journals, and the opinion of the House shall be taken thereon; and if the House shall resolve that the said member is unable to serve, or cannot without great and manifest detriment serve in such select Committee, he also shall be excused from such service.

IX. *And be it further enacted by the authority aforesaid, That instead of* Members to be chosen in place of those set aside or excused; the members so set aside and excused, the names of other members shall be drawn, who may in like manner be set aside or excused and others drawn to supply their places, until the whole number of members, not liable to be set aside or excused, shall be complete; and the petitioners One member to be nominated by each of the parties; or their agents, shall then name one, and the sitting members or their agents, another, from among the members then present whose names shall not have been drawn, to be added to those who shall have been so chosen by lot: *Provided always, that either of the members so nominated* Such nominees may be set aside or excused, in the same manner as the members balloted for, and other members shall be nominated in their place. shall or may be set aside for any of the same causes as those chosen by lot, or shall, if he require it, be excused from serving on the said select Committee; and the party who nominated the member so set aside or excused, shall nominate another in his stead, and so continue to do as often as the case shall happen, until his nominee is admitted.

X. *And be it further enacted by the authority aforesaid, That as soon as* the said twenty-three members shall have been so chosen by lot, and the

When the twenty-three members shall be chosen, and the two nominees appointed, the parties shall withdraw, and reduce the twenty-three to nine, by striking off one alternately;

Such nine members, and the two nominees, to be sworn, and to compose a select Committee to try the merits of the return or election petitioned against;

Time and place of their meeting;

Members of the Committee not to depart the House till the time appointed for their meeting.

How the House shall proceed when there are more than two parties before them upon distinct interests.

two members to be added thereto shall have been so nominated, as aforesaid, the door of the House shall be opened, and the House may proceed upon any other business; and the names of the twenty-three members so chosen by lot shall then be given to the petitioners, their counsel or agents, and the counsel or agent of the sitting members, who shall immediately withdraw, together with the Clerk appointed to attend the said select Committee; and the said petitioners and sitting members, their counsel or agents, beginning on the part of the petitioners, shall alternately strike off one of the said twenty-three members, until the said number be reduced to nine; and the said Clerk, within one hour at farthest from the time of the parties withdrawing from the House, shall deliver into the House the names of the nine members then remaining; and the said nine members, together with the two members nominated, as aforesaid, shall be sworn at the table, well and truly to try the matter of the petition referred to them, and a true judgment to give according to the evidence; and shall be a select Committee to try and determine the merits of the return or election appointed by the House to be that day taken into consideration; and the House shall order the said select Committee to meet at a certain time to be fixed by the House, which time shall be within twenty-four hours of the appointment of the said select Committee, (unless a Sunday, Good Friday or Christmas day, shall intervene,) and the place of their meeting and sitting shall be some convenient room or place adjacent to the House of Assembly, properly prepared for that purpose: *Provided always*, that upon the parties withdrawing, as aforesaid, the House shall continue sitting, and the said nine members so chosen and nominated, shall not depart the House till the time for the meeting of the said select Committee shall be fixed.

XI. *And be it further enacted by the authority aforesaid*, That if in such petition or petitions there be more than two parties before the House on distinct interests, complaining or complained of on different grounds, whose right to be elected or returned may be affected by the determination of the said select Committee, each of the said parties shall successively strike off a member from the twenty-three members to be chosen by lot, until the said number be reduced to nine, in the same manner as before directed for the striking off a member alternately by the parties mentioned in the last clause; and the lists of the twenty-three members chosen by lot shall, for this purpose, be given to all the said parties, and the order in which the said parties shall strike off the said members shall be determined by lot, after they are withdrawn from the bar, and in such case, neither of the said parties (there being more than two) shall be permitted to name a member to be added to the numbers so drawn by lot, as aforesaid, but as soon as the list of nine members shall be returned by the parties to the House, such nine members shall immediately withdraw, and shall by themselves choose two members then present in the House, whose names shall not have been drawn, to be added to the said nine members, and shall within one hour from the time of their withdrawing report the names of such two members to the

House; which two members shall be liable to be set aside on the like objections for which nominees may be set aside by virtue of this Act; and in case such two members, or either of them, shall be set aside for any of the causes aforesaid, then the said nine members shall choose one or two other members, as the case shall require, until two members are chosen against whom none of the objections to nominees mentioned in this Act shall be taken and allowed; and that the names of such two members shall be then added to the said list of nine members; and all the said eleven members shall be sworn at the table, and they shall be the select Committee appointed for the purposes expressed in this Act.

XII. *And be it further enacted by the authority aforesaid,* That when the said nominees are by this Act directed to be named by the said nine members, no member present at the time of the ballot shall depart from the House until the time of the meeting of the said select Committee shall be fixed.

Members not to depart from the House, after ballot, until the time of meeting fixed.

XIII. *Provided always, and be it further enacted by the authority aforesaid,* That if upon the drawing out the name of any member by lot, as aforesaid, the said petitioners, or sitting members, or their agents, shall declare that such member is intended to be one of the two nominees to be nominated by them, respectively, and if such member shall consent to such nomination, the name of such member so drawn by lot shall be set aside, and unless objected to, as aforesaid, he shall serve as such nominee, and the name of another member shall be drawn to supply his place, to complete the number of twenty-three members to be drawn by lot; and if the said petitioners, or sitting members, or their agents, shall not, respectively, nominate a member then present, who shall be admitted according to the directions of this Act, then the want of such nomination shall be supplied by drawing out instead thereof the name of one or two members, as the case shall require, who shall be drawn by lot in the like manner, and subject to the like objections and excuses as the other twenty-three members already drawn by lot, and shall be added to the list of the said twenty-three members, and shall be liable to be struck off in the same manner, leaving always the number of eleven members in the whole, and no more, as a select Committee for the purposes aforesaid.

If any member shall be drawn at the ballot whom either party intends shall be their nominee, he shall be set aside, and unless objected to, shall serve as such nominee;

If either of the parties decline to nominate a member, his place shall be supplied by a member chosen by ballot.

XIV. *And be it further enacted by the authority aforesaid,* That if upon any writ or writs to be issued for the election of any member or members to serve in Parliament, no return shall be made to the same on or before the day on which such writ is made returnable, or if a writ shall have been issued during any session or prorogation of Parliament, no return shall be made to the same within forty days after the day on which such writ bears date, it shall and may be lawful for any person or persons having had, or claiming to have had, a right to vote at such election, or claiming to have had a right to be returned as duly elected thereat, who shall think himself or themselves aggrieved, to petition the House of Assembly concerning the same; and upon such petition being presented, a day and

What proceedings shall take place when a writ of election shall not be returned as by law it ought to be.

hour shall be appointed for taking the same into consideration, and notice thereof in writing shall be forthwith given by the Speaker to the petitioners, and to the Returning Officer or officers by whom such return ought to have been made, or shall have been made, accompanied with an order to him or them to attend the House at the time appointed, by himself or themselves, his or their counsel or agents; and a select Committee shall be appointed according to the directions of this Act, which said Committee shall try and determine whether any and which of the person or persons named in such petition ought to have been returned, or whether a new writ ought to issue; which determination shall be final to all intents and purposes, and the House being informed thereof by the Chairman of the said select Committee, shall order the same to be entered in their journals, and give the necessary directions for ordering a return to be made, or for altering the return, if made, or for issuing a new writ for a new election, or for carrying the said determination into execution, as the case may require: *Provided always*, that if the Returning Officer or officers, by whom such return ought to have been made, or has been made, cannot be found, so as to be served with the notice or order hereinbefore mentioned, or being served, shall not appear by himself or themselves, his or their counsel or agents, at the day or time appointed for taking such petition into consideration, it shall and may be lawful for the House to permit or authorize any person to appear in the stead of him or them; and in case there shall be more petitions than one presented complaining of such return, or omission of a return, on distinct interests, or complaining upon different grounds, the House shall determine, from the nature of the case, whether the Returning Officer or officers, or person appearing in the stead of him or them, shall together with such petitioners be entitled to strike off from the list of members, drawn by lot in the manner hereinbefore directed in the case where there shall be more than two parties before the House, or whether such list shall be reduced by the parties severally presenting the said petitions only.

XV. And for the greater despatch and certainty in the proceeding herein before described, *Be it further enacted by the authority aforesaid*, That the names of all the members so written and rolled up, as hereinbefore directed, shall previous to the day appointed for taking such petition into consideration be prepared by the said Clerk, and by him put into a box or parcel, in the presence of the Speaker, together with an attestation signed by the said Clerk, purporting that the names of all the members were by him put therein, the _____ day of _____, in the year _____, which said box or parcel the Speaker shall seal with his own seal, and to the outside thereof shall annex an attestation signed by himself, purporting that the said box or parcel was on the _____ day of _____, in the year _____, made up in his presence, in the manner directed by this Act; and that as soon as the parties shall be withdrawn, as aforesaid, and before the House shall enter on any other business, any member may require that the names of all the members which remain undrawn shall be drawn and read aloud by the said Clerk.

The names of members to be balloted, shall, previous to the day appointed for balloting, be sealed up by the Clerk, in a box;

Speaker shall also set his seal thereto;

After the ballot, the names undrawn shall, if required, be read aloud by the Clerk.

XVI. *And be it further enacted by the authority aforesaid,* That the said select Committee shall on their meeting, elect a Chairman from amongst such of the members thereof as shall have been chosen by lot; and if in the election of a Chairman there be an equal number of voices, the member whose name was first drawn in the House shall have a casting voice; so likewise in case there should ever be occasion for electing a new Chairman, on the death or necessary absence of the Chairman first elected.

Chairman of select Committee, how appointed.

XVII. *And be it further enacted by the authority aforesaid,* That the said select Committee shall have power to send for persons, papers and records, and shall examine all the witnesses who come before them upon oath, and shall try the merits of the return or election, or both, and shall determine by a majority of voices of the said select Committee whether the petitioners, or the sitting members, or either of them, be duly returned or elected, or whether the election be void, which determination shall be final between the parties, to all intents and purposes; and the House being informed thereof by the Chairman of the said select Committee, shall order the same to be entered on their journals, and give the necessary directions for confirming or altering the return, or for the issuing of a new writ for a new election, or for carrying the said determination into execution, as the case may require.

Committee to have power to send for persons and papers; Examine witnesses on oath;

Their decision to be final.

XVIII. *And be it further enacted by the authority aforesaid,* That the said select Committee shall sit every day, (Sunday, Christmas day, and Good Friday, only excepted,) and shall never adjourn for a longer time than twenty-four hours, unless a Sunday, Christmas day or Good Friday, intervene, without leave first obtained from the House, upon motion and special cause assigned for a longer adjournment; and in case the House shall be sitting at the time to which the said select Committee is adjourned, then the business of the House shall be stayed, and a motion shall be made for a further adjournment for any time to be fixed by the House, not exceeding twenty-four hours, unless a Sunday, Christmas day or Good Friday, intervene.

Directions as to the sitting of the Committee;

Their adjournment.

XIX. *And be it further enacted by the authority aforesaid,* That when the time prescribed for the meeting, sitting or adjournment, of the said select Committee shall, by the intervention of a Sunday, Christmas day or Good Friday, exceed twenty-four hours, such meeting, sitting or adjournment, shall be within twenty-four hours of the time of appointing or fixing the same, exclusive of such Sunday, Christmas day or Good Friday.

Intervention of holy days.

XX. *And be it further enacted by the authority aforesaid,* That no member of the said select Committee shall be allowed to absent himself from the same, without leave obtained from the House, or an excuse allowed by the House at the next sitting thereof, or special cause shewn and verified upon oath; and the said select Committee shall never sit until all the members, to whom such leave has not been granted, nor excuse

No member of Committee to be absent without leave;

Committee not to sit unless all are present.

allowed, are met; and in case they shall not all meet within one hour after the time to which the said select Committee shall have been adjourned, a further adjournment shall be made in the manner as before directed, and reported with the cause thereof to the House.

Members absent without leave, to be reported to the House;

XXI. *And be it further enacted by the authority aforesaid,* That the Chairman of the said select Committee shall, at the next meeting of the House, always report the name of every member thereof who shall have been absent therefrom without such leave or excuse, as aforesaid, and such member shall be directed to attend the House at the next meeting thereof, and shall then be ordered to be taken into the custody of the Sergeant-at-Arms attending the House, for such neglect of his duty, and otherwise punished or censured at the discretion of the House, unless it shall appear to the House, by facts specially stated and verified upon oath, that such member was by a sudden accident, or by necessity, prevented from attending the said select Committee.

Proceedings thereupon.

If more than two members be absent, Committee shall adjourn.

XXII. *And be it further enacted by the authority aforesaid,* That if more than two members of the said select Committee shall on any account be absent therefrom, the said select Committee shall adjourn in the manner hereinbefore directed, and so from time to time until nine members are assembled.

If the Committee shall be unavoidably reduced to less than nine, it shall be dissolved and a new one chosen.

XXIII. *And be it further enacted by the authority aforesaid,* That in case the number of members able to attend the said select Committee, shall by death or otherwise be unavoidably reduced to less than nine, and shall so continue for the space of three sitting days, the said select Committee shall be dissolved, and another chosen to try and determine the matter of such petition, in manner aforesaid; and all the proceedings of the said former select Committee shall be void and of no effect.

Committee may in some cases report resolutions to the House for their opinion;

XXIV. *And be it further enacted by the authority aforesaid,* That if the said select Committee shall come to any resolution, other than the determination above mentioned, they shall, if they think proper, report the same to the House for their opinion, at the same time that the Chairman of the said select Committee shall inform the House of such determination, and the House may confirm or disagree with such resolution, and make such orders thereon as to them shall seem proper: *Provided always,* that if any person summoned by the said select Committee shall disobey such summons, or if any witness before such select Committee shall prevaricate, or shall otherwise misbehave, in giving or refusing to give evidence, the Chairman of the said select Committee, by their direction, may at any time during the course of their proceedings report the same to the House, for the interposition of their authority or censure, as the case shall require.

Punishment of persons who disobey the summons of the Committee;

And of witnesses who prevaricate.

Committee may deliberate in private;

XXV. *And be it further enacted by the authority aforesaid,* That whenever the said select Committee shall think it necessary to deliberate

amongst themselves upon any question which shall arise in the course of the trial, or upon the determination thereof, or upon any resolution concerning the matter of the petition referred to them, as aforesaid, as soon as the said select Committee shall have heard the evidence and counsel on both sides relative thereunto, the room or place wherein they shall sit shall be cleared, if they shall think proper, while the members of the said select Committee consider thereof; and all such questions, as well as such determination, and all other resolutions, shall be by a majority of voices; and if the voices shall be equal the Chairman shall have a casting voice: *Provided always*, that no such determination, as aforesaid, shall be made, nor any question be proposed, unless nine members shall be present; and no member shall have a vote on such determination, or on any other question or resolution, who has not attended during every sitting of the said select Committee.

All questions to be decided by a majority of voices;

Casting voice;

No vote to be taken unless nine members present;

Nor any member to vote who has not attended during every sitting.

XXVI. *And be it further enacted by the authority aforesaid*, That the oaths by this Act directed to be taken in the House, shall be administered by the said Clerk, in the same manner as the oath of allegiance is administered in the House of Assembly; and that the oaths by this Act directed to be taken before the said select Committee shall be administered by the Clerk attending the said select Committee; and that all persons who shall be guilty of wilful and corrupt perjury in any evidence which they shall give before the House, or the said Committee, in consequence of the oath which they shall have taken by the direction of this Act, shall on conviction thereof incur and suffer the like pains and penalties to which any other person, convicted of wilful and corrupt perjury, is liable by the laws and statutes of this Province.

How oaths to be administered;

False swearing herein made perjury.

XXVII. *And be it further enacted by the authority aforesaid*, That no proceeding shall be had upon any petition by virtue of this Act, unless the person or persons subscribing the same, or one or more of them, shall within fourteen days after the same shall have been presented to the House, or within such further time as shall be limited by the House, personally enter into a recognizance to our Sovereign Lord the King, according to the form hereunto annexed, in the sum of one hundred pounds, with two sufficient sureties in the sum of fifty pounds each, to appear before the House at such time or times as shall be fixed by the House for taking such petition into consideration; and also to appear before any select Committee which shall be appointed by the House for the trial of the same, or until the same shall have been withdrawn by permission of the House; and if at the expiration of the said fourteen days such recognizance shall not have been so entered into, the Speaker shall report the same to the House, and the order for taking such petition into consideration shall thereupon be discharged, unless upon matter specially stated and verified to the satisfaction of the House, the House shall see cause to enlarge the time for entering into such recognizance; and whenever such time shall be so enlarged, the order for taking such petition into consideration, shall if necessary be postponed, so that no such peti-

Recognizances to be entered into before any petition shall be proceeded in;

Time for entering into such recognizance may be enlarged.

tion shall be taken into consideration till after such recognizance shall have been entered into and received by the Speaker: *Provided always*, that the time for entering into such recognizance shall not be enlarged more than once, nor for any number of days exceeding twenty.

Recognizance to be entered into before the Speaker, who shall judge of the sufficiency of the sureties.

XXVIII. *And be it further enacted by the authority aforesaid*, That the said recognizance shall be entered into before the Speaker of the House of Assembly, who is hereby authorized and empowered to take the same, and the sufficiency of the sureties named therein shall be judged of and allowed by the said Speaker.

By what default such recognizance shall be forfeited;

XXIX. *And be it further enacted by the authority aforesaid*, That if the petitioner or petitioners who shall have entered into such recognizance, as aforesaid, shall not appear before the House, by himself or themselves, or by his or their counsel or agents, within one hour after the time fixed in pursuance of this Act for calling on the respective parties, their counsel or agents; for the purpose of proceeding to the appointment of a select Committee, or if the select Committee appointed in pursuance of this Act for the trial of such petition, shall inform the House that such person or persons did not appear before the said Committee by himself or themselves, or by his or their counsel or agents, to prosecute their said petition, or if such person or persons shall neglect to renew their said petition within four sitting days after the day of the commencement of every session of the same Parliament, subsequent to that in which such petition was first presented, and until a select Committee shall have been appointed for the trial of the same, or until the same shall have been withdrawn by the permission of the House, in every such case such person or persons shall be held to have made a default in his or their said recognizance, and the Speaker of the House of Assembly shall thereupon certify such recognizance into the Court of King's Bench, and shall also certify that such person or persons have made default therein, and such certificate shall be conclusive evidence of such default; and the recognizance being so certified shall have the same effect as if the same were estreated in a Court of Law: *Provided always*, that such recognizance and certificate shall, in every such case, be delivered by the Clerk of the House of Assembly into the hands of the Chief Justice of the Court of King's Bench.

Proceedings in estreating recognizance.

Committee to report whether the petition before them, or the defence, be frivolous and vexatious;

And when there is no opposition to a petition, they shall report whether the election or return complained of be vexatious or corrupt.

XXX. *And be it further enacted by the authority aforesaid*, That every such Committee, at the same time that they report to the House their final determination on the merits of the petition which they were sworn to try, shall also report to the House whether such petition did or did not appear to them to be frivolous or vexatious; and they shall in like manner report with respect to every party or parties who shall have appeared before them in opposition to such petition, whether the opposition of such party or parties, respectively, did or did not appear to them to be frivolous or vexatious; and that if no party shall have appeared before them in opposition to such petition, they shall then report to the House whether

such election or return, or such alleged insufficiency of a return, as shall be complained of in such petition, according as the case shall be, did or did not appear to them to be vexatious or corrupt.

XXXI. *And be it further enacted by the authority aforesaid, That* whenever any such Committee shall report to the House, with respect to any such petition, that the same appeared to them to be frivolous or vexatious, the party or parties, if any, who shall have appeared before the Committee in opposition to such petition, shall be entitled to recover from the person or persons, or any of them, who shall have signed such petition, the full costs and expenses which such party or parties shall have incurred in opposing the same; such costs and expenses to be ascertained in the manner hereinafter directed.

Costs in certain cases to be awarded to the party opposing the petition.

XXXII. *And be it further enacted by the authority aforesaid, That* whenever any such Committee shall report to the House, with respect to the opposition made to such petition by any party or parties who shall have appeared before them, that such opposition appeared to them to be frivolous or vexatious, the person or persons who shall have signed such petition shall be entitled to recover from such party or parties, or any of them, with respect to whom such report shall be made, the full costs and expenses which such petitioner or petitioners shall respectively have incurred in prosecuting their said petition; such costs and expenses to be ascertained in the manner hereinafter directed.

Costs in certain cases to be awarded, to be paid to the petitioning party by the persons opposing such petition.

XXXIII. *And be it further enacted by the authority aforesaid, That* whenever in any case where no party shall have appeared before such Committee in opposition to such petition, such Committee shall report to the House, with respect to the election or return, to the alleged omission of a return, or to the alleged insufficiency of a return complained of in any such petition, that the same appeared to them to be vexatious or corrupt, the person or persons who shall have signed such petition shall be entitled to recover from the sitting member or sitting members, (if any,) whose election or return shall be complained of in such petition, such sitting member or sitting members, not having given notice of his or their intention not to defend the same, or from any other person or persons whom the House shall have admitted or directed to be made a party or parties to oppose such petition, the full costs and expenses which such petitioner or petitioners shall have incurred in prosecuting their said petition; such costs and expenses to be ascertained in the manner hereinafter directed.

In what cases costs shall be paid to the party petitioning where no opposition has been made, and by whom such costs are to be paid.

XXXIV. *And be it further enacted by the authority aforesaid, That in* the several cases hereinbefore mentioned, the costs and expenses of prosecuting or opposing any such petition shall be ascertained in manner following; that is to say: that on application made to the Speaker of the House of Assembly, by such petitioner or petitioners, or party or parties, as before mentioned, for ascertaining such costs and expenses, he shall direct the same to be taxed by the Clerk of the House, and the Clerk of

How costs in the above cases are to be ascertained.

the Crown in Chancery; and the persons so authorized and directed to tax such costs and expenses, shall and they are hereby required to examine the same, and report the amount thereof to the Speaker of the said House, who shall on application made to him deliver to the party or parties a certificate, signed by himself, expressing the amount of the costs and expenses allowed in such report; and the persons so appointed to tax such costs and report the amount thereof, are hereby authorized to demand and receive for such taxation and report such fees as shall from time to time be fixed by any resolution of the House.

How the same are to be recovered.

XXXV. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the party or parties entitled to such costs and expenses, or his, her, or their executors or administrators, to demand the whole amount thereof, so certified as above, from any one or more of the persons, respectively, who are hereinbefore made liable to the payment thereof, in the several cases hereinbefore mentioned, and in case of non-payment thereof, to recover the same by action of debt in His Majesty's Court of King's Bench in this Province; in which action it shall be sufficient for the plaintiff or plaintiffs to declare that the defendant or defendants is or are indebted to him or them, (in the sum to which the costs and expenses, ascertained in manner aforesaid, shall amount,) by virtue of this Act; and the certificate of the Speaker of the House of Assembly, under his signature, of the amount of such costs and expenses, together with an examined copy of the entries in the Journals of the House of Assembly, of the resolution or resolutions of the said select Committee or Committees, shall be deemed full and sufficient evidence in the support of such action of debt: *Provided always,* that in every such action of debt no wager of law, or more than one imparlance shall be allowed, and the party or parties in whose favour judgment shall be given in any such action shall recover his or their costs.

Action for contribution against those equally liable.

XXXVI. *And be it further enacted by the authority aforesaid,* That in every case when the amount of such costs and expenses shall have been so recovered from any person or persons, it shall and may be lawful for such person or persons to recover in the like manner from the other persons, or any of them, if such there shall be, who shall be liable to the payment of the said costs and expenses, a proportionable share thereof, according to the number of persons so liable.

Committee not to be dissolved by a prorogation of Parliament, but to be adjourned to the day next after the meeting of Parliament, and continue their proceedings.

XXXVII. *And be it further enacted by the authority aforesaid,* That whenever it shall happen that the Parliament shall be prorogued while any select Committee shall be sitting for the trial of any such petition, as aforesaid, and before they shall have reported to the House their determination thereon, such Committee shall not be dissolved by such prorogation, but shall be thereby adjourned to twelve of the clock, on the day immediately following that on which Parliament shall again meet for the despatch of business, (Sundays, Good Fridays, and Christmas days, always excepted;) and all former proceedings of the said Committee shall

remain and continue to be of the same force and effect as if the Parliament had not been so prorogued; and such Committee shall meet on the day and hour to which it shall be so adjourned, and shall thenceforward continue to sit from day to day in the manner provided in this Act, until they shall have reported to the House their determination on the merits of such petition.

XXXVIII. *And be it further enacted by the authority aforesaid,* That this Act shall be and continue in force for and during the term of two years, and from thence to the end of the then next ensuing session of parliament, and no longer.

This Act to be in force for two years. (Made perpetual by 2 Vic Chap. 8.)

FORM OF THE RECOGNIZANCE REFERRED TO IN THIS ACT.

Be it remembered, that on the — day of —, in the year of our Lord —, before me, A. B. (Speaker of the House of Assembly) came C. D., E. F., and I. G. and severally acknowledged themselves to owe to our Sovereign Lord the King, the following sums, that is to say: the said C. D. the sum of one hundred pounds, and the said E. F. and the said I. G. the sum of fifty pounds each, to be levied on their respective goods and chattels, lands and tenements; to the use of our said Sovereign Lord the King, His Heirs and Successors, in case the said C. D. shall fail in performing the condition hereunto annexed.

Recognizance.

The condition of this recognizance is, that if the said C. D. shall duly appear before the House of Assembly, at such time or times as shall be fixed by the said House for taking into consideration the petition signed by the said C. D. complaining of an undue election or return of a member to represent the County, City, Borough or Riding, (as the case may be,) in the House of Assembly of this Province, or complaining that no return has been made for the said County, City, Borough or Riding, within the time limited by law, or that the return made for the said County, City, Borough or Riding, is not a return of a member or members according to the requisition of the writ, and shall appear before any select Committee which shall be appointed by the House of Assembly for the trial of the same, and shall renew his said petition in every subsequent session of this present Parliament, until a select Committee shall have been appointed by the said House for the trial of the same, or until the same shall have been withdrawn by the permission of the said House, then this recognizance to be void, otherwise to be of full force and effect.

Condition.

CHAP. V.

AN ACT to divide the County of Carleton, in the Bathurst District.

[Passed 19th January, 1824.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. VI.

AN ACT to repeal an Ordinance of the late Province of Quebec, made in the twenty-eighth year of His late Majesty's reign, intituled, "An Ordinance for promoting the inland navigation."

[Passed 19th January, 1824.]

Preamble.

WHEREAS doubts are entertained whether an Ordinance of the late Province of Quebec, intituled, "An Ordinance for promoting the inland navigation," passed in the twenty-eighth year of the reign of His late Majesty, chapter three, is in force in this Province, and the same is no longer applicable to the circumstances 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 the said Ordinance of the late Province of Quebec, and every part thereof, be and the same is hereby repealed.

Ordinance of Quebec
28th Geo. III. Chap. 3,
repealed.

No proceedings to
be had for any thing
heretofore done
contrary thereto.

II. *And be it further enacted by the authority aforesaid,* That no proceedings shall be hereafter had or continued under the authority of the said Ordinance, for or on account of any matter or thing at any time heretofore done or omitted contrary to the provisions thereof.

CHAP. VII.

AN ACT to repeal part of the second clause of an Act passed in the thirty-third year of His late Majesty's reign, intituled, "An Act to provide for the nomination and appointment of Parish and Town Officers within this Province," and to make more effectual provision for obtaining an accurate census of the population of this Province.

[Passed 19th January, 1824.]

[REPEALED BY 5 WM. IV. CH. 3; 1 VIC. CH. 21.]

CHAP.

CHAP. VIII.

AN ACT to make permanent and extend the provisions of the Laws now in force for the establishment and regulation of Common Schools throughout this Province, and for granting to His Majesty a further sum of money to promotè and encourage education within the same.

[Passed 19th January, 1824.]

MOST GRACIOUS SOVEREIGN :

WHEREAS it would greatly tend to advance the happiness of society to disseminate moral and religious instruction among the people, and to render permanent the laws now in force relating to Common Schools ; we, Your Majesty's dutiful and loyal Subjects, the Commons of Upper Canada, in Provincial Parliament assembled, most humbly beseech Your Majesty that it may be enacted, *And 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 for the benefit of all classes of His Majesty's Subjects, and for the encouragement of Sunday Schools, and for affording the means of moral and religious instruction to the more indigent and remote settlements in the several Districts throughout this Province, there shall be annually paid, in addition to the sum now by law directed to be paid for the use and benefit of Common Schools, the further sum of one hundred and fifty pounds; which said sum of one hundred and fifty pounds shall be appropriated and applied in manner and form as is hereinafter directed.

Preamble.

(Repealed by 4 & 5 Vic. Chap. 18.)

£150 per annum, in addition, granted for the encouragement of Common and Sunday Schools.

II. *And be it further enacted by the authority aforesaid*, That the monies hereby granted shall be at the disposal of the general Board that is or may be appointed by the Governor, Lieutenant Governor, or Person Administering the Government of this Province, for the superintendance of education within the same, to be by them laid out and expended for the purchasing of books and tracts designed to afford moral and religious instruction ; which said books and tracts, when so purchased, shall be distributed by the said general Board, in equal proportion, amongst the several District Boards of Education throughout this Province.

The money so granted to be at the disposal of the General Board of Education for this Province, for the purchase of books;

Which shall be distributed by the General Board to the several District Boards.

District Boards, at their discretion, to distribute such books, &c ;

For the use of Sunday Schools, and the remote settlements.

8th clause 2nd Geo. IV. Chap. 7, repealed.

The provisions of the above Act ;

And the 56th Geo. III. Chap. 32 ;

To extend to the Indians ;

Certificate in such cases dispensed with.

No Teacher to receive any money before examination by the District Board ;

Or a certificate from at least one member of said Board certifying his ability.

Monies hereby granted ;

How to be paid ;

III. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the several District Boards of Education to make and order at their discretion a distribution of such books and tracts for the use and encouragement of Sunday Schools, and to the benefit of the more indigent and remote settlements in their respective Districts.

IV. *And be it further enacted by the authority aforesaid,* That the eighth clause of an Act passed in the second year of the reign of His present Majesty, intituled, "An Act to amend and continue, under certain modifications, an Act passed in the fifty-sixth year of His Majesty's reign, intituled, 'An Act granting to His Majesty a sum of money, to be applied to the use of Common Schools throughout this Province, and to provide for the regulation of the said Common Schools,'" be and the same is hereby repealed.

V. *And be it further enacted by the authority aforesaid,* That the provisions of the above recited Act, and so much of an Act passed in the fifty-sixth year of His late Majesty's reign, intituled, "An Act granting to His Majesty a sum of money to be applied to the use of Common Schools throughout this Province, and to provide for the regulation of the said Common Schools," as is now in force, shall be and the same is hereby declared to extend to all Schools that are now or may hereafter be established and kept among the Indians, who shall be resident within the limits of any organized county or township within this Province, excepting such Schools as shall or may be otherwise provided for : *Provided nevertheless,* that in all reports that may be made to the Board of Education before the first day of June next after the passing of this Act, from any School kept for the instruction and education of the children of the Indians, it shall not be necessary to certify to such Board, that the Trustees of the School so reporting were chosen on the first day of June last, any law or usage to the contrary in any wise notwithstanding.

VI. *And be it further enacted by the authority aforesaid,* That every Teacher of a Common School, before he shall be entitled to receive any portion of public money, shall be examined by the Board of Education in the District in which he shall have taught or is about to teach a Common School ; or shall obtain a certificate from at least one member of such Board, certifying his ability and fitness to teach the same, due regard at all times being had to the degree of education wanting, or to the branches necessary to be taught in the township, village or place, in which such Teacher hath undertaken or is about to undertake to teach a Common School.

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 of this Province, in discharge of such warrant or warrants as shall for the purpose herein set forth be issued by the Governor, Lieutenant Governor, or Person Administering the Government of this Province,

for the time being, and shall be accounted for by the Receiver General 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 be graciously pleased to direct.

Accounted for

CHAP. IX.

AN ACT to amend and make perpetual an Act passed in the fifty-ninth year of His late Majesty's reign, intituled, "An Act to repeal part of and amend the laws now in force for laying out, amending and keeping in repair, the public Highways and Roads in this Province;" and also to amend an Act passed in the fiftieth year of His late Majesty's reign, intituled, "An Act to provide for the laying out, amending, and keeping in repair the public Highways and Roads in this Province, and to repeal the laws now in force for that purpose."

[Passed 19th January, 1824.]

WHEREAS it is expedient to amend and make perpetual a certain Act of the Parliament of this Province, passed in the fifty-ninth year of His late Majesty's reign, intituled, "An Act to repeal part of and amend the laws now in force for laying out, amending and keeping in repair, the public highways and roads 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 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 fourteenth clause of the said recited Act shall be and the same is hereby repealed.

Preamble.

(See 4 & 5 Vic. Chap. 10, Sec. 52.)

14th clause 59th Geo. III Ch. 8, repealed.

II. *And be it further enacted by the authority aforesaid,* That any person liable to perform statute labour on the highways, (except such persons as being resident in any town in this Province shall be liable by law to perform more than six days labour,) may compound for such duty, if he or they think fit, by paying to the officer hereinafter mentioned, the sum of two shillings and six pence for and in lieu of each day's duty or labour, respectively, at the time and in the manner directed by law.

Every person liable to perform statute labour, (except persons resident in any town liable to more than six days,) may compound by paying 2s. 6d. per diem, in lieu, &c.

III. *And be it further enacted by the authority aforesaid,* That when any person residing in any town in this Province shall be liable by law to

Persons resident in any town, liable to more than 6 days labour, shall in lieu thereof pay to the surveyor of streets, on 1st May in each year, 2s. 6d. per diem.

work on the highways and roads more than six days in any one year, he shall in lieu of such labour pay to the Surveyor of streets, to be appointed as is hereinafter mentioned, for such town, on or before the first day of May in each year, the sum of two shillings and six pence for and in lieu of each day's duty or labour, respectively.

Justices of the Peace at any Session may appoint a surveyor of streets for every town in their District, and remove him at pleasure.

IV. *And be it further enacted by the authority aforesaid,* That after the present year the Justices of the Peace in and for the several Districts of this Province, shall have power at any General or adjourned Sessions of the Peace in and for such District, to appoint a Surveyor of streets in and for each town within their respective Districts, and to remove such officer so appointed at their will and pleasure.

Surveyor of streets to take an oath in open Court, that he will faithfully perform his office; (See 6 Geo. IV. Chap 14.) Shall enter into a bond with two securities.

V. *And be it further enacted by the authority aforesaid,* That such Surveyor of streets shall, before entering upon his office, take an *oath in open Court before such Justices*, that he will well and faithfully execute the duties thereof, and shall with two sureties, to be approved of by such Justices, enter into a bond to His Majesty, His Heirs and Successors, in such sum as to the Justices may seem meet, to account well and truly for all such monies as shall come into his hands by virtue of his said office.

Justices at any special Session holden for that purpose, may order surveyor of streets to amend any street, &c.

(See 4 & 5 Vic Chap 10, Sec. 72.)

Within 10 days after, surveyor shall summon such persons as are liable, and order them to repair and amend such street, &c.

Penalty for neglecting and refusing.

VI. *And be it further enacted by the authority aforesaid,* That the Justices of the Peace acting within their respective divisions, for the time being, shall and may (at any Special Session to be holden for that purpose,) order the Surveyor of streets in any town within their division to make or amend any street, highway or road, within such town as they shall think necessary; and the said Surveyor of streets shall, within ten days after having received such order, summon such persons within the said town as are obliged to perform statute labour, and order them to work on such part of the streets, highways or roads, within the said town, or adjacent thereto, as they shall be directed to make or repair; and every person neglecting or refusing to obey such order, shall be subject to the like penalties, to be recovered and applied in the like manner as in case of persons refusing to obey the order of any overseer of highways in this Province under the laws now in force.

Commutation money to be expended by surveyor of streets, under the direction of the Justices, in making, &c. streets, &c. in such town.

VII. *And be it further enacted by the authority aforesaid,* That the monies which shall be paid to any Surveyor of streets under this Act, in commutation of labour, shall be expended by him, under the direction of the Justices acting within the division in which the town is situated for which such Surveyor is appointed, in making or amending the streets, highways or roads, in such town.

Justices at any special Session, may direct surveyor to expend part of the money or statute labour in repairing any highway or bridge in the vicinity of such town.

VIII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Justices of the Peace acting within any division in any District of this Province, at any Special Session holden for that purpose, if they shall see fit, to direct the Surveyor of streets to be appointed under this Act for any town within their division, to expend

part of the monies to be paid into his hands, or to apply part of the statute labour to be done under his orders, in amending any highway or bridge in the vicinity of such town.

IX. *And be it further enacted by the authority aforesaid,* That the Surveyors of streets, and all persons acting under their directions, in the executions of such orders as they shall have received from the Justices of the Peace relative to the performance of their duty on streets and highways, are hereby discharged from any action of trespass, which may be brought in any of His Majesty's Courts within this Province, for any act or acts that the said Surveyors, or any person or persons acting under their directions, as aforesaid, may in the execution of such orders or directions have committed or done.

Surveyor, and persons under him, in executing orders of Justices relative to their duty, discharged from any action of trespass, &c.

X. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, so much of the several laws of this Province as relates to the choosing or appointing of overseers of highways for any town, shall be and the same is hereby repealed.

Laws of the Province relative to appointing overseers of highways for any town, repealed.

XI. *And be it further enacted by the authority aforesaid,* That the Justices of the Peace in and for each District of this Province, in General Quarter Sessions assembled, shall have power from time to time to limit and appoint by order, the remuneration which shall be paid to the Surveyors of streets in the several towns within their respective Districts; and shall authorize the same to be deducted and retained by such Surveyors out of the monies which they shall receive by virtue of this Act.

Surveyor of streets to be remunerated by order of Justices in General Quarter Sessions;

[See 4 & 5 Vic Chap 10, Sec 52.]

And he may detain the same out of such monies as he may receive.

XII. *And be it further enacted by the authority aforesaid,* That if any person liable to pay money in lieu of statute labour under this Act, shall refuse or neglect to pay the same to the Surveyor of streets authorized to demand the same, within ten days after demand made for that purpose, it shall be lawful for any two Justices of the Peace acting within the division, upon proof thereof on oath, to issue their warrant for levying double the amount thereof, together with costs, by distress and sale of the goods and chattels of such person so neglecting or refusing; which money so levied shall be applied in the same manner as the composition money directed to be paid by this Act.

If persons liable to pay money, neglect or refuse ten days after the demand.

two Justices acting within the division, upon proof, may issue a warrant to levy double the amount, together with costs, &c.

Money so levied, how applied.

XIII. *And whereas* the money received by Treasurers of Districts, and by them paid over to the Overseer of highways in the township where the land lies on which the said money was collected, may be more beneficially expended under the direction of the Justices of the Peace, *Be it therefore enacted by the authority aforesaid,* that the tenth clause of the said Act, in so far as relates to the same, shall be and the same is hereby repealed; and that the Treasurer of each and every District of this Province shall, after the passing of this Act, pay to the order of the Magistrates in Special Sessions of the Peace in the month of March, in their respective divisions assembled, or any other Special Sessions within the

10th clause 59th Geo. III, chap. 8, as far as relates to the payment of money by treasurer to overseers, repealed;

[See 4 & 5 Vic. Chap 10]

Treasurer shall pay to the order of the Magistrates in Sessions, in the month of March, all such money as may have been collected by the rate of $\frac{1}{2}$ of 1d. per annum;

Such money so paid, how
to be laid out.

divisions where such land is situated, all such sum or sums of money as may have been paid in or collected for the said rate of one-eighth of a penny per annum; to be by the said Justices of the Peace laid out by contract or otherwise, to the best advantage, on the highways within the township where the land lies from which the said rate was paid or collected.

CHAP. X.

AN ACT to repeal part of and amend an Act passed in the fiftieth year of His late Majesty's reign, intituled, "An Act to provide for the laying out, amending and keeping in repair, the public Highways and Roads in this Province, and to repeal the laws now in force for that purpose;" and also to repeal part of and amend the provisions of an Act passed in the fifty-ninth year of His late Majesty's reign, intituled, "An Act to repeal part of and amend the laws now in force for laying out, amending and keeping in repair, the public Highways and Roads in this Province."

[Passed 19th January, 1824.]

Preamble.

WHEREAS it is expedient to repeal part of and amend an Act passed in the fiftieth year of His late Majesty's reign, intituled, "An Act for the laying out, amending and keeping in repair, the public Highways and Roads in this Province, and to repeal the laws now in force for that purpose," and also to extend the provisions of the said Act; and also to repeal part of and amend the provisions of an Act passed in the fifty-ninth year of His late Majesty's reign, intituled, "An Act to repeal part of and amend the laws now in force for laying out, amending and keeping in repair, the public Highways and Roads 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 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 fifth clause of the said recited Act, and the sixth clause of the said last mentioned Act, be and the same are hereby repealed.

5th clause 50th Geo. III.
chap. 1; 6th clause 59th
Geo. III, chap. 8,
repealed.

No road under 50th Geo.
III, chap. 1, to be more
than 66 or less than 40 feet
in width;

II. *And be it further enacted by the authority aforesaid, That no road hereafter to be laid out under the provisions of the said first recited Act, shall be more than sixty-six, nor less than forty feet in the width: Pro-*

vided always nevertheless, that nothing in this clause contained shall extend, or be construed to extend, to affect any road now established under the provision of the said recited Act.

This not to affect any road now established under the said Act.

III. *Provided always nevertheless, and be it further enacted by the authority aforesaid*, That when any road now or hereafter established shall be altered, it shall not be lawful for the Surveyor of roads reporting such alteration, to lay out such new road of a less width than the one proposed to be altered.

If any road shall be altered, the new one shall not be less in width than the old.

IV. [Repealed by 5 Wm. IV. Ch. 8; 1 Vic. Ch. 21.]

V. [Repealed by 5 Wm. IV. Ch. 8.]

VI. *And be it further enacted by the authority aforesaid*, That in all cases when application shall be made to any Surveyor or Surveyors of the highways, to have any new road laid out, or any road already laid out altered, those making the application, (after a sale of the old road so altered shall have taken place, and the proceeds of such sale been paid over to the owner of the land through which the new road may pass,) shall be deemed liable to pay any further sum which shall be ascertained by a Jury in manner as by the laws now in force is directed; and in case the owner or owners, agent or agents thereof shall, within three months from the date of the report of such new road, or the alteration of such road or roads, make application to be compensated for the land taken for the same, in manner as by the laws now in force is directed, no order shall issue directing statute labour thereon, unless a discharge or acquittal for the same, or release for the land taken for such purpose from the owner or owners thereof, or proof of a tender having been made for the value thereof, so ascertained, be produced to the General Quarter Sessions: *Provided nevertheless*, that nothing in this Act contained shall extend, or be construed to extend, to prevent the said Justices of the Peace from directing the same to be paid out of the public money of the District, if to them it shall appear that the said alteration is of manifest utility to the public at large, and not of a local nature.

Justices of the Peace, in March in each year, or in General Quarter Sessions, by application in writing, signed by at least 12 freeholders of any town, may apply part of the statute labour of such town on any highways adjoining it, if it shall appear advantageous, in such proportion as the majority may think fit.

When any person liable to $\frac{1}{2}$ of 1d. per acre shall expend any money on roads in the town where the same is situated, or cause it to be done, the approbation of the majority of the Justices in any General Quarter Sessions having been obtained, the said Justices, upon application in any subsequent Sessions, if it appear that the same has been laid out to advantage, to order the treasurer to set off the amount against any arrears that may have or may accrue on said lands, or such part as may appear expended for the good of the town where it is situated.

When application is made where any road laid out or altered, those making it (after sale of old road, and proceeds paid to the owner of the new) shall be liable to pay any sum which a jury as by law directed shall ascertain. If the owner or agent, &c. shall within 3 months from the date of the report of such new road, &c. make application for compensation according to law, no order shall issue for statute labour to be performed unless a discharge, &c. be taken from the owner, &c. or proof of tender of the value so ascertained, be produced to General Quarter Session; (See 14 5 Vic. Chap. 10, Sec 39)

Nothing in this Act to prevent the Justices from directing same to be paid out of the general fund of the District, if the same shall appear of manifest utility.

VII. *And whereas* much inconvenience has arisen by the sale of portions of the original Government appropriations and allowances for highways and roads in the several townships in this Province; *Be it therefore enacted by the authority aforesaid*, that the ninth clause of the Act passed by the Legislature of this Province in the fiftieth year of the reign of His

9th clause of the 50th Geo. III. chap. 1, as far as relates to the sale of Government appropriations, and allowances for highways, &c. repealed;

late Majesty King George the Third, intituled, "An Act to provide for the laying out, amending and keeping in repair, the public highways and roads in this Province, and to repeal the laws now in force for that purpose," be repealed, and the same is hereby repealed, so far as regards the aforesaid Government appropriations for such highways and roads: *Provided always*, that nothing in this clause contained shall restrain any Surveyor of highways from selling and conveying any road which he is now by law authorized to sell and convey.

This clause not to prevent any surveyor from selling any road which he is legally authorised to sell.

Any person liable, may compound, by paying overseer 5s. per diem for each cart, &c. and 2s. 6d. for each day's duty.

VIII. [See 5 Wm. IV. Ch. 8.]

CHAP. XI.

AN ACT to repeal an Act passed in the forty-first year of His late 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 also an Act passed in the forty-third year of His late Majesty's reign, intituled, "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," and to make more effectual provision for the due collection of Duties on Goods imported into this Province.

[This Act is printed in the absence of any express enactment or judicial decision, declaring in what particulars it may be taken to be superseded by the Imperial and Colonial enactments referred to in the margin.]

[Passed 19th January, 1824.]

Preamble.

(See 7 Wm. IV. Chap. 25; Imperial statute 3 & 4 Wm. IV. Chap. 59; 4 & 5 Wm. IV. Ch. 59; 4 & 5 Vic. Chap. 14, Chap. 16.)

WHEREAS it is expedient to repeal the laws now in force for securing the payment of duties, and to reduce the same into one Act, and also to extend the provisions 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 an Act passed in the forty-first year of His late 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;" also an Act passed in the forty-third year of His late Majesty's reign, intituled, "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 of Light Houses," be and the same are hereby repealed.

41st Geo. III. chap. 5;

and 43rd Geo. III. chap. 2,
repealed.

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, by Commission under his hand and seal at Arms, to nominate and appoint one or more Collectors at the Ports of Entry and Clearance now or hereafter to be established.

Appointment of
collectors.[See Imperial Statute
3 & 4 Wm. IV. Chap. 59,
sec. 33.]

III. *And be it further enacted by the authority aforesaid,* That each and every Collector shall give security by way of recognizance or obligation to His Majesty, with two sureties in five hundred pounds each, and himself in one thousand pounds, for the due performance of his office.

Collectors to give
security.

IV. *And be it further enacted by the authority aforesaid,* That the said Collectors shall, and they are hereby authorised to appoint one or more Deputy or Deputies; and that the said Collectors and Deputies shall have power and authority, and they are hereby required to seize and secure any vessel, boat, raft or carriage, goods, wares or merchandize, which shall be liable to seizure under the authority of this Act, or under any other laws of this Province, as well without as within their respective Districts.

May appoint deputies;

Authority to seize.

V. *And be it further enacted by the authority aforesaid,* That the Collector or Collectors, Deputy 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

Hours of attendance at
collectors office;Report of entries, where
to be made.

three from the first day of October to the last day of April, and shall not receive the report or entry of any vessel, boat, raft or carriage, at any other place.

Collectors, where and how to account to the Inspector General.
(See 3 Vic. Ch. 9; 4 & 5 Vic. Ch. 14, sec. 19.)

VI. *And be it further enacted by the authority aforesaid,* That the said Collectors shall make a report to the Inspector General of this Province, *four times in every year,* of all entries made at their Port or Ports of Entry, which reports shall also severally comprise a faithful statement of all duties paid or secured, and the proceeds of all seizures and penalties received, 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 of such periods shall be inclusive; and that the said returns shall be transmitted to the office of the Inspector General, within forty days next after the expiration of every quarter, as aforesaid; and shall also report to the Inspector General all seizures by him or any of his Deputies made, within twenty days after making the same; and the full amount of the duties and proceeds of all seizures as shall in such returns be stated to have come into the hands of such Collector or Collectors, shall within the term of forty days be paid by him or them into the hands of His Majesty's Receiver General for this Province.

Account of seizures to be rendered;

When proceeds of seizures, &c. duties received by Collectors, shall be paid over.

Penalty if Collectors shall neglect to account.

VII. *And be it further enacted by the authority aforesaid,* That if any Collector shall neglect or refuse to make such report, or to pay such duties in manner and form as aforesaid, and within the times prescribed, he shall not be entitled to any per centage on the amount of duties collected for the period in which such default shall be made.

Remuneration of Collectors;
(See 7 Wm. IV. C. 25.)

VIII. *And be it further enacted by the authority aforesaid,* That every Collector shall be authorised to retain the sum of fifty pounds per centum on the amount of duties by him collected, until the same amounts to one hundred pounds per annum, and no more.

How vessels, boats, carriages &c. are to be reported;
(See Imperial Statute; 3 & 4 Wm. IV. Ch. 50, Secs. 16; 20; 23; 34; 1 & 2 Vic. Chap. 14, sec. 6, which seems to supersede this clause.)

IX. *And be it further enacted by the authority aforesaid,* That the master or person having the charge or command of any vessel, boat, raft or carriage, of what nature or kind soever, having goods, wares or merchandize, on board thereof, arriving at or coming into any Port of Entry, shall make a report to the Collector of the arrival of any such vessel, boat, raft or carriage, in the following form, namely:

NAME OF OWNER OF VESSEL, BOAT, RAFT OR CARRIAGE.	LADING.	WHENCE SHIPPED.	WHITHER DESTINED.

[Signed,]

A. ——— B. ——— master,
or Person having charge or command:

And which form if required shall be furnished by the Collector, for which he shall receive the sum of one shilling and three pence; and that if the master, or person having the charge or command of any such vessel, boat, raft or carriage, shall neglect or refuse to make such report, he shall for every such offence forfeit and pay the sum of five pounds; and that it shall and may be lawful for the Collector to seize and detain such vessel, boat, raft or carriage, until the said penalty shall be paid, or security given for the payment thereof, by bond to His Majesty, on conviction of such neglect or refusal; and that if any master, or person having the charge or command of any vessel, boat, raft or carriage, shall make a false report, such vessel, boat, raft or carriage, and the tackle, apparel, furniture, cattle, horse or horses, and harness thereunto respectively belonging, shall be forfeited and liable to seizure by such Collector: *Provided always*, that nothing in this clause contained shall be construed to extend to require the report of the arrival of any carriage from any part of this Province: *Provided also*, that nothing in this Act contained shall extend, or be construed to extend, to require the report in writing, of any boat owned and managed by any inhabitant or inhabitants of this Province, and exclusively laden with any article or articles being the growth, produce or manufacture, thereof.

in case of
to report;

On making a false report.

Exemptions from
reporting.

X. *And be it further enacted by the authority aforesaid*, That no goods, wares or merchandize, upon which any duties are or shall be by law imposed, shall be imported into this Province at any other place than a Port of Entry, nor be unladen until the duties payable on such goods, wares and merchandize, shall have been first paid or secured; and the master, or person having the charge or command of the vessel, boat, raft or carriage, in or upon which the same shall be imported, shall have received a permit in writing so to do; and that all the goods, wares or merchandize, which shall be imported into this Province from the United States of America, and which shall not be entered according to the provisions of this Act shall be forfeited, 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.

No dutiable goods to
be imported except at a
Port of Entry, or until
duties have been first
paid or secured;
(See Imperial Statute;
3 & 4 Wm. IV. Chap. 59,
Secs. 24, 25;
4 & 5 Vic. Chap. 19,
which seems to supersede
this.)

Permit;

Forfeiture if illegally
imported.

XI. *And be it further enacted by the authority aforesaid*, That when the amount of duties imposed by law upon any goods, wares or merchandize, lawfully imported into this Province at any one time shall amount to twenty pounds, it shall and may be lawful for the Collector, or Deputy, of the Port where such goods, wares and merchandize, shall be entered, to take security for the due payment of such duties, one half within two months, and the other half in four months after such importation, by bond in double the amount thereof to His Majesty, from the owner or person importing the same, with one or more good and sufficient sureties, at the discretion of the Collector.

When time may be
given for the payment
of duties, on taking
security;

(See Imperial Statute;
3 & 4 Wm. IV, Ch. 59.)

Permit to be given for removal of dutiable goods from a Port of entry to any other Port or place.

XII. *And be it further enacted by the authority aforesaid,* That when any person or persons shall have occasion to remove from any Port of Entry, aforesaid, to any other Port or place, any goods, wares or merchandize, (subject to the payment of any duty,) duly imported into any Port, as aforesaid, 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, 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 permit in writing, signed by 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, had been duly entered in that Port, and that the duties thereon had been paid or secured to be paid; and the Collector or Deputy giving such permit shall limit therein the time within which such goods, wares or merchandize, shall be removed from such Port, and also the time within which such permit shall be in force.

Goods not to be unladen but in open day, or at any other place than a Port of entry, without a special licence;

XIII. *And be it further enacted by the authority aforesaid,* That no goods, wares or merchandize imported into this Province in or upon any vessel, boat, raft or carriage, from the United States of America, shall be unladen or laid on land, from such vessel, boat, raft or carriage, except in open day; that is to say, between the rising and setting of the sun, nor at any other place than a Port of Entry, without a special licence for that purpose first had and obtained from the Collector or Deputy of the Port where the same shall have been entered; and if any goods, wares or merchandize, shall be unladen or laid on land contrary to the directions of this Act, 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 in aiding therein, or in removing or otherwise securing the goods, wares or merchandize, shall forfeit and pay double the value thereof.

Penalty.

[See Imperial Statute 3 & 4 Wm. IV. Ch. 59, Sects. 21, 25, 33]

Officers may examine packages suspected to be neutrally entered;

[See Imperial Statute 3 & 4 Wm. IV. Ch. 59; 1 & 5 Vic Ch. 19, sects. 3, 22]

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, after entry made of any goods, wares or merchandize, on suspicion of fraud, to open and examine in the presence of two or more credible witnesses, any package or packages thereof; and if upon examination they should be found to agree with the entries, the said Collector or his Deputy shall cause the same to be repacked at his own expense, and re-delivered to the owner thereof; but if any package or packages so examined should 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: *Provided always,* that the said forfeiture shall not be incurred if it shall be made appear to the satisfaction of the Collector or Deputy, or to the Court in which a prosecution shall be had for the condemnation

No forfeiture if there is no intention to defraud by such false entry.

thereof, that such difference proceeded from mistake or accident, and not from any intention to defraud the revenue.

XV. *And be it further enacted by the authority aforesaid,* That if any person or persons shall knowingly harbour, keep, conceal, purchase, sell or exchange, any goods, wares or merchandize, illegally imported into this Province, he shall forfeit for every such offence double the value thereof.

Penalty for concealing, buying, selling or exchanging goods illegally imported.

[See Imperial Statute 3 & 4 Wm. IV. Ch. 59, sec 59]

XVI. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, it shall be the duty of each and every Collector in this Province to mark, by branding with a proper iron, to be by him provided for that purpose, all kegs of tobacco which may be entered at his office, specifying the number of the keg, as inserted in his books, and also the name of the Port.

Kegs of tobacco to be branded.

XVII. *And be it further enacted by the authority aforesaid,* That the Collector or Deputy of any Port, or other person by either of them for that purpose specially appointed, shall have full power and authority to enter into and upon any vessel, boat, raft or carriage, in or upon which he or they shall have reason to suspect any goods, wares or merchandize, not reported, to be concealed, and therein and thereupon to search for, seize and secure the same; and if any Collector or Deputy shall have cause to suspect that any goods, wares or merchandize, illegally imported are harboured, kept or secreted, in any dwelling house, shop, warehouse, or other building or place, it shall and may be lawful for such Collector or Deputy, upon making oath before a Justice of the Peace of the facts forming the grounds of such suspicion, to obtain a warrant to enter therein, (in the day-time only,) and there to search for any such goods, wares or merchandize, and if any such be found, to seize and secure the same.

Authority to search for and seize goods suspected to be illegally imported.

XVIII. *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, from time to time to appoint, in each and every District, three Commissioners of Customs, any two of whom shall be a quorum, to hear and determine, in a summary way, all informations exhibited before them for the condemnation of any goods, wares or merchandize, seized as forfeited under the provisions of this Act, when the value thereof, together with the vessel, boat, raft or carriage, in or upon which the same shall be found or shall have been imported, shall not exceed forty pounds; and also to hear and determine in like manner, all informations which may be exhibited before them for penalties to be recovered under and by virtue of this Act; *Provided nevertheless,* that if the owner of any goods, wares or merchandize, or the owner or commander of any vessel, boat, raft or carriage, seized as forfeited, or any person against whom any information shall be exhibited before the said Commissioners for the recovery of any penalty in the provisions of this Act, shall be desirous of having the same tried and determined in His

Commissioners of Customs to be appointed, with jurisdiction to levy seizures not exceeding a certain value;

(See 4 Geo IV. Ch. 12; 2 Wm. IV. Chap. 3; Imperial Statute 3 & 4 Wm. IV. Ch. 59 sec 64)

And to try informations for penalties;

Such cases, nevertheless, to be removed to the King's Bench, at the desire of the party;

On what terms;

Majesty's Court of King's Bench, and shall, previous to the said Commissioners giving judgment thereon, enter into a bond with sufficient sureties in the penalty of fifty pounds, conditioned for the payment of all costs, charges, and expenses already incurred, and such as may attend the condemnation of such goods, wares and merchandize, vessel, boat, raft or carriage, attending the determination of any information filed against him for the recovery of any such penalty, in case such person shall be convicted therein, the said Commissioners shall not determine upon the legality of such seizure, or proceed to the conviction of any person against whom any information shall have been exhibited, as aforesaid, but shall forthwith report the proceedings had in the premises to the Inspector General of this Province, when the like proceedings shall be had in His Majesty's said Court of King's Bench for the condemnation of such goods, wares or merchandize, vessel, boat, raft or carriage, or for the recovery of such penalty, as if the same had respectively exceeded the sum of forty pounds.

Clerk to the said Commissioners;

XIX. *And be it further enacted by the authority aforesaid,* That the said Commissioners shall from time to time have power to appoint a Clerk, whose duty it shall be to receive and file all informations, and keep a record of the proceedings of the said Commissioners.

Commissioners may report the circumstances of any seizure for the information of the Lieutenant Governor in Council, who in cases of forfeiture under this Act, may order the seizure to be restored, if cause appear.

XX. *And be it further enacted by the authority aforesaid,* That, in all cases of seizure for any cause of forfeiture contained in this Act, the Commissioners of Customs for the District in which the same shall have been seized, shall, as well before as after the said seizure shall be claimed, have full power and authority to examine into the circumstances, and take affidavits of all facts relating thereto, and report thereon for the information of the Governor, Lieutenant-Governor, or Person Administering the Government of this Province; and in case the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, in Council, shall deem it expedient and proper so to do, he may order the said seizure to be restored to the owner or owners, upon such terms as he may think fit to impose.

Goods seized to be appraised.

XXI. *And be it further enacted by the authority aforesaid,* That within forty-eight hours after the seizure of any goods, wares and merchandize, under the provisions of this Act, supposed to be under the value of forty pounds, the Collector or person seizing the same, shall cause such goods, wares and merchandize, to be duly appraised by the oath of two indifferent persons, which oath any Justice of the Peace is hereby authorized and required to administer; and that such appraisement shall be annexed to and filed with the information hereinbefore required to be exhibited before the said Commissioners, within eight days after making such seizure, which information the said Clerk, at the request of any Collector or other person seizing, is hereby required to draw, for which he shall be entitled to receive five shillings, and no more.

XXII. *And be it further enacted by the authority aforesaid,* That so soon as any information shall have been exhibited before the said Commissioners, a notice thereof shall be put into the office of the said Clerk, and also in the office of the Collector or Deputy residing nearest to the place where such seizure shall have been made; and that if the owner or person having charge of any goods, wares and merchandize, vessel, boat, raft or carriage, so seized as aforesaid, shall exhibit a claim to the same, or any part thereof, then it shall and may be lawful for the said Commissioners, after the said notice shall have been put up fifteen days, as aforesaid, to proceed to hear and determine any claim which may in the meantime have been filed with the Clerk, or to the condemnation thereof, if no such claim shall have been made.

How claim to be preferred.

XXIII. *And be it further enacted by the authority aforesaid,* That the said Commissioners, or any one of them, shall have power and authority to administer all oaths, and take any affidavits required for carrying the provisions of this Act into effect; and that if any person or persons shall at any time forswear him, her or themselves, before such Commissioner or Commissioners, he, she or they, shall incur and be liable to the same penalties as would have been incurred upon conviction of 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.

Commissioners may administer oaths;

False swearing before them perjury.

XXIV. *Provided always, and be it further enacted by the authority aforesaid,* That it shall not be lawful for the said Commissioners to entertain any claim of any goods, wares and merchandize, vessel, boat, raft or carriage, until the person exhibiting the same shall have entered into a bond, with sufficient sureties, in the penalty of twenty pounds, conditioned for the payment of such costs as shall be awarded by the said Commissioners, in case the said goods, wares and merchandize, vessel, boat, raft or carriage, shall be condemned.

Claimants to give bond for costs.

XXV. *And be it further enacted by the authority aforesaid,* That in case any proceedings shall be had for the condemnation of any goods, wares or merchandize, vessel, boat, raft or carriage, under the provisions of this Act, as well in cases when the goods seized shall be adjudged to be restored, or if condemned shall be insufficient to pay the costs and expenses of the proceedings had respecting the same, it shall and may be lawful for the Governor, Lieutenant Governor, or Person Administering the Government of this Province, to discharge, satisfy and pay, all such costs and expenses out of any monies which shall be then in the hands of His Majesty's Receiver General of this Province, which shall have arisen out of any duties imposed or to be imposed on any goods, wares and merchandize, arriving 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 Governor, Lieutenant Governor, or Person Administering the Government of this Province, for the time being.

Provision for payment of costs, when the goods shall be adjudged to be restored, or being condemned shall be insufficient to pay the costs of condemnation.

Time and place of meeting for Commissioners.

XXVI. *And be it further enacted by the authority aforesaid,* That the said Commissioners in each and every District, shall meet on the last Saturday of every month, at the Court House in the Town in which the Quarter Sessions shall be holden, for the purposes mentioned in this Act, in case any information shall have been filed and not decided upon, and notice thereof given by the said Clerk to the said Commissioners.

Protection of persons prosecuted for acts done under the authority of this statute;

[See *Imperial Statute* 3 & 4 Wm. IV. Ch. 59, sec 71, 72, 73, 74]

General issue;

Double costs:

How if probable cause of seizure appear.

XXVII. *And be it further enacted by the authority aforesaid,* That if any Collector or Deputy, or other person aiding or assisting in the seizure of any vessel, boat, raft or carriage, cattle, horse or horses, harness, tackle, or furniture thereunto respectively belonging, 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, he may plead the general issue, and give this Act and the special matter in evidence; and if in such suit the plaintiff shall be non-suited, or judgment be given 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 or 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 person 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 seizure of 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 filed or exhibited or brought to trial, to condemn the same, and a judgment shall be given upon such action or prosecution against the defendant, if the Court before whom such action shall have been brought, shall certify in like manner as aforesaid, that there was a probable cause for such seizure, then the plaintiffs (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, where the same shall not have been restored,) shall not be entitled to above one shilling damages, nor to any costs of suit.

Sale of goods condemned under this Act.

[See *Imperial Statutes* 3 & 4 Wm. IV. Ch. 59, sec 63; 4 & 5 Wm. IV. Ch. 89]

XXVIII. *And be it further enacted by the authority aforesaid,* That all such goods, wares or merchandize, vessel, boat, raft or carriage, horse or horses, cattle, harness, tackle, apparel or furniture, which shall be forfeited and condemned by virtue of this Act, shall be advertised for sale at the Port where the same shall have been seized, eight days previous to such sale, and not less than fifteen days after such condemnation, and shall be sold by the Collector or Deputy of the Port where the same shall have been seized, by public auction to the highest bidder.

XXIX. *And be it further enacted by the authority aforesaid,* That upon exhibiting or filing of any information for the recovery of any penalty under the provisions of this Act, it shall be lawful for any one of the said Commissioners, upon affidavit first filed with the said Clerk by the person exhibiting such information, that he is apprehensive the person against whom such information shall be filed will leave this Province without satisfying the said penalty, to issue a warrant under his hand and seal for the arrest and detention of such person, until he shall have given security for the payment of such penalty in case he shall be convicted; and that such penalties, when such security shall not be required, may be recovered by distress and sale of the goods and chattels of any offender, and in default of such goods and chattels, it shall be lawful for the said Commissioners to commit the offender to the common gaol of the District where the offence shall be committed, for a period not longer than six months.

Persons may be held to bail by Commissioners, on informations for penalties.

XXX. *And be it further enacted by the authority aforesaid,* That if any goods shall be seized for non-payment of duties, or any other cause of forfeiture, and any dispute shall arise whether the duties have been paid for the same, or the same have been lawfully imported, or concerning the place from whence such goods are brought, then and in such cases the proof thereof shall lie on the owner or claimant of such goods, and not on the officer or person who shall seize or stop such goods.

Onus probandi to lie on claimant;

[See Imperial Statute; 3 & 4 Wm. IV. Ch. 59; sec. 67.]

XXXI. *And be it further enacted by the authority aforesaid,* That if the importer or owner of any goods imported as aforesaid, shall refuse to pay the duties imposed thereon by law, it shall and may be lawful for the Collector or his Deputy, where such goods shall be imported, and he is hereby required to take and secure the same, with the casks or other packages thereof, and to cause the same to be publicly sold within the space of twenty days after such refusal made, and at such times and places as such officer shall (having given at least four days public notice thereof) appoint; which goods shall be sold to the highest bidder, and the money arising from such sale shall be applied to the payment of the legal duties, together with all charges occasioned by such sale, and the overplus (if any) shall be paid to such importer or owner by the officer who may cause the same to be sold, on demand for that purpose made.

How if owner shall refuse to pay duties on goods imported;

[See Imperial Statute; 3 & 4 Wm. IV. Chap. 59. secs. 24, 25.]

XXXII. *And be it further enacted by the authority aforesaid,* That all penalties and forfeitures declared by this Act shall be recovered (except in cases hereinbefore provided) in His Majesty's Court of King's Bench in this Province, as penalties and forfeitures are heard and determined in His Majesty's Court of Exchequer in England; and in all cases of forfeiture and condemnation of any goods, wares or merchandize, vessel, boat, raft or carriage, horse or horses, tackle or furniture, 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; and in all

How penalties and forfeitures to be recovered;

[See Imperial Statute; 3 & 4 Wm. IV. Ch. 59. sec. 75.]

And disposed of.

cases of penalties recovered before any Commissioners of Customs, as hereinbefore directed, after deducting the costs of prosecution, one half to be paid to the Receiver General of this Province, and the other half to the person exhibiting such information.

Monies how to be accounted for.

XXXIII. *And be it further enacted by the authority aforesaid,* That all monies directed by this Act to be paid to His Majesty, shall be accounted for through the Commissioners of His Majesty's Treasury, for the time being, in such manner and form as His Majesty shall direct.

Clerks to Commissioners to report quarterly to the Inspector General.

XXXIV. *And be it further enacted by the authority aforesaid,* That each of the said Clerks shall report to the Inspector General of this Province quarterly, within forty days next after the periods following, that is to say; between the first day of January and last day of March; the first day of April and last day of June; the first day of July and last day of September; and the first day of October and the last day of December,—a full and correct statement of the proceedings of the Commissioners, of whom he is Clerk, comprising a schedule of the articles condemned, the value thereof, the name of the claimant, (if any) the names of the persons against whom information shall be exhibited for penalties, the amount of the penalties recovered, and the person at whose instance such information shall have been filed.

Perishable articles, and also cattle, horses, &c. seized, may be sold before condemnation or trial.

XXXV. *And be it further enacted by the authority aforesaid,* That in case of the seizure of any cattle, horse or horses, or any perishable articles, it shall be lawful for the Collector or Deputy, or person seizing the same, after legal appraisement thereof, to sell the same in the same manner as if they had been condemned, and keep in his hands the proceeds of such sale till the said cattle, horse or horses, or perishable articles, shall be condemned, or ordered to be restored to the claimant; and that in case judgment shall be for the claimant, the Court before whom such matters shall be heard, shall order the Collector or Deputy Collector making such seizure, to pay over to the claimant the proceeds of such sale, in lieu of awarding restitution.

Horses, cattle or perishable articles seized, may be delivered to claimants on security before trial, &c.

[See *Imperial Statute*; 3 & 4 *Wm. IV. Ch. 59*, Sec. 65.]

XXXVI. *Provided always, and it is hereby further enacted by the authority aforesaid,* That it shall and may be lawful for any Collector or Deputy Collector, and he is hereby required to deliver up to the claimant or claimants of any cattle, horse or horses, or of any perishable article or articles, seized as aforesaid, upon such claimant or claimants depositing in the hands of the Collector of the Port at which such seizure shall have been made, the sum of money at which such seizure shall have been appraised in manner hereinbefore enacted, at any time before the sale of such seizure, or upon giving security, to the satisfaction of such Collector, that the amount at which such seizure shall have been appraised shall be paid to His Majesty, His Heirs or His Successors, to and for the public uses of this Province, within three months after judgment of condemnation shall have been had thereon.

XXXVII. *And be it further enacted by the authority aforesaid,* That the Collectors and Deputies of the said Ports, shall cause to be affixed and kept in some public and conspicuous place in their offices, a table of the fees to be taken and received by the said Collectors and Deputies; which fees shall be as follows: for any permit to unload any vessel, boat, or batteau, under five tons burthen, one shilling and three pence; for any permit to unload any vessel, boat, or batteau, of five tons or upwards, and not exceeding fifty tons, two shillings and six pence; for any permit to unload any vessel exceeding fifty tons, ten shillings; for any permit to unload any raft, one shilling and three pence; for any permit to unload any cart, sleigh, waggon or other carriage, one shilling and three pence; for every certificate of goods, having paid duty, with a permit to remove the same, two shillings and six pence; for every clearance, when required, five shillings; for every bond for payment of duties, five shillings.

Collectors fees.

[See 7 Wm. IV, Ch. 25, sec 6]

XXXVIII. *And be it further enacted by the authority aforesaid,* That no Collector, Deputy Collector, or Clerk, shall receive any other or greater fee than is set down for him in this Act, for any business done by him under the provisions thereof.

No other or greater fee to be allowed.

XXXIX. *And be it further enacted by the authority aforesaid,* That the said Clerk shall be entitled to receive the following fees: for every paper filed, six pence; for every judgment recorded, five shillings; to be paid by the Collector, or person prosecuting; and when the said judgment shall be for the claimant or defendant, upon the certificate of the Commissioners of the existence of probable grounds for exhibiting an information, the said Collector or Deputy shall be authorized to retain the amount expended in such prosecution, out of any monies which may come into his hands as such Collector: for every copy of any paper, per folio of seventy-two words, (to be paid by the person requiring, or for whose benefit the same shall be given) six pence; for every information by him drawn, five shillings.

Clerks fees.

XL. *And be it further enacted by the authority aforesaid,* That nothing in this Act contained shall extend, or be construed to extend, to annul or make void any existing commission, issued under the authority of any law repealed by this Act, nor to affect any proceedings now pending under the provisions of any law repealed as aforesaid, but that the same shall proceed and be determined in the same manner as if this Act had never passed.

This Act not to affect any existing commission or proceedings.

XLI. *Provided always, and be it further enacted by the authority aforesaid,* That nothing in this Act contained shall extend, or be construed to extend, to authorize any Collector to retain any per centage on duties payable on any goods, wares or merchandize, imported into this Province from the United States of America, by or for any such Collector, either directly or indirectly.

Collectors not to retain per centage on duties paid on goods imported by or for themselves.

C H A P. XII.

AN ACT to compensate the services of the Commissioners of Customs.

[Passed 19th January, 1824.]

Preamble.

WHEREAS it is expedient to compensate the services of the Commissioners of Customs, appointed under the provisions of an Act passed in the present session of Parliament, intituled, "An Act to repeal an Act passed in the forty-first year of His late 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 also an Act passed in the forty-third year of His late Majesty's reign, intituled, '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,' and to make more effectual provision for the due collection of duties on goods imported into 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 it shall and may be lawful for the Collector of any Port of Entry in this Province, to pay to the said Commissioners of Customs the sum of ten shillings each, for every day, which any such Commissioners shall actually attend at the place appointed, for the discharge of the duties imposed upon them pursuant to the provisions of the said recited Act: *Provided always*, that a statement of such attendance shall be made upon and certified under oath once in three months, by the Clerk of the said Commissioners.

The Collector of any Port shall pay to the Commissioners of Customs 10s. each, per diem, for every day they actually attend;

A statement of such attendance, certified on oath, shall be made every three months by the Clerk of said Commissioners.

Such statement a sufficient voucher for the Inspector General to credit the Collector in his quarterly account with the amount so paid.

II. *And be it further enacted by the authority aforesaid*, That such statement shall be a sufficient voucher for the Inspector General of this Province to credit the Collector paying the amount thereof with the sum so paid, in his quarterly account with the said Inspector General.

CHAP. XIII.

AN ACT to prohibit Banks from carrying on business in this Province that do not redeem their notes in specie within the same.

[Passed 19th January, 1824.]

[EXPIRED.]

CHAP. XIV.

AN ACT to repeal part of an Act passed in the forty-fourth year of His late Majesty's reign, intituled, "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;" and to provide more adequate remuneration for printing annually the Statutes of this Province.

[Passed 19th January, 1824.]

Preamble; 4th clause 4th Geo. III, Ch. 5th, repealed. 2. Persons employed to print the Laws of this Session may make out an account against the Government, which shall be paid and accounted for in the same manner as other accounts against Government; the printing of the Statutes hereafter provided for in the contingent charges of public service.

CHAP. XV.

AN ACT to continue for a limited time an Act passed in the second year of His Majesty's reign, intituled, "An Act to make provision for the improvement of the Internal Navigation of this Province," as amended by an Act passed in the third year of His Majesty's reign, intituled, "An Act to amend and extend the provisions of an Act passed in the second year of His Majesty's reign, intituled, "An Act to make provision for the improvement of the Internal Navigation of this Province," (except so much thereof as is thereby repealed) and to grant a further sum of money for such improvement.

[Passed 19th January, 1824.]

[TEMPORARY.]

CHAP. XVI.

AN ACT to amend and extend the provisions of an Act passed at the last Session of Parliament, intituled, "An Act to provide for constructing a Navigable Canal between Burlington Bay and Lake Ontario."

[Passed 19th January, 1824.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XVII.

AN ACT to incorporate certain persons therein mentioned, under the style and title of "The Welland Canal Company."

[Passed 19th January, 1824.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XVIII.

AN ACT to repeal part of, continue and amend, the Laws now in force imposing a Duty on Licences to Inn-keepers within this Province.

[Passed 19th January, 1824.]

Preamble.

WHEREAS an Act passed in the fifty-ninth year of His late Majesty's reign, intituled, "An Act to alter the laws now in force for granting licences to Inn-keepers, and to give to the Justices of the Peace, in General Quarter Sessions assembled, for their respective Districts, authority to regulate the duties hereafter to be paid on such licences;" and to continue for a limited time by an Act passed in the second year of His present Majesty's reign, intituled, "An Act to continue for a limited time a certain Act of the Parliament of this Province, passed in the fifty-ninth year of His late Majesty's reign, intituled, 'An Act to alter the laws now in force for granting licences to Inn-keepers, and to give to the Justices of the Peace, in General Quarter Sessions assembled, for their respective Districts, authority to regulate the duties hereafter to be paid on such licences,'" will shortly expire: *And whereas* it is expedient to continue the same, except such parts thereof as are hereby repealed, and further to amend 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 from and after the first day of March next, so much of the second clause of the said Act, passed in the fifty-ninth year of His late Majesty's reign, as relates to the adjournment of the General Quarter Sessions to the last Monday in December, and the third clause of the said Act, shall be and the same are hereby repealed; and that the Magistrates in General Quarter Sessions assembled, in each and every District in this Province, *at their meeting next preceding the fifth day of January, shall have power and authority to adjourn the General Quarter Sessions to the fifth day of January in each and every year, or if the same shall be on a Sunday, then to the Monday following, for the purpose of receiving applications and granting approvals to Inn-keepers, and for other purposes specified in the said Act.*

After 1st March 1824, 2d clause, 59th Geo. III, Ch. 2, as relates to the adjournment of General Quarter Sessions to last Monday in December; And 3d clause repealed;

Justices in Sessions at the preceding meeting, may adjourn until 5th January, or to the Monday after if 5th January be on Sunday, for the purposes of granting licences to Innkeepers. (See 3 Vic Chap. 20, Sec. 3.)

II. *And be it further enacted by the authority aforesaid, That the said first recited Act, except such parts thereof as are hereby repealed, shall continue and be in force for four years, and from thence to the end of the then next ensuing Session of Parliament.*

Continuance of 59th Geo. III, Chap. 2d. (See 3 Vic Chap. 25.)

CHAP. XIX.

AN ACT to continue and amend an Act passed in the fifty-eighth year of His late Majesty's reign, intituled, "An Act to continue the Laws now in force for granting an additional Duty on Shop Licences," and to require persons selling Spirituous Liquors by wholesale to take out a licence for that purpose.

[Passed 19th January, 1824.]

MOST GRACIOUS SOVEREIGN:

WHEREAS an Act passed in the fifty-eighth year of His late Majesty's reign, intituled, "An Act to continue the laws now in force for granting an additional duty on shop licences," will shortly expire: *And whereas* it is expedient to continue and amend 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

Preamble.

See 2 Wm. IV, Chap. 20.

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 recited Act shall continue and be in force for and during the continuance of this Act.

After 1st June, 1824, and 5th January in every other year, every shop-keeper, &c selling spirituous liquors by wholesale, and not having taken out a licence to retail, shall take out a licence and pay £5 for the same.

II. *And be it further enacted by the authority aforesaid,* That from and after the first day of June next, and from and after the fifth day of January in each and every ensuing year, there shall be taken out a licence by every merchant, shopkeeper, trader or dealer, who may sell or vend any wines, brandy, or other spirituous liquors by wholesale, that is to say, three gallons or upwards, and who has not taken out any licence to sell, vend and retail, wines, brandy or other spirituous liquors; for which licence there shall be paid at the time such licence shall be taken out, the sum of five pounds.

Wholesale licences to be issued the same as the retail.

II. *And be it further enacted by the authority aforesaid,* That the licences to wholesale dealers, as aforesaid, shall be issued in the like manner as licences are by law directed to be issued to retail dealers in wines, brandy and other spirituous liquors.

Wholesale persons selling without licence after 1st June, liable to the same penalties as persons selling by retail.

IV. *And be it further enacted by the authority aforesaid,* That any person or persons who shall sell or vend any wines, brandy or other spirituous liquors, by wholesale, after the first day of June next, without having first obtained a licence so to do as herein-before enacted, shall be subject to the like penalties as by law are imposed on any person or persons selling wines, brandy, or other spirituous liquors by retail, without a licence authorising such person or persons so to do; which penalties shall be levied, collected and appropriated, in the same manner as other penalties are by the provisions of this law ordered to be levied, collected and appropriated.

Such penalties how levied and accounted for.

V. *And whereas* doubts have been entertained whether under the existing laws any individual taking out a shop licence can, under the authority of such a licence, sell spirituous liquors by retail in more than one shop within the District, *Be it therefore further enacted and declared by the authority aforesaid,* That no shop licence to be hereafter taken out shall be considered to authorise the person taking out the same to retail spirituous liquors in more than one shop or place, any thing in any former law to the contrary thereof notwithstanding; and that in every application for a shop licence, after the passing of this Act, the premises or shop to which such licence is meant to extend shall be particularly specified, and the same shall also be inserted in the licence to be issued thereupon.

Persons taking out licence to retail, the same shall not sell in more than one shop;

The shop to which such licence shall extend, shall be particularly described therein.

If the shop be removed and the business wholly transferred, the same shall be considered as licenced.

VI. *And be it further enacted by the authority aforesaid,* That if it shall appear, upon any prosecution for selling liquor by retail without licence, that the shop which shall have been mentioned in any licence shall have been removed, and the business wholly transferred to any other place within the District, such shop being the same in respect of which the

complaint shall have been instituted, shall and may be considered as licenced, notwithstanding the provision herein before contained.

VII. *And be it further enacted by the authority aforesaid,* That nothing in this Act contained shall extend, or be construed to extend, to prohibit any person or persons from exposing to sale, and vending by wholesale, such liquors as they obtain from the distillation of grain raised upon their own farms; or to prohibit any person who shall have taken out, or who may hereafter take out a licence for the distillation of spirituous liquors, from selling such liquors by wholesale in his distillery only as he shall have distilled, without taking out the licence required by this Act.

The provisions of this Act not to extend to prohibit persons selling liquor distilled from grain raised on their own farms; Or distilleries.

VIII. *And be it further enacted by the authority aforesaid,* That the money to be raised and collected under this Act shall be paid unto His Majesty's Receiver General of this Province, for the time being, to and for the use of His Majesty, His Heirs and Successors, and to and for the uses of this Province; to 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.

Money raised under this Act to be paid to the Receiver General; How accounted for.

IX. *And be it further enacted by the authority aforesaid,* That this Act shall be and continue in force for and during the term of four years, and from thence to the end of the then next ensuing session of Parliament, and no longer.

Continuance of this Act. [See 58 Geo. III. Ch. 1.]

CHAP. XX.

AN ACT to alter the times of holding the Terms of Hilary and Michaelmas.

[Passed 19th January, 1824.]

[REPEALED BY 6 GEO. IV. CHAP. 1.]

CHAP. XXI.

AN ACT to repeal part of an Act passed in the last Session of Parliament, intituled, "An Act vesting in the hands of certain Commissioners therein named, all the Stock, Debts, Bonds and Property, of the pretended Bank of Upper Canada, lately established at Kingston, for the benefit of the Creditors of that Institution," and to make further provision for settling the affairs of the said pretended Bank.

[Passed 19th January, 1824.]

[REPEALED BY 10 GEO. IV. CH. 7.]

CHAP. XXII.

AN ACT to sanction and make valid an Agreement made at Montreal on the fifth day of August, one thousand eight hundred and twenty-three, by the Arbitrators appointed for Upper and Lower Canada, under the authority of an Act of the Parliament of Great Britain, passed in the third year of His Majesty's reign, intituled, "An Act to regulate the Trade of the Provinces of Lower and Upper Canada, and for other purposes relating to the said Provinces," for obtaining a survey of the River Saint Lawrence, and for the appointment of Commissioners for that purpose.

[Passed 19th January, 1824.]

[TEMPORARY.]

CHAP. XXIII.

AN ACT granting to His Majesty a sum of money to enable His Majesty to compensate the services of the Arbitrator appointed under the Act of the Imperial Parliament, passed in the third year of His Majesty's reign, intituled, "An Act to regulate the Trade of the Provinces of Lower and Upper Canada, and for other purposes relating to the said Provinces;" and also to compensate the Secretary who accompanied the said Arbitrator during the several negotiations in Lower Canada.

[Passed 19th January, 1824.]

[TEMPORARY.]

CHAP. XXIV.

AN ACT to authorise the Governor, Lieutenant Governor, or Person Administering the Government of this Province, to treat with the holder of any Government Debenture heretofore issued, for postponing the period of payment of the same; and to authorise the loan of a further sum, upon the security therein mentioned, to be applied towards the service of the present year.

[Passed 19th January, 1824.]

[SEE 5 WM. IV. CH. 31.]

Preamble; The Lieutenant Governor, &c. through the Receiver General, may treat with persons holding debentures under 2d Geo. IV. Ch. 5, for the postponement of payment; After notice given that the sum due on any debentures will be paid on such a day, if same not presented interest shall cease. 2 After the holders, &c. of any debenture have agreed to postpone the payment, no warrant shall issue until the time of postponement, unless the Governor, &c. shall think proper, notwithstanding 11th Sec. 2d Geo. IV. Ch. 5. 3. Governor, &c. may authorise Receiver General to raise a loan not exceeding £25,000. 4. Receiver General to make out debentures for the money so borrowed; Form of debenture, and how issued and made payable; Receiver General must sign debentures. 5. The interest and all charges thereon, how paid. 6. Debentures to pass current with all Receivers and Collectors; And with the Receiver General. 7. How interest on the same to be allowed; Where interest shall not be allowed. 8. How to ascertain that the interest of the same shall be suspended. 9. Capital felony to forge any debenture or indorsement, or to utter the same with intent to defraud. 10. Before each Session Receiver General shall transmit to the Governor, &c. accounts of debentures, &c. issued under this Act, that the same may be laid before the Legislature. 11. What time interest accruing on debentures shall be paid; Warrants to be issued therefor. 12. Remuneration to the Receiver General, and others. 13. Debentures when due to be paid and cancelled. 14. After debentures are due the Governor, &c. may give notice to the holders to present the same; If not presented within six months after notice, interest to cease. 15. How to be paid and accounted for.

CHAP. XXV.

AN ACT for granting to His Majesty a sum of money in aid of the funds for defraying the expenses of the Administration of Justice, and support of the Civil Government of this Province.

[Passed 19th January, 1824.]

[TEMPORARY.]

CHAP. XXVI.

AN ACT to make good certain monies advanced by His Majesty pursuant to the Address of the House of Assembly at the last Session of Parliament, to His Excellency the Lieutenant Governor.

[Passed 19th January, 1824.]

[TEMPORARY.]

CHAP. XXVII.

AN ACT to increase the Salary of the Assistant Adjutant General of Militia.

[Passed 19th January, 1824.]

MOST GRACIOUS SOVEREIGN :

Preamble.

WHEREAS it is expedient to increase the salary of the Assistant Adjutant General 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 the second clause of an Act passed in the last session of the present Parliament, intituled, " An Act to provide a salary for the Adjutant General of Militia in this Province, and for other purposes therein mentioned," as grants to His Majesty annually the sum of one hundred and fifty pounds, to provide a salary for an Assistant Adjutant General, be and the same is hereby repealed.

Such part of 2nd clause of Geo IV. Chap. 6, as relates to Assistant Adjutant General repealed.

£200 per annum granted to His Majesty for salary of Assistant Adjutant General.

II. *And be it further enacted by the authority aforesaid,* 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 public uses of this Province, there be granted annually to His Majesty, His Heirs and Successors, the sum of two hundred pounds, to provide a salary for the Assistant Adjutant General of this Province.

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, from time to time to issue his warrant or warrants to the Receiver General of this Province for the said sum of money, half yearly, 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, in such manner and form as His Majesty, His Heirs and Successors, shall be graciously pleased to direct.

How to be paid;
(See 2 Vic. Chap. 69.)
And accounted for.

CHAP. XXVIII.

AN ACT for the relief of James Carrol.

[Passed 19th January, 1824.]

Preamble; An annuity of £20 granted to James Carrol. 2. How to be paid and accounted for.

CHAP. XXIX.

AN ACT granting to His Majesty a sum of money for the purposes therein mentioned.

[Passed 19th January, 1824.]

[TEMPORARY.]

Preamble; £250 granted to His Majesty; How paid and accounted for. 2. How said sum shall be distributed and applied. 3. Commissioners to be appointed.

CHAP. XXX.

AN ACT to make more ample provision for regulating the Police of the Town of Kingston.

[Passed 19th January, 1824.]

[REPEALED BY 1 VIC. CHAP. 27.]

CHAP. XXXI.

AN ACT for the relief of Hiram Spafford.

[Passed 19th January, 1824.]

[TEMPORARY.]

Preamble; Hiram Spafford allowed to traverse within six months any inquisition whereby his real estate may be affected, upon giving security for costs.

CHAP. XXXII.

AN ACT to authorize the Justices of the Peace of the Midland District to Loan a further sum of money for the purposes therein mentioned.

[Passed 19th January, 1824.]

[TEMPORARY.]

Preamble; Justices of the Midland District authorized to raise a loan not exceeding £1000, in addition, for building a Gaol and Court House; Money so raised how appropriated and applied.

CHAP. XXXIII.

AN ACT to alter, amend and repeal, part of an Act passed in the fourth year of His Majesty's reign, intituled, "An Act to provide for the erection of a Gaol and Court House in and for the Home District."

[Passed 19th January, 1824.]

[TEMPORARY.]

Preamble; 2d clause 4 Geo. IV. Ch. 24, as regards the ninth clause 32 Geo. III. Ch. 8, repealed.

CHAP. XXXIV.

AN ACT to enable the Presbyterian Congregation of York to purchase one or more parcels of Ground sufficient for the erection of a Church and Burying Ground.

[Passed 19th January, 1824.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXV.

AN ACT to enable the Justices of the Peace of the District of Johnstown to erect a new Gaol and Court House, or repair the old one, and to erect new Bridges over Yonge and Irish Creeks.

[Passed 19th January, 1824.]

[TEMPORARY.]

Preamble; Magistrates of the District of Johnstown to procure plans of Gaol and Court House to be erected in said District, or the repair of the old one; And plans of Bridges to be erected, &c. 2. And may contract for the building or reparation of the same; After notice given in some newspaper in said District; Persons making proposals must give security. 3. Justices in Session allowed to levy an assessment; Not to exceed five years, and not more than one penny in the pound. 4. May raise a loan not exceeding £2,500 for purposes of this Act. 5. Not more than six per cent interest to be paid for said loan.

CHAP. XXXVI.

AN ACT for the relief of John Putman Clement.

[Passed 19th January, 1824.]

Preamble; John P. Clement allowed to traverse within six months any inquisition affecting certain land in Niagara. 2. If judgment be given for traverser, Commissioners under 59 Geo. III. Ch. 12, shall give a deed for the same; Which being registered in six months shall be valid; Nothing in this Act to hinder any assignee of, or purchaser, to recover the purchase money. 3. Commissioners to repay the original purchaser the purchase money with interest; How paid. 4. Traverser, if he succeed, may take possession of any buildings upon paying for them. 5. The said John P. Clement to give security for costs.

CHAP. XXXVII.

AN ACT to authorise James Miles to convey to Trustees a Lot of Land, for the purposes therein mentioned.

[Passed 19th January, 1824.]

[See Local and Private Acts, in 2nd Volume.]

STATUTES OF UPPER CANADA,

PASSED IN THE

FIRST SESSION OF THE NINTH PROVINCIAL PARLIAMENT OF UPPER CANADA :

MET AT YORK, ON THE THIRTEENTH DAY OF JANUARY, IN THE FIFTH YEAR OF THE
REIGN OF OUR SOVEREIGN LORD GEORGE THE FOURTH, AND PROROGUED ON
THE THIRTEENTH DAY OF APRIL FOLLOWING.

SIR PEREGRINE MAITLAND, K. C. B.
LIEUTENANT GOVERNOR.

ANNO DOMINI 1825.

CHAP I.

*AN ACT to remove certain doubts with respect to the commencement of the
Terms of Michaelmas in the last year, and of Hilary in this present year,
and to appoint the periods for holding the several Law Terms.*

[Passed 17th January, 1825.]

[REPEALED BY 7 WM. IV. CHAP. 1.]

CHAP. II.

*AN ACT to repeal part of and extend the provisions of an Act passed in the
fourth year of His present Majesty's reign, intituled "An Act to
incorporate certain persons therein mentioned, under the style and title
of the Welland Canal Company."*

[Passed 13th April, 1825.]

[See Local and Private Acts, in 2nd Volume.]

CHAP.

CHAP. III.

AN ACT to make good certain monies advanced by His Majesty, pursuant to the Address of the House of Assembly at the last Session of Parliament, to His Excellency the Lieutenant Governor.

[Passed 13th April, 1825.]

[TEMPORARY.]

CHAP. IV.

AN ACT to authorise the Justices of the Home District to raise a further sum by loan, to be applied in completing a Gaol and Court House for the said District.

[Passed 13th April, 1825.]

Preamble; Justices of the Peace for the Home District may direct the Treasurer to loan £2000 to be applied towards the erection of a Gaol and Court House. 2. A sum not less than £150 to be applied annually towards the liquidation of the said Loan.

CHAP. V.

AN ACT to provide for ascertaining and establishing the division line between the Townships of Ancaster and Flamborough West, in the District of Gore.

[Passed 13th April, 1825.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. VI.

AN ACT for the better regulating the assize and fixing the price of Bread in the several Police Towns throughout this Province.

[Passed 13th April, 1825.]

WHEREAS it is necessary to make more effectual provision for regulating the assize and fixing the price of bread in the several towns throughout this Province, and more particularly to define the same; *Be it*

Preamble;
(See 1 Vic. Chap. 27;
& 4 Wm. IV. Chap. 23;
and the several Acts
respecting Police in
towns.)

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 such of His Majesty's Justices of the Peace residing within the limits of any town in this Province, where a Police is now or hereafter may be established, or residing within the limits of the division constituted, for the time being, for holding a Court of Requests in said town or towns, to assemble on the first and third Saturday in each month, at the Court House, in each and every of the said towns, respectively; and two of the said Justices being then and there present, are hereby authorised and required to assize and fix the price of bread; and if more than two of the said Justices being then and there present, the majority shall fix and determine the same for each ensuing intermediate period; or if any default shall be made by reason of the non-attendance of the said Justices, or in case no change, alteration or modification, be found necessary, then the last assize made shall continue to be in full force and effect, until the same shall be varied and changed by a new assize, in manner above mentioned.

Justices of the Peace to meet on the first and third Saturday in each month:

And fix the price of bread until the next half monthly meeting;

If no meeting held former assize to continue.

Clerks of the Market to keep a daily account of the prices of flour sold in the Market, and exhibit the same upon oath to any two Justices.

II. *And be it further enacted by the authority aforesaid,* That the Clerk of the Market in each and every Police town in this Province, is hereby required to keep a just and fair statement, in a book to be kept by him for that purpose, of the daily price or prices of flour exposed and offered for sale in such market whereof he is appointed Clerk, and exhibit the same to any two of His Majesty's said Justices of the Peace, for the town or towns aforesaid, and make oath of the correctness of the same if required.

The assized statement of the price of flour for the fourteen days previous shall be the guide for the Justices in assizing the price of bread.

III. *And be it further enacted by the authority aforesaid,* That the aforesaid statement of the average price of flour for the fourteen days previous, so exhibited, shall be the rule and guide for the said Justices of the Peace to assize and fix the price of bread for the ensuing fourteen days, due regard being had to the existing price of flour, fuel and labour, in each of the said towns.

Within twenty-four hours after the assize is established, Clerk of the Market shall affix a notice thereof on the Market House.

IV. *And be it further enacted by the authority aforesaid,* That within twenty-four hours after such Justices of the Peace shall have so assized and fixed the price of bread, the Clerk of the Market shall affix a notice thereof in some conspicuous place on the market house in such Police town or towns, as aforesaid.

V. *And be it further enacted by the authority aforesaid,* That each and every baker who shall wilfully and negligently disobey or refuse to conform to such assize and price so fixed, as aforesaid, shall be liable to a fine of ten shillings for each and every offence so committed, upon conviction thereof before any two or more of His Majesty's Justices of the Peace, upon the oath of one or more credible witness or witnesses, to be levied by warrant of distress and sale, under the hands and seals of such Justices of the Peace, of the goods and chattels of such offender or offenders.

Penalty for disobeying the assize;

Mode of conviction.

VI. *And be it further enacted by the authority aforesaid,* That all fines imposed and collected under the authority of this Act, shall be applied by the Justices of the Peace in the same manner as the funds collected for Police purposes within the town or towns in which the said offence or offences shall be so committed.

Application of fines.

(See 1 Vic. Chap. 27.)

CHAP. VII.

AN ACT to amend and make permanent a certain Act of the Parliament of this Province, passed in the fifty-ninth year of the reign of His late Majesty King George the Third, intituled, "An Act to repeal the several Laws now in force relative to levying and collecting Rates and Assessments in this Province, and further to provide for the more equal and general Assessment of lands and other ratable property throughout this Province," and to render more effectual the several Laws of this Province imposing Rates and Assessments, by providing, under certain restrictions, for the levying such Rates and Assessments, by the sale of a portion of the lands on which the same are charged.

[The Royal assent to this Bill was promulgated by Proclamation, under the Great Seal of the Province, bearing date the fourth day of April, 1825.]

WHEREAS it is expedient to make perpetual a certain Act of the Parliament of this Province, passed in the fifty-ninth year of His late Majesty's reign, intituled, "An Act to repeal the several laws now in force relative to levying and collecting rates and assessments in this Province, and further to provide for the more equal and general assessment of lands and other ratable property throughout this Province," except such parts thereof as are hereby repealed, and to render more certain the due collection of such rates and assessments as are imposed upon lands in this Province, by providing for levying, under certain restrictions, the assessments which may remain in arrear, by the sale of a portion of the lands on which the same may be charged: *Be it enacted*

Preamble.

[See 59 Geo. III. Sec. 2
Chap. 7;
9 Geo. IV. Ch. 3;
7 Wm. IV. Ch. 19;
3 Vic. Chap. 46, Sec. 6.]

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 twenty-third section of the said first recited Act shall be and the same is hereby repealed.

To Geo. 3d, Sess. 2, Ch. 7,
Sec. 23. repealed.

Owners of townships to
make returns of the sur-
veyed parts thereof.

II. *And be it further enacted by the authority aforesaid,* That the grantee, owner or occupier, of any township, block or parcel of land, or any parcel thereof, which shall not have been surveyed by or under the authority of the Surveyor General of this Province, shall, on or before the first day of July next, cause to be returned to the Treasurer of the District in which such land lies, a schedule of such land, or so much thereof as has been actually surveyed, and of which he is the owner or occupier, designating the same by numbers and concessions, or otherwise, according to such actual survey, or according to any plan or map thereof.

Penalty for neglect or
refusal.

III. *And be it further enacted by the authority aforesaid,* That if the owner or owners, occupier or occupiers of any such lands, as aforesaid, shall refuse or neglect to make or cause to be made such return, as aforesaid, on or before the said first day of July next, he, she or they, shall forfeit and pay for such refusal or neglect a sum equal to double the amount of the assessments and rates imposed by the several laws of this Province, upon the number of acres owned or occupied, as aforesaid; and for every year thereafter, until such return shall be made as is herein required, the owner or owners, occupier or occupiers of such land, shall in like manner forfeit for such neglect or refusal double the amount of such assessments and rates, as aforesaid, in proportion to the land so owned or occupied by him, her or them.

Mode of recovering penal-
ties.

IV. *And be it further enacted by the authority aforesaid,* That the several penalties or forfeitures mentioned in the last preceding section of this Act, may be recovered upon information and complaint before any three of His Majesty's Justices of the Peace for the District in which the lands lie, and shall be levied by warrant signed by any two of the Justices who shall have heard such complaint, by distress and sale of the goods and chattels of any person or persons refusing or neglecting, as aforesaid; and that the said penalties shall be distributed as follows, that is to say: one half thereof to the informer; and the remainder shall be paid to the Treasurer of the District, to be appropriated in like manner as the assessments levied for the general use of such District.

Distribution of penalties.

V. *And be it further enacted by the authority aforesaid,* That whenever any schedule of any township, reputed township, block or tract

of land, not surveyed under the authority of the Surveyor General of this Province, shall be returned by the owner or occupier thereof under the provisions of this Act, the Treasurer of the District receiving such return shall forthwith make an entry of the same in his books, and the same shall be chargeable with assessments from the time of such return, in like manner as if returns thereof had been made by the Surveyor General of this Province; and all and every the provisions of the several Acts of this Province, relative to the collection of rates and assessments, and penalties for non-payment of the same, and all the provisions of this Act relative to the levying rates and assessments in arrear, shall apply in like manner to such lands so returned.

Returns to be entered by the several Treasurers, and the lands so returned to be chargeable with assessments, and provisions for the due collection thereof, as other lands returned by the Surveyor General.

VI. [Repealed by 9 Geo. IV. Chap. 3.]

VII. *And be it further enacted by the authority aforesaid, That upon such accounts, so to be made and rendered by the several Treasurers, it shall be the duty of the Clerk of the Peace in each District, and he is hereby required to make out a writ for the levying of the assessments appearing to be due in each township, reputed townships or places, specifying in such writ the particular lot or parcel of land, and the amount due thereon, which may be in the form given in the Schedule to this Act annexed, marked A, and may be signed and sealed by the said Clerk of the Peace, as by order of the Court of General Quarter Sessions, either during or after the sitting of the said Court; and shall be directed to the Sheriff of each District, respectively, directing him to levy the amount therein stated to be due, together with the fees hereinafter mentioned, by sale of such portion of the lands and tenements on which the assessments are respectively chargeable, as may be sufficient for that purpose, provided there be no distress upon the said lands from whence the same may be made, and if there be such distress, then to levy the same by sale of such distress.*

Treasurers of Districts to report to the Quarter Sessions all lands upon which the assessments shall be eight years in arrear, after 1st July 1823.

Clerks of the Peace to make out writs for the levying the assessments in arrear; by sale of a portion of the lands upon which the assessments are chargeable, if no distress be found thereon.

(See 7 Wm. IV. Chap. 19, Sec. 2.)

VIII. *And be it further enacted by the authority aforesaid, That the said writs shall be returnable at the third Quarter Sessions which shall ensue after issuing the same, and that the Sheriff shall be directed by the said writs to have the monies which he shall levy upon the same, at the said Court; and that the payment of the same to the Treasurer of the District, respectively, shall be sufficient to discharge such Sheriff.*

Writs when returnable;

Monies levied to be paid to Treasurers.

IX. *And be it further enacted by the authority aforesaid, That the Treasurer of each and every District in this Province, shall cause to be inserted in the Upper Canada Gazette, and also in some public newspaper of such District, respectively, a list of all the lots or parcels of land which shall be returned by him in his accounts under this Act as liable to sale for arrears of assessments, within one month after the rendering of his said account; and shall charge the expense attending the same in his accounts with the District; and if there be no newspaper published within any District of this Province in which the said lands shall be situ-*

Lands liable to sale, to be advertised.

Expense of Advertising to be paid by the Districts;

If no Newspaper, notices to be published in the Township where land lies;

Fees.

After receipt of writ, Sheriff to advertise lands in Gazette and other Newspapers; [See 7 Wm. IV. Chap. 19, Sec. 1.]

If no Newspaper in District where lands lie, notice to be put up on the door of the Court House.

No sale of lands until writ has been 6 months in the Sheriff's hands, nor out of the Township, unless inhabitants too few.

Manner of the Sale and terms thereof; (See 7 Wm. IV. Chap. 19, Sec. 2.)

How lands for Sale to be apportioned; (See 7 Wm. IV. Chap. 19, Secs. 2; 5.)

ate, then the said Treasurer shall cause a list of the several lots or parcels of land liable to sale, as aforesaid, in each township, reputed township or place, to be affixed in some conspicuous place in the said township, within one month from giving in his said account, and shall charge for each list so affixed the sum of five shillings, and no more.

X. *And be it further enacted by the authority aforesaid,* That every Sheriff shall, within one month after the receipt of any writ to him directed under this Act, insert a notice in the Upper Canada Gazette, and also in all the printed newspapers of his District, or if there be no newspaper published within his District, shall affix a notice in writing upon the door of the Court House, or place where the Courts of General Quarter Sessions of the Peace are usually holden, of the time and place in which he will attend to sell such portion of the lands on which assessments are to be levied in the several townships, reputed townships or places, as shall be sufficient to discharge the same; and that he shall also cause to be affixed in two or more places in each and every inhabited township, reputed township or place, a notice of the time and place of sale of the land under this Act, within such township, reputed township or place.

XI. *And be it further enacted by the authority aforesaid,* That no sale of lands under this Act shall take place in less than six months from the time of delivering the writ to the Sheriff, nor shall be made out of the township, reputed township or place, in which the lands lie, unless the same shall be so thinly inhabited as to have no meetings held within it for the election of Parish Officers; in which case the sale shall be in the township to which the same may be annexed for the purpose of holding its annual town meeting.

XII. *And be it further enacted by the authority aforesaid,* That the mode of selling the said lands shall be by public auction as follows, that is to say: *the amount of assessments in arrear upon the said lands, respectively, shall be declared; and also the expenses attending the said writ, as the same are hereinafter established, and the person who shall offer to pay the said assessments and expenses for the least quantity or portion of the said lands on which they are charged, shall be considered the purchaser thereof.*

XIII. *And be it further enacted by the authority aforesaid,* That the Sheriff shall expose to sale upon such writ as aforesaid, the several lots or parcels of land therein mentioned, in the following manner, that is to say: *he shall begin at the front angle on that side from whence the lots are numbered, and measure backward, taking a proportion of the width corresponding in quantity with the proportion of such particular lot in regard to its length and breadth, according to the quantity required to make the sum demanded; and at every subsequent sale of a portion of the same lot or parcel of land under this Act, shall proceed to take a tract of equal width as the former, measuring backward from the limit of the tract last sold.*

XIV. *And be it further enacted by the authority aforesaid,* That in every case in which, from the position or the description of the tract, the mode last mentioned cannot be pursued then it shall be in the discretion of the Sheriff to expose to sale such portion of the lot or parcel of land as shall appear to him most for the interest of the proprietor thereof.

Discretionary power vested in the Sheriff to alter the mode of Sale; (See 7 Wm. IV. Chap. 19, Sec 2.)

XV. *Provided always, nevertheless, and be it further enacted by the authority aforesaid,* That nothing in this Act contained shall extend to authorise the sale of any greater or other interest in the reserved lands of the Crown or Clergy, held in lease, for payment of arrears of assessments, than is possessed by such lessee or his assignee.

No greater interest in the Crown and Clergy is to be sold than is possessed by the lessees.

XVI. *And be it further enacted by the authority aforesaid,* That it shall be in the power of the Sheriff to adjourn such sale from day to day at his discretion, giving public notice thereof; and that if any purchaser shall not pay the amount declared on the day of sale, it shall be in the power of the Sheriff to re-sell the same on any other day to which the sale of such lands shall be adjourned.

Sheriff may adjourn sales; (See 7 Wm. IV. Chap. 19, Sec. 2; 3 Vic. Chap. 46, sec 6.) Sheriff may re-sell lands not paid for.

XVII. *And be it further enacted by the authority aforesaid,* That on payment by any purchaser under this Act, of the sum declared to be demanded in respect of any lot or parcel of land, the Sheriff shall give him a certificate under his hand specifying the particulars of such sale, and the purchaser may forthwith go into possession of the parcel of land bid off to him, as aforesaid; but if within twelve calendar months from the time of such sale the proprietor of the lot, or any one on his behalf, shall pay to the Treasurer of the District the amount levied by sale of a portion of the same, and the expense of such levy, together with twenty per cent in addition to the same, then he shall be entitled to resume possession of the parcel of land so sold, and the Treasurer shall, on demand, pay to the purchaser thereof, his executors, administrators or assigns, the whole amount so paid to him, and the right required by such purchase shall thenceforth wholly cease and determine.

Purchasers to be let into possession on payment of assessments due;

Owners may resume their lands within twelve months after sale, upon re-payment of taxes, costs and 20 per cent. in addition, to the purchaser.

XVIII. *And be it further enacted by the authority aforesaid,* That if at the expiration of twelve calendar months from the time of such sale, the land so sold shall not be redeemed, as aforesaid, then the Sheriff, for the time being, shall on demand by the purchaser or purchasers, his heirs or assigns, execute a conveyance to him or them, in fee simple, of the parcel of land so sold by public auction under the provisions of this Act; which conveyance may be according to the form given in Schedule to this Act annexed marked B, or as near thereto as may be, and shall be executed by the said Sheriff free of any charge to the party.

If land not redeemed within twelve months Sheriff to complete the sale.

XIX. *And be it further enacted by the authority aforesaid,* That before the Sheriff shall deliver to a purchaser any conveyance of lands sold under the provisions of this Act, he shall deliver to the Register of the County in which such lands are situated a certificate of such sale under his hand and seal of office, stating the name of the purchaser, the sum

Sheriff's certificate may be registered in lieu of a memorial of conveyance.

paid, the number of acres sold, the lot or tract of which the same form part, and the date of such conveyance, and may comprise in any one certificate a schedule of all or any number of such conveyances; which certificate shall be to such Register a sufficient authority, in place of a memorial, to record such conveyance or conveyances respectively.

Registers to enter a transcript of conveyances on record, and grant a certificate thereof, which shall be deemed a sufficient registry;

Fees to Register.

XX. *And be it further enacted by the authority aforesaid,* That the Register of any County, having received from the Sheriff such certificate as above mentioned, shall on production of any conveyance made under the authority of this Act, enter on record a transcript of such conveyance, which shall be deemed to be a sufficient registry thereof; and for such registry, and the certificate thereof in the usual form, the Register shall be entitled to receive of the party, the sum of two shillings and six pence, and no more.

Treasurers neglecting to make returns shall, on conviction, forfeit their office; and Justices may appoint another Treasurer, and upon neglect of the Justices, the Governor may appoint one during pleasure.

(See 4 & 5 Vic. Chap. 10.)

XXI. *And be it further enacted by the authority aforesaid,* That if any Treasurer shall delay to make the returns or accounts required of him by this Act, for two Courts of General Quarter Sessions of the Peace, after that in which the same ought by this Act to be presented, he shall by such neglect, on conviction thereof at the Assizes, forfeit his office; and the Justices of such District shall forthwith appoint another Treasurer in his room according to law; and if the Justices shall neglect to make such appointment, then it shall be lawful for the Governor, Lieutenant Governor, or Person Administering the Government of this Province, to appoint another in his room during pleasure, taking such security to His Majesty, for the due performance of the said office, as to the said Governor, Lieutenant Governor, or Person Administering the Government shall seem just.

Sales not to be avoided for neglect of officers adhering to the mode and forms hereby established, but officers to answer the party grieved.

XXII. *And be it further enacted by the authority aforesaid,* That no omission of any direction contained in this Act, relative to notices or forms of proceeding, previous to any sale made under this Act, shall extend to render such sale invalid; but the person guilty of any such omission or neglect shall be liable to punishment therefor, and shall answer to the party for any damages occasioned thereby, in any legal proceeding that may be properly instituted for that purpose.

Monies collected how to be accounted for.

XXIII. *And be it further enacted by the authority aforesaid,* That the monies received by the Sheriffs of the several Districts under this Act, shall be by them paid to the Treasurer of their respective Districts, and shall be appropriated and applied in the same manner as the monies collected under the said Act, passed in the fifty-ninth year of His late Majesty's reign.

Fees to the Treasurers.

XXIV. *And be it further enacted by the authority aforesaid,* That the Treasurer of each District, shall be entitled to receive the sum of five pounds in account with the District, for every account furnished under this Act, and may deduct the same sum to his own use out of monies

paid into his hands under this Act, as out of other assessments by the laws now in force.

XXV. *And be it further enacted by the authority aforesaid,* That the Clerk of the Peace in every District shall receive for each writ, which he shall make out for the several townships in his District under this Act, the sum of ten shillings. Fees to the Clerk of the Peace.

XXVI. *And be it further enacted by the authority aforesaid,* That the Sheriff of each District, shall and may charge the sum of seven shillings and six pence upon every sale for his fees of sale, and shall levy the same in addition to the sum mentioned in his writ; and that he may retain out of all monies, to be paid over by him under this Act, the sum of three pounds for every hundred pounds. And Sheriff.

XXVII. *And be it further enacted by the authority aforesaid,* That the Treasurer in each and every District of this Province shall, and he is hereby required to give to any person paying assessments upon lands, who shall require the same, a receipt specifying the amount of payment and the particular lot, portion of a lot, or other parcel of land, in respect of which the same is paid. Treasurers to give receipts to persons paying taxes.

XXVIII. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, the twenty-fourth section of the said Act of the Parliament of this Province, passed in the fifty-ninth year of His late Majesty's reign, shall be and the same is hereby repealed, and that the assessments and rates by the said Act imposed, may be according to the form hereunto subjoined. 59 Geo. III, Ch. 7, Sec. 24, repealed. [See 4 & 5 Vic Chap 42.]

A.

District } To the Sheriff of the District of ———.
of ——— }

WHEREAS by the account rendered by the Treasurer of the said District of ———, to the Justices of the Peace for the said District, in General Quarter Sessions assembled, according to the Act of Parliament of this Province, passed in the fourth year of the reign of His Majesty King George the Fourth, intituled, [here insert the title to this Act] it appears that the assessments, or some part thereof, which are imposed upon lands by the several Statutes of this Province, have been suffered to remain in arrear beyond the space of eight years, upon the lots or parcels of land hereinafter mentioned, and that the said lots or parcels of land stand respectively charged with the sums herein set forth, that is to say, [here state the lots or parcels of land, with the sum charged against the same in the Treasurer's accounts, so remaining in arrear up to the expiration of the last year before such account was rendered.] These are therefore, in His Majesty's name, to command you to levy the several sums of money herein mentioned, by sale of such portion of the lands on which the said assessments are respectively charged as may be sufficient for that purpose, together with the fees allowed by the said Act, passed in the fourth year of the reign of King George the Fourth, to be levied on this writ, duly observing the directions of the said last mentioned Act in respect of such sale; provided there be no distress upon the said lands respectively, from which the said several sums or either of them may be made. And if there be such distress then that you levy the same by such distress, together with such fees as aforesaid, rendering the overplus, if any there be, to the owner thereof. And whatever monies you shall levy by virtue of this writ, have before the Court of General Quarter Sessions of the Peace in and for the said ——— District, which shall begin and be holden on the ——— day of ——— next, together with this writ.

Form of writ to sell.
[See 7 Wm. IV. Chap 19, Sec 2.]

B.

THESE are to witness, that in consideration of the sum of ———, paid to me by A. B. of ———, being the purchaser at public auction of the parcel or tract of land hereinafter mentioned, sold to pay assessments under a writ to me directed, according to the law in that behalf, I, C. D. Sheriff of the District of ———, do by these presents, grant, bargain and sell, unto the said A. B. his heirs and assigns, [describe the parcel of land sold,] to have and to hold the premises hereby bargained and sold, and all benefit and advantage thereto belonging, unto and to the use of the said A. B. his heirs and assigns, forever.—In witness whereof, I have hereto set my hand and seal of office, this ——— day of ———, in the year of our Lord ———.

Form of Sheriff's deed.

Commons House of Assembly, } LEVIUS P. SHERWOOD, *Speaker*.
1st January, 1824. }
Legislative Council, } WM. DUMMER POWELL, *Speaker*.
14th January, 1824. }

STATUTES OF UPPER CANADA,

PASSED IN THE

SECOND SESSION OF THE NINTH PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT YORK, ON THE SEVENTH DAY OF NOVEMBER, IN THE SIXTH YEAR OF THE
REIGN OF OUR SOVEREIGN LORD GEORGE THE FOURTH, AND PROROGUED ON
THE THIRTIETH DAY OF JANUARY FOLLOWING.

SIR PEREGRINE MAITLAND, K. C. B.
LIEUTENANT GOVERNOR.

ANNO DOMINI 1826.

CHAP I.

*AN ACT granting to His Majesty a sum of money for the relief of the
sufferers in New Brunswick by the late fire.*

[Passed 12th December, 1825.]

[TEMPORARY.]

Preamble: £1000 granted to relieve the sufferers in New Brunswick by the late fires, to be transmitted
to the Governor of that Province. 2. How the said sum shall be paid and accounted for.

CHAP. II.

*AN ACT to prevent the operation in this Province of an Act of Parliament
made in England in the twenty-first year of the reign of His late Majesty
King James the First, intituled, "An Act to prevent the destroying and
murdering of Bastard Children," and to make other provisions in lieu
thereof.*

[Passed 30th January, 1826.]

[DISALLOWED BY PROCLAMATION.—SEE 2 WM. IV. CH. I.]

CHAP.

CHAP. III.

AN ACT to dispense with the necessity of actually pronouncing sentence of death in certain cases of capital convictions.

[Passed 30th January, 1826.]

WHEREAS it is expedient to dispense in certain cases with the actual pronouncing of sentence of death upon prisoners capitally convicted, and to allow of the same sentence being entered of record in open Court to have the like effect as if the same had been actually pronounced: *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 whenever any person shall be convicted of any felony, except murder, and shall by law be excluded from the benefit of clergy in respect thereof, and the Court before which such offender shall be convicted shall be of opinion, that under the particular circumstances of the case such offender is a fit and proper subject to be recommended to the royal mercy, it shall and may be lawful for such Court, if it shall think fit so to do, to direct the proper officer, then being present in Court, to require and ask if such offender hath or knoweth any thing to say why judgment of death should not be recorded against such offender, and in case such offender shall not allege any matter or thing sufficient in law to bar or arrest such judgment, the Court shall and may, and is hereby authorised to abstain from pronouncing judgment of death upon such offender, and instead of pronouncing such judgment to order the same to be entered of record; and thereupon such officer, as aforesaid, shall and may and is hereby authorised to enter judgment of death on record against such offender in the usual and accustomed forms, and in such and the same manner as is now used, and as if judgment of death had actually been pronounced in open Court against such offender.

Preamble.

(See 4 & 5 Vic Chap 24, Secs 33 & 34.)

The sentence in certain cases of capital conviction, may be entered of record, instead of being actually pronounced.

II. *And be it further enacted by the authority aforesaid,* That a record of every such judgment, so entered as aforesaid, shall have the like effect to all intents and purposes, and be followed by all the same consequences as if such judgment had actually been pronounced in open Court, and the offender had been reprieved by the Court.

Effect of sentence so recorded.

CHAP. IV.

AN ACT to repeal part of an Act passed in the thirty-sixth year of His late Majesty's reign, intituled, "An Act for the better regulation of certain coins current in this Province," and to make further provision for the regulation of the British silver and copper coinage current in this Province.

[Passed 30th January, 1826.]

[REPEALED BY 6 WILLIAM IV. CHAP. 27.]

CHAP. V.

AN ACT to encourage the progress of useful arts within this Province.

[Passed 30th January, 1826.]

Preamble.

WHEREAS it is expedient for the encouragement of genius and of arts in this Province, to secure an exclusive right to the inventor of any new and useful art, machine, manufacture or composition of matter: *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 when any Subject of His Majesty, being an inhabitant of this Province, shall allege that he has invented any new and useful art, machine, manufacture or composition of matter, not known or used before the application, and shall present a petition to the Governor, Lieutenant Governor, or Person Administering the Government of the Province, for the time being, signifying a desire of obtaining an exclusive property in the same, and praying that a Patent may be granted, therefore, it shall and may be lawful for the Governor, Lieutenant Governor, or Person Administering the Government of this Province, for the time being, to direct that Letters Patent shall be made out under the Great Seal of this Province, and passed in the usual form, reciting the substance of the said petition, and giving a short description of the said invention or discovery, and granting therefore to the said petitioner or petitioners, his, her or their, executors, administrators or assigns, for a term not exceeding fourteen years, the full and exclusive right and liberty of making,

Inventor of any useful art,
 &c. may procure a Patent
 Right for the same :

How to be applied for.

constructing, using, vending to others to be used, the said invention or discovery; which Letters Patent, so far as the same may be conformable to this Act, shall be good and available to the grantee or grantees, after the same shall have been recorded in a book to be kept for that purpose in the office of the Secretary and Register of this Province, and the same shall, when so recorded, be delivered by the proper officer to the Patentee, or his order.

II. *Provided always, and be it further enacted by the authority aforesaid,*

That any person who shall have discovered an improvement in the principle of any machine, or composition of matter, which shall have been Patented, and shall have obtained a Patent for such improvement, shall not be at liberty to make, use or vend the original discovery, but the improvement only, nor shall the first inventor be at liberty to use the improvement; and it is hereby enacted and declared, that simply changing the form or the proportion of any machine or composition in any degree, shall not be deemed a discovery.

Inventors of improvements upon original discoveries, to obtain Patents for such improvements only.

III. *And be it further enacted by the authority aforesaid,* That every

inventor before he can receive a Patent, shall swear, or being a Quaker, Menonist, Tunker, or belonging to the Society called United Brethren, or Moravians, affirm that he does verily believe that he is the true inventor or discoverer of the art, machine or improvement, for which he solicits a Patent, (which oath or affirmation may be made before any Justice of the Peace,) and shall deliver a written description of his invention or improvement, and of the manner or process of compounding the same, in such full, clear and exact terms, as to distinguish the same from all other things before known, and to make any person skilled in the art or science, of which it is a branch, or with which it is most clearly connected, to make, compound and use the same; and in the case of any machine, he shall fully explain the principle, and the several modes in which he has contemplated the application of that principle or character by which it may be distinguished from other inventions, and he shall accompany the whole with drawings and written references, where the nature of the case admits of drawings, or with the specimens of the ingredients, or of the composition of matters, sufficient in quantity for the purpose of experiment, which description, signed by himself and attested by two witnesses, shall be filed in the office of the Secretary of the Province, and certified copies thereof shall be competent evidence in all Courts where any matter or thing touching Patent Right shall come in question: *Provided* always, nevertheless, that such inventor shall moreover deliver a model of the machine by him invented, provided the Secretary shall deem such model to be necessary.

Requisite steps to be taken before such Patent shall issue;

Oath;

Specification to be filed; and certified copy to be endorsed;

Model of machinery.

IV. *And be it further enacted by the authority aforesaid,* That it shall

be lawful for any inventor, his executors or administrators, by an instrument under seal, duly executed, to assign the title and interest in the said invention at any time, and the assignee or assignees, and his or their

Patentee may assign his right.

assignee or assignees, after any number of such assignments subsequently made, which assignments shall be inserted of record in the office of the said Secretary of the Province, upon proof of the execution thereof by affidavit, made by a subscribing witness before any Judge of the Court of King's Bench, or a Commissioner for taking affidavits in the said Court, shall stand and be to all intents and purposes in the place of the original Patentee of any such invention.

Remedy for infringement of Patent.

V. *And be it further enacted by the authority aforesaid,* That if any person shall make or manufacture for sale any article or composition so invented, or shall make or manufacture, or make use of any instrument or machinery so invented or specified, the exclusive right of which shall, as aforesaid, have been secured to any person by Patent, without the consent of the Patentee, his heirs and assigns, or other lawful representative first obtained in writing, every person so infringing such Patent shall be liable to an action for the same, in which, besides such damages as shall be awarded by the Jury, the parties injured shall also receive treble costs, to be taxed by the master.

Defence which may be urged in any action for infringing a Patent Right.

VI. *Provided always, and be it further enacted by the authority aforesaid,* That if upon trial in any such action it shall be made apparent to the satisfaction of the Court, the defendant having specially pleaded the same, that the specification filed by the plaintiff does not contain the whole truth relative to his discovery, or that it contains more than is necessary to produce the described effect, which concealment or addition shall fully appear to have been made for the purpose of deceiving the public, or that the thing thus secured by Patent was not originally discovered by the Patentee, but had been in use, or had been described in some public work anterior to the supposed discovery of the patentee, or that he had surreptitiously obtained a Patent for the discovery of another person, then in either of these cases a verdict shall be rendered for the defendant, and such Patent shall be declared void.

Interfering applications for Patents, how decided.

VII. *And be it further enacted by the authority aforesaid,* That in case of interfering applications, the same shall be submitted to the arbitration of three persons, one of which shall be chosen by each of the applicants, and the third person shall be chosen by the said Secretary of the Province, or person appointed to do the duty of that office; and the decision or award of such arbitrators, delivered to the said Secretary in writing, and subscribed by them, or any two of them, shall be final, as far as respects the granting of the Patent; and if either of the applicants shall refuse or fail to choose an arbitrator, the Patent shall issue to the opposite party; and when there shall be more than two interfering applications, and parties applying shall not all unite in appointing three arbitrators, it shall be in the power of the said Secretary of the Province, or person appointed to do the duty of that office, to appoint three arbitrators for that purpose.

VIII. *And whereas* it is necessary to provide a convenient remedy in cases where Letters Patent, issued under the authority of this Act, have been fraudulently or surreptitiously obtained, or have issued improvidently, or upon false suggestion; *Be it therefore further enacted by the authority aforesaid*, That at any time within three years after the issuing of any such Patent, as aforesaid, it shall and may be lawful for any person or persons desirous of impeaching the same for any such cause, as aforesaid, to obtain an exemplification of such Patent under the Great Seal of this Province, and to have the same filed by the Clerk of the Crown and Pleas in this Province, and that upon such exemplification being so filed, the Letters Patent so exemplified shall be considered as remaining of record in the Court of King's Bench, so that a writ of scire facias, under the seal of the said Court may issue, grounded upon the said record, for the purpose of repealing the same for legal cause as aforesaid, if upon the proceedings which shall be had upon the said writ of scire facias, according to the law and practice of the Court of King's Bench in England, the same shall be declared void.

How Patents obtained fraudulently or by surprise, may be vacated. (See 7 Wm. IV. Ch. 2, Sec. 2.)

IX. *And be it further enacted by the authority aforesaid*, That a certificate of the judgment by which any such Patent as aforesaid shall have been declared void, under the seal of the Court of King's Bench, shall at the request of any party be entered upon the margin of the enrolment of such Patent, in the office of the Secretary and Register of this Province, whereupon the said Patent shall be considered to be cancelled and made void.

Entry of repeal to be made on the margin of the enrolment.

X. *And be it further enacted by the authority aforesaid*, That every person claiming to be an inventor as aforesaid, and presenting a petition signifying his desire to obtain a Patent, pursuant to this Act, shall pay into the hands of the Secretary of the Province, or other person appointed to do the duty of that office, the like fee as is paid for other special instruments issued under the Great Seal of this Province, in full of all fees demandable for the said Patent; and that for every copy which may be required of the enrolment of any such Patent, the person requiring the same shall pay the fee ordinarily charged for copies in the said office, and the further sum of ten shillings for the affixing the Great Seal to the exemplification of any such Patent; and that for every such certificate of judgment as is hereinbefore mentioned, declaring any such Patent as aforesaid to be void, the Clerk of the Crown and Pleas shall be entitled to receive the sum of five shillings, and the sum of two shillings and six pence may be charged and taken by the Register of the Province for the entry of the same, and that the said Register may also charge the sum of one shilling per folio of seventy-two words, for recording every assignment as is mentioned in this Act.

Fees to be paid for Patent, and for services required by this Act.

CHAP. VI.

AN ACT to repeal part of, amend and continue, the laws now in force for the payment of Militia Pensions.

[Passed 30th January, 1826.]

MOST GRACIOUS SOVEREIGN :

WHEREAS an Act passed in the second year of Your Majesty's reign, intituled, "An Act to repeal an Act passed in the fifty-fifth year of His late Majesty's reign, intituled, 'An Act to explain and amend an Act passed in the fifty-third year of His late Majesty's reign, intituled, 'An Act to provide for the maintenance of persons disabled, and the widows and children of such persons as may be killed in His Majesty's service,' and also an Act passed in the fifty-sixth year of His late Majesty's reign, intituled, 'An Act to repeal part of and to alter and amend the laws now in force for granting pensions to persons disabled in the service, and the widows and children of persons who may have been killed in the service, and to extend the provisions of the same;' and an Act passed in the fifty-seventh year of His late Majesty's reign, intituled, 'An Act to repeal part of and amend an Act passed in the fifty-sixth year of His late Majesty's reign, intituled, 'An Act to repeal part, and to alter and amend the laws now in force for granting pensions to persons disabled in the service, and the widows and children of persons who may have been killed in the service, and to extend the provisions of the same,' and to make provision for granting pensions to persons disabled in the service, and to the widows and children of persons who may have been killed in the service, or who may have died while in captivity with the enemy, during the late war with the United States of America," is about to expire, and it is expedient to continue and amend the same: may it therefore please Your Majesty, that it may be enacted, *And 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 parts of the said Act as are now in force, except in so far as the same are hereby repealed or altered, *shall be and continue in force for the space of four years.*

Preamble.

(See 2 Geo IV. Ch. 4;
11 Geo. IV. Chap. 23;
5 Wm. IV. Ch. 36;
1 Vic. Chap. 44;
3 Vic. Chs. 27 & 25.)

Militia Pension Act of 2d Geo. IV. continued for four years.

Exceptions.

(See 5 Wm. IV. Chap. 36;
1 Vic. Chap. 28.)

List to be published periodically of Militia Pensioners under the several clauses.

II. *And be it further enacted by the authority aforesaid,* That a list of all persons receiving pensions under the above recited Act shall be published three several times in the Upper Canada Gazette, in the month of

March in every second year after the passing of this Act, the first publication thereof to be made in the month of March next after the passing of this Act; and that the officer paying such pensions shall furnish an abstract thereof for that purpose, specifying the name of such pensioners, the District in which he or she resides, and the account on which the said pension is payable, namely, whether on account of being disabled in action with the enemy, or as the widow, remaining unmarried, of Militia-man killed in action with the enemy, or by casualty while on service, stating the name of Militia-man, or as the guardian or other person acting on behalf of the child or children of a Militia-man killed in action with the enemy, or by casualty while on service, naming such Militia-man, and also naming the child of such Militia-man, stated to be still under the age of sixteen years.

III. *And whereas* certain persons have represented by petition to the Legislature, that being entitled by law to pensions on account of disability from wounds received in action with the enemy, and being from this Province at the time of the passing of the statute hereinbefore recited, and ignorant of the provisions therein contained, they have been precluded from receiving the bounty intended to be bestowed upon persons under similar circumstances with themselves; *Be it therefore enacted by the authority aforesaid,* That it shall be in the power of the Governor, Lieutenant Governor, or Person Administering the Government of this Province, upon application of any person, stating by petition, and proving satisfactorily, that from any cause it has not been in the power of such applicant to make his application or to present himself for examination within the period prescribed by law, it shall and may be lawful for the Governor, Lieutenant Governor, or Person Administering the Government of this Province, to authorise the examination of such person by the Medical Board, and that upon the production of the certificate of such Board, declaring that the applicant is a proper person, by reason of disability, to be placed upon the Pension List of this Province, the name of such applicant shall be placed upon the Militia Pension List, and the payment of his pension shall take date from the time of his application by petition, either to the Government, or to the Legislature of this Province, since the passing of the Act hereby continued.

Power to admit applications in certain cases.

[See 3 Vic. Ch. 27.]

IV. *And be it further enacted by the authority aforesaid,* That the eleventh clause, and all other provisions of the aforesaid recited Act, relative to the appointment of Pension Agent, and the several duties to be performed on account of the appointment of such Agent, be and the same are hereby repealed.

Provisions respecting Pension Act, repealed.

V. *And be it further enacted by the authority aforesaid,* That the several pensions authorized to be paid by this Act, shall be paid by the Receiver General of this Province, out of any monies that now are or which may hereafter come into his hands, subject to the disposition of the Parliament of this Province; and in discharge of such warrant or warrants as may be issued by the Governor, Lieutenant Governor, or Person Administering

Receiver General to pay pensions;

How to be paid.

the Government of this Province; and it shall and may be lawful for the Governor, Lieutenant Governor, or Person Administering the Government, to order and direct that the said pensions authorized to be paid by this Act, shall be paid either in advance, or by quarterly or half yearly payments, as to him shall seem proper; and the said several sums of money, when so paid, shall be accounted for to His Majesty, His Heirs or Successors, through the Lords Commissioners of His Majesty's Treasury, in such manner and form as His Majesty, His Heirs and Successors, may please to direct.

Notice of payment.

VI. *And be it further enacted by the authority aforesaid,* That when and so often as the Governor, Lieutenant Governor, or Person Administering the Government, shall order and direct a proportion of the pensions authorized to be paid by this Act, the aforesaid Receiver General shall insert a notice thereof in the York Gazette for three months immediately after such aforesaid order and direction.

One or more warrants to issue.

VII. *And whereas* it is inexpedient unnecessarily to multiply warrants: *Be it therefore 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, by one or more warrant or warrants, to order and direct the payment and appropriation of the several sums therein named, by the said Receiver General, to the purposes of this Act.

CHAP. VII.

AN ACT to continue and amend an Act passed in the second year of the reign of George the Fourth, intituled, "An Act for assigning limits to the respective Gaols within this Province."

[Passed 30th January, 1826.]

[REPEALED BY 11 GEO. IV. CH. 3.]

CHAP. VIII.

AN ACT to make further and more effectual provision for the prevention of accidents by fire in the several Police Towns of this Province.

[Passed 30th January, 1826.]

Preamble.

WHEREAS the means provided by law for the prevention and extinguishing of accidental fires, have hitherto proved insufficient, from the

want of a compensation being authorized for the services of persons who may be employed as firemen; *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 soon as one or more company or companies shall be formed in any town where a police is or may be established by law, of persons voluntarily enrolling themselves as firemen, being inhabitants of the said town, under the provisions of the laws heretofore made for that purpose, it shall and may be lawful for the Justices of the Peace, in any District in which such town may be situated, in General Quarter Sessions assembled, or the majority of them, being satisfied of the efficiency of such persons, and accepting their enrolment, to direct the Clerk of the Peace for such District to grant to each member of such corps or company a certificate that he is enrolled on the same; which certificate shall exempt the individual named therein, during the period of his enrolment and his continuance in actual duty as such fireman, from militia duty in time of peace, from serving as a juryman or a constable, and from all other parish and town offices, any law, custom or usage, to the contrary notwithstanding.

(See the several Acts establishing a Police in certain towns in Upper Canada.)

Formation of Fire Companies, and privileges granted to the members of such Companies in police towns.

II. *Provided always, and be it further enacted by the authority aforesaid,* That it shall be in the power of the Justices of the Peace, in and for any District in this Province, or the majority of them, at any General or adjourned Sessions, upon complaint to them made of neglect of duty by any individual of such Fire Company, to examine into the same, and for any such cause, and also in case of conviction of any individual of such Company for a breach of any of the rules legally made for the regulation of the same, to strike off the name of any such individual from the list of such Company; and from thenceforward the certificate which may have been granted to such individual, as aforesaid, shall have no effect in exempting him from any duty or service in the preceding clause of this Act mentioned: *Provided always, nevertheless,* that it shall be in the discretion of the Justices of the Peace for any District of this Province, or the majority of them, in General Quarter Sessions assembled, to consent to the formation, as aforesaid, of any Fire Company, under the provisions of this Act, for any police town within their District, or to defer the same until the circumstances of any such town may in their opinion render it expedient, and that they may also in their discretion, from time to time discontinue or renew any such Company or Companies.

Persons serving in such Companies may be discharged for neglect or misconduct;

Justices to have discretion as to forming and continuing such Companies.

[NOTE.—This Act is repealed by 4 & 5 Vic. Ch. 43.]

CHAP. IX.

AN ACT to provide for the improvement of the Light House on Gibraltar Point, and for imposing Duties for defraying the charge of the same, and for erecting other Houses in this Province.

[Passed 30th January, 1826.]

Preamble; A sum not exceeding £200 granted for repairing the Light House on Gibraltar Point.

To be paid to the Collector of York.
(Not intended to be repeated.)

Light House duties imposed.

Regulations with respect to packets.

- *II.
- III.
- IV.

[Repealed by 3 Wm. IV. Ch. 47.]

V. Penalty for omitting to pay the duty.

VI. Amount of duties how to be applied and accounted for.

CHAP. X.

AN ACT to impose a tax upon Dogs in certain Towns in this Province.

[Passed 30th January, 1826.]

[EXPIRED.]

CHAP. XI.

AN ACT to continue, for a limited time, an Act passed in the fourth year of His Majesty's reign, intituled, "An Act to restrain the selling of Beer, Ale, Cider and other Liquors not spirituous, in certain Towns and Villages in this Province, and to regulate the manner of licencing Ale Houses within the same."

[Passed 30th January, 1826.]

Preamble; 4 Geo, IV. Ch. 15, continued for four years.

CHAP. XII.

AN ACT to repeal part and extend the provisions of an Act passed in the fourth year of His Majesty's reign, intituled, "An Act to make more ample provision for regulating the Police of the Town of Kingston."

[Passed 30th January, 1826.]

[REPEALED BY 1 VIC. CHAP. 27.]

CHAP. XIII.

AN ACT to establish the District Town of the District of London in a more central position than at present, and to annex the Townships of Walpole and Rainham to the County of Haldimand, in the District of Niagara.

[Passed 30th January, 1826.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XIV.

An ACT to provide for the erection of a Gaol and Court House in the District of London, and to authorize the imposing an additional rate for that purpose.

[Passed 30th January, 1826.]

Preamble; A town to be laid out and surveyed within the reservation for a town in London and Westminster; Four acres to be reserved for Gaol and Court-House. 2. Commissioners for erecting Gaol and Court House. 3. Funds to be raised by an additional assessment. 4. Loan of £4000 may be raised; Provision for payment of interest, and re-payment of principal. 5. First meeting of Commissioners.

CHAP. XV.

AN ACT to authorize and establish a Re-survey of the front of the thirteenth Concession of the Township of Townsend.

[Passed 30th January, 1826.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XVI.

AN ACT to make provision for a Survey of the first, second and third, Concession of Fredericksburgh original, and the whole of Fredericksburgh additional.

[Passed 30th January, 1826.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XVII.

AN ACT to protect certain Inhabitants of the County of Middlesex in the possession of their lands during the continuance thereof.

[Passed 30th January, 1826.]

[EXPIRED.]

CHAP. XVIII.

AN ACT to incorporate certain persons therein mentioned, under the style and title of "Desjardin's Canal Company."

[Passed 30th January, 1826.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XIX.

AN ACT to repeal parts of, and to explain and amend the several Acts of this Province relating to the Welland Canal Company.

[Passed 30th January, 1826.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XX.

AN ACT to authorise the Government to borrow a certain sum of money, upon Debenture, to be loaned to the Welland Canal Company.

[Passed 30th January, 1826.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXI.

AN ACT to authorise certain persons therein named, and their successors, to hold certain Lands for the purpose therein mentioned.

[Passed 30th January, 1826.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXII.

AN ACT for the relief of James Edwards.

[Passed 30th January, 1826.]

Preamble; James Edwards allowed to traverse all inquisition whereby certain lands have been vested in His Majesty as forfeited. 2. If judgment be given for traverser, the estate may, with consent of the purchaser, be conveyed to him. 3. Purchaser to be repaid his purchase money with interest by the Special Receiver. 4. Security to be given to His Majesty for costs.

CHAP. XXIII.

AN ACT for the relief of Leonard Soper.

[Passed 30th January, 1826.]

Preamble; Leonard Soper allowed to traverse an inquisition whereby certain lands have been returned as forfeited; Security to be given to His Majesty for costs.

CHAP. XXIV.

AN ACT to grant to His Majesty a sum of money for the encouragement of manufacturing Paper in this Province.

[Passed 30th January, 1826.]

Preamble; £125 to be given as a premium to the first person who shall set up a manufactory of paper. 2. On what proof the money shall be paid; accounted for.

CHAP. XXV.

AN ACT to grant to His Majesty a certain sum of money to be applied in making, repairing and amending, Highways and Bridges in this Province.

[Passed 30th January, 1826.]

Preamble; £1200 applied for making and repairing roads and bridges; how to be distributed. 2. How the monies granted shall be paid, expended and accounted for.

CHAP. XXVI.

AN ACT for granting certain sums of money to His Majesty, to enable His Majesty to defray the expense of the Administration of Justice, and the support of the Civil Government of this Province, for the years one thousand eight hundred and twenty-five, and one thousand eight hundred and twenty-six.

[Passed 30th January, 1826.]

[TEMPORARY.]

CHAP. XXVII.

AN ACT to make good certain monies issued and advanced by His Excellency the Lieutenant Governor, in pursuance of an Address of the House of Assembly.

[Passed 30th January, 1826.]

[TEMPORARY.]

CHAP. XXVIII.

AN ACT to authorise the raising by Debenture a sum of money to be applied in erecting Buildings for the use of the Legislature.

[Passed 30th January, 1826.]

Preamble; a sum not exceeding £7000 to be raised by loan for the purpose of erecting buildings for the Legislature. 2. Debentures, how to be made out and issued. 3. Punishment for forging such Debentures, or uttering them knowing them to be forged. 4. Account of Debentures issued, &c. &c. to be made out by the Receiver-General, and laid before the Legislature. 5. Interest when to be paid and how. 6. Remuneration to the Receiver-General and those employed under him. 7. How Debentures shall be redeemed and cancelled. 8. Debentures to be called in. 9. Commissioners appointed for superintending the erection of the said buildings; vacancies how supplied.

CHAP. XXIX.

AN ACT to grant a sum of money to His Majesty to enable His Majesty to compensate the services of certain persons therein mentioned.

[Passed 30th January, 1826.]

Preamble; £600 granted to compensate the Arbitrator and Secretary sent to Lower Canada to adjust the distribution of duties. 2. How paid and accounted for.

CHAP. XXX.

AN ACT to grant a further sum of money for the completion of the Monument to the memory of the late Major-General Sir Isaac Brock.

[Passed 30th January, 1826.]

MOST GRACIOUS SOVEREIGN :

WHEREAS it has been represented by the surviving Commissioner appointed under an Act of the Parliament of this Province, passed in the fifty-fifth year of His late Majesty's reign, intituled, "An Act to provide for the erection of a Monument to the memory of the late President, Major-General Sir Isaac Brock," that a further sum of money is required to complete the said Monument upon a scale which appears to the Commissioner worthy of the object: *And whereas* the Legislature of this Province are happy in testifying on this occasion to Your Majesty the continued veneration with which they regard the memory of the late Sir Isaac Brock : May it please Your Majesty that it may be enacted, &c.

Preamble.
(See 55 Geo. III. Ch. 15.)

£600 granted to complete the Monument to the memory of the late Major-General Sir Isaac Brock.
2. To be applied by the Commissioner, and an account rendered to the Legislature.

CHAP. XXXI.

AN ACT to grant a sum of money to His Majesty for the purchase of certain Machinery now used in deepening the waters at Burlington Bay.

[Passed 30th January, 1826.]

Preamble; a sum not greater than £2000 to be applied in purchasing certain machinery at an appraised value. 2. Appraisers to be appointed. 3. Value to be ascertained and reported. 4. Amount so reported to be paid by warrant. 5. and accounted for, &c. 6. Security to be given.

STATUTES OF UPPER CANADA,

PASSED IN THE

THIRD SESSION OF THE NINTH PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT YORK, ON THE FIFTH DAY OF DECEMBER, IN THE SEVENTH YEAR OF THE
REIGN OF OUR SOVEREIGN LORD GEORGE THE FOURTH; AND PROROGUED ON
THE SEVENTEENTH DAY OF FEBRUARY FOLLOWING.

SIR PEREGRINE MAITLAND, K. C. B.
LIEUTENANT GOVERNOR.

ANNO DOMINI 1827.

CHAP I.

AN ACT to confer upon His Majesty certain powers and authorities, necessary to the making, maintaining and using, the Canal intended to be completed under His Majesty's direction, for connecting the waters of Lake Ontario with the River Ottawa, and for other purposes therein mentioned.

[Passed 17th February, 1827.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. II.

AN ACT to enable the President and Directors of the Welland Canal Company to accept an aid from His Majesty's Government, towards the completion of the said Canal, and to secure to His Majesty the free use thereof.

[Passed 17th February, 1827.]

[See Local and Private Acts, in 2nd Volume.]

CHAP.

CHAP. III.

AN ACT to amend the Laws regulating the practice of Physic, Surgery and Midwifery, in this Province.

[Passed 17th February, 1827.]

Preamble.

(See Statutes of Canada: 1 & 3 Vic Chap 41.)

WHEREAS it is expedient to repeal part of and amend an Act of the Parliament of this Province, passed in the fifty-ninth year of the reign of His late Majesty, intituled, "An Act to repeal an Act passed in the fifty-fifth year of His Majesty's reign, intituled, 'An Act to licence Practitioners in Physic and Surgery throughout this Province, and to make further provision for licencing such Practitioners:'" *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 the second clause of the said recited Act as provides that no person duly authorized by any University in His Majesty's dominions, or by commission or warrant in His Majesty's Naval or Military Service, shall be restrained from practising Physic, Surgery and Midwifery in this Province, for want of the licence therein mentioned, and the third clause of the said recited Act, be and the same are hereby repealed.

The first clause of the second clause of Sec. III. Ch. 41. is repealed.

Who shall be authorized to practice Physic, Surgery, or Midwifery, and upon what proof of qualification.

II. And be it further enacted by the authority aforesaid, That upon the application of any person exhibiting a diploma or licence from any University in His Majesty's dominions, or from the Royal College of Physicians or of Surgeons in London, as Physician or Surgeon, or a commission or warrant as Physician or Surgeon in His Majesty's Naval or Military Services, and producing an affidavit made before any Judge of any District Court in this Province, which such Judge is hereby authorized, and upon the payment of two shillings and sixpence, required to administer, stating that he is the person named in such diploma, licence, commission or warrant, it shall and may be lawful for the Governor, Lieutenant-Governor, or Person Administering the Government, to grant to such applicant a licence to practice Physic, Surgery and Midwifery, in this Province.

Affidavit

Affidavit to be left in the office of the Governor.

III. And be it further enacted by the authority aforesaid, That the said affidavit shall be left by such applicant, and remain in the Office of the Governor, Lieutenant-Governor, or Person Administering the Government of this Province; and that if any person shall be guilty of false swearing in such affidavit, such person shall on conviction thereof receive

Penalty

and suffer the like pains and penalties to which any other person convicted of wilful and corrupt perjury is liable by the Laws and Statutes of this Province.

IV. *And be it further enacted by the authority aforesaid,* That upon the application of any person producing a certificate from the Magistrates of any District in this Province, in General Quarter Sessions assembled, signed by the Chairman and Clerk of the Peace, stating that such person was resident in this Province before the late war with the United States of America, practising Physic, Surgery and Midwifery, and remained during the said war in this Province, and producing also a certificate from any three or more licenced Practitioners of Physic, Surgery and Midwifery in this Province, such three or more licenced Practitioners having been licenced after examination by the Medical Board, or upon the production of a diploma, licence, commission or warrant, as hereinbefore provided, stating that they are acquainted with such applicant, and that he is in their opinion competent to practice Physic, Surgery and Midwifery, or either of them; the Governor, Lieutenant-Governor, or Person Administering the Government, may grant to him a licence to practice Physic, Surgery and Midwifery, or either of them, conformably to the last mentioned certificate, in the same manner as if the said applicant had obtained a certificate from the Board mentioned in the said second clause of the said recited Act passed in the fifty-ninth year of the reign of His late Majesty.

Necessity of diploma, warrant, &c. or of a Licence from the Medical Board, may be dispensed with in certain cases;

Licence in such cases to be obtained from the Lieutenant Governor.

V. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for any person who has been appointed a member of the Board mentioned in the second clause of the said recited Act, passed in the fifty-ninth year of His late Majesty's reign, or any person while employed on actual service in His Majesty's Naval or Military Service, as Physician or Surgeon, to practice Physic, Surgery or Midwifery, in this Province, without any licence.

Persons who have been appointed to the Medical Board, and persons actually employed as Physicians or Surgeons in His Majesty's forces, may practise without a licence.

VI. *And be it further enacted by the authority aforesaid,* That it shall not be lawful for any person, not being as aforesaid a member of the Medical Board, or not being licenced as aforesaid, or not having been heretofore licenced by any Medical Board, or not being actually employed as a Physician or Surgeon, in His Majesty's Naval or Military Service, to practice Physic, Surgery or Midwifery, in this Province for hire, gain, or hope of reward: *Provided* that nothing in this Act contained shall be construed to prevent or prohibit any Female from practicing Midwifery in this Province, or to require such Female to take out such licence as aforesaid.

General prohibition to practise without the proper authority;

Females may practise midwifery.

VII. *And be it further enacted by the authority aforesaid,* That the practice of Physic, Surgery or Midwifery, for hire, gain, or hope of reward, by any person not licenced, as aforesaid, or not being actually employed as a Physician or Surgeon in His Majesty's Naval or Military

Practising without authority declared a misdemeanor;

Proof of authority lies upon the defendant;

Limitation of prosecution, one year.

Fine and imprisonment limited.

Service, shall be a misdemeanor, and may be prosecuted and punished as any other misdemeanor can be; and that upon the trial of any person charged with such misdemeanor, the burthen of proof as to the licence or right of the person tried, to practice Physic, Surgery or Midwifery, in this Province, shall lie upon the defendant; but no prosecution shall be commenced for such misdemeanor after one year from the offence committed; and no person convicted of such misdemeanor shall be sentenced therefor to a longer period of imprisonment than six months, or to a greater fine than the sum of twenty-five pounds.

Fine for licence.

VIII. *And be it further enacted by the authority aforesaid, That it shall be lawful for the Private Secretary of the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, to ask, demand and receive, for any licence granted under the provisions of this Act, of and from the person receiving such licence, the sum of twenty shillings; and that it shall be lawful for the Clerk of the Peace to ask, demand and receive, for drawing up and signing any certificate under the provisions of this Act, of and from the person receiving such certificate, the sum of five shillings.*

CHAP. IV.

AN ACT to require the Magistrates of the several Districts of this Province to publish a statement of their District Accounts.

[Passed 17th February, 1827.]

Preamble.

WHEREAS it is expedient and proper, for the information and satisfaction of His Majesty's subjects in this Province, that they should be made acquainted with the disposal of the monies raised, levied and collected, by virtue of and under the authority of any laws imposing rates and assessments upon the inhabitants of the several Districts 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 it shall be the duty of the Justices of the Peace, acting within the several Districts of this Province, at their Court of General Quarter Sessions holden in their respective Districts next after the passing of this Act, to cause a true and correct statement, in detail, of all monies raised,

Justices of the Peace shall publish an annual account of receipts and expenditures of the District funds;

levied and collected, for the year preceding, by virtue of and under the authority of any Act or Acts of this Province imposing rates and assessments upon the inhabitants thereof, for the public uses of the District, with a detail of the amount of the expenditures during the said period, together with the account for which the same is paid, to be printed in some newspaper of the District, if any newspaper shall then be published therein, also to cause a copy of the same to be affixed in some conspicuous place on the Court House; and in each and every year afterwards to cause a true and correct account in detail of all monies raised, levied and collected, since the then last preceding publication, by virtue of and under the authority of any Act or Acts now or hereafter to be made imposing rates and assessments upon the inhabitants thereof for the public uses of the District, together with a detailed account of all the expenditures, as aforesaid, during such time, to be printed in some newspaper of the District, as aforesaid, and a copy thereof to be affixed in some conspicuous place on the Court House, as aforesaid.

At what time accounts of the last year to be published;

Accounts of future years;

Mode of publication.

II. *And be it further enacted by the authority aforesaid, That no Treasurer of any District in this Province shall hereafter be competent to hold the office of Chairman of the Quarter Sessions of the Peace for such District, any law custom or usage to the contrary notwithstanding.*

No Treasurer to be Chairman of the Quarter Sessions.

III. *And be it further enacted by the authority aforesaid, That the expense of the publication of the accounts, as aforesaid, shall be paid out of the District Treasury, by any order of Sessions issued for that purpose.*

Expense of publication.

CHAP. V.

AN ACT to continue and amend the Law now in force for the trial of Controverted Elections.

[Passed 17th February, 1827.]

WHEREAS an Act passed in the fourth year of the reign of His present Majesty, intituled, "An Act to repeal an Act passed in the forty-fifth year of His late Majesty's reign, intituled, 'An Act to regulate the trial of controverted elections, or returns of members to serve in the House of Assembly, and to make more effectual provision for such trials,'" will expire at the end of the present Session; *And whereas* it is expedient to continue and amend 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

Preamble.
4th Geo. IV. Chap. 4, continued.
(See 3 Wm. IV. Chap. 11.
2 Vic. Chap. 8;
Act of Union sec 27.)

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 recited Act be and the same is hereby continued.

List of witnesses to be delivered to the Clerk of the House;

II. *And be it further enacted by the authority aforesaid,* That at the time when the day for trying any controverted election shall be fixed, a list of the witnesses of the parties, with their places of residence, shall be handed to the Clerk of the House, and shall be by him read in his place; and in cases where it shall appear that the expense of bringing such witnesses before the Committee, to be appointed under the provision of the said recited Act, would be considerable, or when the parties desire it, the House of Assembly may nominate and appoint, under the hand and seal of the Speaker, three Commissioners, (one of whom shall be Chairman, who with any other one shall be a quorum,) for the purpose of examining the witnesses of the parties contained in such list, at such times and in such places as shall by the House be directed.

Commissions to examine witnesses may issue in certain cases.

Commissioners' oath;

III. *And be it further enacted by the authority aforesaid,* That the said Commissioners shall, before proceeding to business, take and subscribe the oath in the schedule marked A: annexed, which the Chairman is authorised to administer to the other Commissioners, having himself first taken and subscribed the same in their presence; and shall meet every day, Sundays and holy-days excepted, and shall not adjourn for any longer time than twenty-four hours, except in case of death, sickness, or unavoidable absence of one or more of them, or except in case of removal to another place of meeting.

Times of sitting.

Commissioners to appoint a Clerk;

IV. *And be it further enacted by the authority aforesaid,* That the said Commissioners may from time to time appoint a Clerk, for the purpose of taking down in writing minutes of their proceedings, and of such evidence as shall be taken before them, with the objections to the witnesses produced, or the matter offered in evidence; and that every such Clerk, before proceeding to the discharge of the duties of his office, shall take the oath marked B. in the schedule annexed, which the said Commissioners, or either of them, may administer, as well as oaths to witnesses, and all other oaths required to carry into effect the provisions of this Act.

His duty;

Oath.

Copies of proceedings and evidence;

V. *And be it further enacted by the authority aforesaid,* That the said Clerk or Clerks, at the request of either of the parties, shall make out and deliver to such party a true copy of the proceedings and evidence; for which he shall be entitled to demand and receive from the party requiring the same, the sum of six pence for every hundred words contained therein.

Charge for the same.

VI. *And be it further enacted by the authority aforesaid,* That after closing the said evidence, the Commissioners shall cause a copy of the minutes of their proceedings, and of the evidence received, to be made, and shall compare the same with the said minutes, and transmit the same (certified under their hands and seals) to the Speaker of the House of Assembly, to be by him delivered to the Chairman of the Select Committee, to be appointed under the provisions of the said recited Act.

How the evidence is to be transmitted to the House;

VII. *And be it further enacted by the authority aforesaid,* That the said Select Committee, upon the receipt of the return of the said Commissioners, shall proceed to try and determine the merits of the petition referred to them, in the same manner as if the evidence contained in such return had been delivered *viva voce* before them, without other or further testimony, having first heard the parties, or their counsel, if they shall request to be heard.

Evidence to be read on the trial.

VIII. *And be it further enacted by the authority aforesaid,* That the said Commissioners, by warrant or summons under the hand of the Chairman, or any two of them, at the request of either of the parties, are hereby authorised to require the attendance of the witness or witnesses in the list hereinbefore mentioned, to give evidence before them at such time and place as in the said warrant or summons shall be directed.

Witnesses may be summoned by the Commissioners.

IX. *And be it further enacted by the authority aforesaid,* That if any person summoned to appear and give evidence shall wilfully refuse or neglect to appear, (a reasonable sum being advanced for his attendance if requested,) he shall forfeit and pay a sum not exceeding twenty pounds.

Penalty for not attending.

X. *And be it further enacted by the authority aforesaid,* That if any person shall be guilty of any contempt or improper behaviour towards the said Commissioners while in the execution of the duties imposed upon them by this Act, he shall forfeit and pay for every such offence a sum not exceeding twenty pounds.

Punishment for contempt before the Commissioners.

XI. *And be it further enacted by the authority aforesaid,* That the penalties imposed by this Act shall be recoverable before the said Commissioners in a summary manner, before or after the execution of the said Commission; and in case of non-payment thereof, the same shall be levied by distress and sale of the offender's goods, with the officer's fees on like proceedings from a Justice of the Peace; and in default of goods and chattels, such offender shall be committed to the Common Gaol of the District, for a term not exceeding six months.

How penalties to be recovered;

XII. *And be it further enacted by the authority aforesaid,* That the penalties imposed by this Act shall be paid by the said Commissioners into the hands of the Receiver-General of this Province, for the use of His Majesty, to be applied towards the support of the Government of

And applied.

this Province, and 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 please to direct.

What proceeding shall be had if the return of the Commissioners is delayed.

XIII. *And be it further enacted by the authority aforesaid,* That upon the day appointed for the meeting of any Select Committee, when a Commission under the provisions of this Act shall have been issued and not returned, it shall be lawful for such Committee to adjourn from day to day till such return shall be made, or until the House shall dissolve the said Committee for want of such return, which they are hereby authorised to do, any law to the contrary notwithstanding: *Provided always,* that nothing herein contained shall be construed to prevent the selection of another Committee for the trial of such controverted election.

Remuneration to Commissioners and their Clerk;

By whom paid.

XIV. *And be it further enacted by the authority aforesaid,* That the said Commissioners shall be authorised to demand and receive the sum of fifteen shillings per day, and the Clerk ten shillings per day, while employed in the execution of the said Commission; to be borne equally in the first instance by the parties, and eventually to be borne by the person who shall by law be subject to the costs of such controverted election.

Act to be in force for four years.
(Made perpetual by 2 Vic. Chap. 5.)

XV. *And be it further enacted by the authority aforesaid,* That this Act shall continue and be in force for four years, and from thence to the end of the then next ensuing Session of Parliament.

A.

Oath of Commissioners.

"I, A. B., do swear that I will, without favour, affection or malice, and according to the best of my skill and knowledge, well and truly perform the duty of a Commissioner appointed to hear and examine the evidence which shall be brought before me, by virtue of a reference under the hand and seal of the Speaker of the House of Assembly, upon a petition, (here mention the names of the petitioners, or some of them,) according to the rules, regulations and directions, contained in an Act passed in the eighth year of the reign of King George the Fourth, intituled, 'An Act to continue and amend the law now in force for the trial of controverted elections.'

B.

Clerk's oath.

"I, A. B., do swear that I will, without favour, affection or malice, and according to the best of my skill and knowledge, well and truly perform the duty of Clerk to the Commissioners appointed to hear and examine the evidence which shall be brought before them, by virtue of a reference under the hand and seal of the Speaker of the House of Assembly, upon a petition, (here mention the names of the petitioners, or some of them,) according to the rules, regulations and directions, con-

tained in an Act passed in the eighth year of the reign of King George the Fourth, intituled, 'An Act to continue and amend the law now in force for the trial of controverted elections.'

CHAP. VI.

AN ACT respecting the appointment of Guardians.

[Passed 17th February, 1827.]

WHEREAS there are in all the respective Districts of this Province many infants within the age of twenty-one years, left by the decease of their fathers, subject to the disabilities of infancy, and destitute of legal guardians to act in their behalf, and to have the care of their persons and the charge of their estates: *And whereas* it is expedient to make some further provision than now exists for the appointment of guardians in such cases; *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 Judge of the Provincial Court of Probate, and the Judges of the Surrogate Courts, in their respective Districts, upon the written application of any infant, or the friend or friends of such infant, residing within the jurisdiction of the Judge to whom such application shall be made, and not having a father living, nor a legal guardian, and after twenty days public notice of such application, and after proof of twenty days notice thereof to the mother of such infant, or proof to the satisfaction of such Judge that such infant has no mother living in this Province, to appoint some suitable and discreet person or persons to be guardian or guardians of such infant; and to require and take from the guardian or guardians so appointed a bond, in the name of such infant, in such penal sum and with such securities as the Judge shall direct and approve, having regard to the circumstances of the case, conditioned that the said guardian or guardians will faithfully perform the said trust, and that he or they, the said guardian or guardians, or his or their respective executors or administrators, will, when the said ward shall become of the full age of twenty-one years, or whenever the said guardianship shall be determined, or sooner if thereto required by the Judge of the said Court, render to his or their said ward, or to his or her executors or administrators, a true and just account of all goods, monies, interest, rents, profits or property of such ward, which shall have come

Preamble.

(See 39 Geo III. Ch. 3,
7 Wm. IV. Ch. 2.)

How guardians of infants
shall be appointed, and
by whom?

Security by bond;

into the hands of such guardian or guardians, and will thereupon without delay deliver and pay over to the said ward, or to his or her executors or administrators, the property or the sum or balance of money, which may be in the hands of the said guardian or guardians belonging to such ward, deducting therefrom and retaining a reasonable sum for the expenses and charges of the said guardian or guardians; which bond shall be recorded by the Register of the said Court in the books of his office.

Bond to be recorded.

II. *And be it further enacted by the authority aforesaid,* That the guardian or guardians of any infant so appointed as aforesaid, shall, during the continuance of his or their guardianship, have authority to act for and in behalf of the said ward; and to appear in any Court and prosecute or defend any action in his or her name, and shall have the charge and management of his or her estate, real and personal, and the care of his or her person and education; and may, with the approbation of two of His Majesty's Justices of the Peace, and the consent of such ward, place and bind him or her an apprentice to any lawful trade, profession or employment; such apprenticeship in case of males, not to extend beyond the age of twenty-one years, and in case of females, not beyond the age of eighteen years, or the marriage of the ward within that age.

Guardian's authority;

To appear in actions at law;

Bind ward an apprentice;

Limitation of apprenticeship.

III. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Judge who shall have appointed any guardian or guardians, as aforesaid, or the successor of the said Judge, upon reasonable complaint made and sustained, or cause shewn to the satisfaction of the said Judge, to remove such guardian or guardians from his or their said guardianship, and if he shall judge it necessary, to appoint another guardian or guardians of the said infant.

How guardian may be removed.

IV. *And be it further enacted by the authority aforesaid,* That in all such cases when the estate, real or personal, be situate in one District, the right of appointment of guardians shall belong to the Surrogate Court; and when such estate, real or personal, is situate in two or more Districts, such appointment shall belong to the Court of Probate; which Court of Probate shall be a Court of Appeal, to which any party aggrieved or injured by any decision, decree, appointment, or other matter in the Surrogate Court, may apply.

In what cases the surrogate Judge shall appoint a guardian; and in what cases the Judge of probate;

Appeal from Court of surrogate to Court of probate.

V. *And be it further enacted by the authority aforesaid,* That in all cases any party aggrieved by any decision, decree or appointment, or other matter decided in the said Court of Probate, may appeal therefrom to the Governor, Lieutenant-Governor, or Person Administering the Government of this Province in Council, who are hereby authorised to confirm or reverse any such decision, decree, appointment or other matter brought before them by such appeal or appeals; any law or usage to the contrary notwithstanding.

Appeal from Court of probate to the Governor in Council.

VI. *And be it further enacted by the authority aforesaid; That it shall and may be lawful for the Judges and Officers of the Probate and Surrogate Courts to demand and receive the following fees, and no more, for the services required by this Act :—*

OFFICIAL PRINCIPAL, OR SURROGATE JUDGE.

For the appointment of a guardian, with seals thereto—fifteen shillings.
 For auditing a guardian's account, when required so to do—ten shillings.
 For an order for removing a guardian from his guardianship—three shillings and four pence.

REGISTER.

For entering the appointment of a guardian—two shillings and six pence.
 For entering an order of the Judge—two shillings and six pence.
 For drawing and recording a bond of guardianship—six shillings and eight pence.
 For copies given out of his office—the same as in cases of Probate.

CHAP. VII.

AN ACT to declare what Fees shall be received by Justices of the Peace for the duties therein mentioned.

[Passed 17th February, 1827.]

[EXPIRED.—SEE 4 WM. IV. CH. 17.]

CHAP. VIII.

AN ACT for the further relief of Insolvent Debtors.

[Passed 17th February, 1827.]

WHEREAS by the third section of an Act, intituled, "An Act to make further regulation respecting the weekly maintenance of insolvent debtors," it is enacted, "that in default of payment of the sum of five shillings weekly allowance, pursuant to any rule or rules of Court, under the provisions of an Act passed in the forty-fifth year of His late Majesty's reign, intituled, 'An Act for the relief of insolvent debtors,' the first payment of which said sum of five shillings is declared by the said clause to become due and payable on Monday next after the service of such rule on the plaintiff, or his attorney, within the District where such

Preamble.

(See 2 Geo. IV. Ch. 2.)

defendant shall be imprisoned, the prisoner, upon application to the Court from which such execution issued, in term time, or a Judge thereof in vacation, shall, by order of the said Court or Judge, be discharged out of custody. *Provided nevertheless*, that such discharge shall not be construed as a release or satisfaction of the subsisting Judgment, or to deprive the plaintiff or plaintiffs of his, her or their, remedy thereafter against the goods and chattels, lands and tenements, of such prisoner so discharged;” *And whereas* it is expedient that prisoners in execution for debt should be enabled to take the benefit of the said Act, although the plaintiff or his attorney should not be residing within the District where such defendant shall be imprisoned: *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 clause be repealed; and that in default of payment of the sum of five shillings weekly allowance, pursuant to any rule or rules of Court under the provisions of an Act passed in the forty-fifth year of His late Majesty’s reign, intituled, “An Act for the relief of insolvent debtors,” the first payment of which said sum of five shillings is hereby directed to become due and payable on the third Monday next after the service of such rule upon the plaintiff or his attorney, the prisoner, upon application to the said Court from which such execution issued, in term time, or a Judge thereof in vacation, shall, by order of the said Court or Judge, be discharged out of custody: *Provided nevertheless*, that such discharge shall not be construed as a release or satisfaction of the subsisting judgment, or to deprive the plaintiff or plaintiffs of his, her, or their remedy thereafter, against the goods and chattels, lands and tenements, of such prisoner so discharged.

3rd clause of 4 Geo. IV.
Chap. 5. repealed.

Court in term time, or
Judge in vacation, may
order prisoners to be
discharged on non-
payment of their weekly
allowance.

Such discharge not to
operate as a release of
the debt.

CHAP. IX.

AN ACT to repeal part of and amend the Law now in force assigning limits to Gaols in this Province.

[Passed 17th February, 1827.]

[REPEALED BY 11 GEO. IV. CH. 3.]

CHAP.

CHAP. X.

AN ACT to continue the Laws now in force providing a salary for certain Sheriffs in this Province.

[Passed 17th February, 1827.]

[EXPIRED.]

CHAP. XI.

AN ACT to amend the Law now in force in respect to granting Licences for keeping Ale Houses.

[Passed 17th February, 1827.]

WHEREAS the law now in force relative to the granting of ale and beer licences is defective as regards the time of granting the same: *Be it* Preamble. *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 fourth clause of an Act passed in the fourth year of His present Majesty's reign, intituled, "An Act to restrain the selling of beer, ale, cider, and other liquors not spirituons, in certain towns and villages in this Province, and to regulate the manner of licencing ale houses within the same," be and the same is hereby repealed. (See 4 Geo. IV. Ch. 15; 3 Vic. Ch. 20.) 4th clause of 4 Geo. IV. Chap. 15, repealed.

II. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, the Justices of the Peace of the several Districts of this Province, or the majority of them, in their General Quarter Sessions assembled, shall have full power and authority to grant licences to such person or persons as may apply for the same, under the hand and seal of the Chairman, in order to carry into effect the provisions of the said recited Act. Justices in Quarter Sessions may grant Licence to sell Ale, Beer, &c.

CHAP. XII.

AN ACT to Incorporate certain persons therein mentioned, under the style and title of the "Cataraqui Bridge Company."

[Passed 17th February, 1827.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XIII.

AN ACT to provide for the erection of a Gaol and Court House in the District of Gore.

[Passed 17th February, 1827.]

Preamble; Justices of the Peace for the District of Gore may apply the District rates towards building a Gaol and Court House; the charge shall not exceed £4000. 2. The Justices at the Quarter Sessions in April next, may authorise a loan on the credit of the District funds, not exceeding £4000. 3. The loan shall not bear a greater interest than six per cent; not less than £300 shall be applied annually to the re-payment of the loan. 4. Treasurer to have no per centage on the money borrowed.

CHAP. XIV.

AN ACT to amend the Laws now in force for the appointment of Street Surveyors, so far as relates to the several Towns in this Province other than those in which the General Quarter Sessions of the Peace are by law holden.

[Passed 17th February, 1827.]

Preamble.

4 Geo. IV. Chap. 9,
recited;

(See the several Acts
for the Police towns;
and Statutes of Canada,
4 & 5 Vic. Chap. 10.)

WHEREAS by the fourth and fifth sections of an Act passed in the fourth year of His present Majesty's reign, intituled, "An Act to amend and make perpetual an Act passed in the fifty-ninth year of His late Majesty's reign, intituled, 'An Act to repeal part of and amend the Laws now in force for laying out, amending, and keeping in repair, the public Highways and Roads in this Province,' and also to amend an Act passed in the fiftieth year of His late Majesty's reign, intituled, 'An Act to provide for the laying out, amending, and keeping in repair, the public Highways and Roads in this Province, and to repeal the Laws now in force for that purpose,'" it is enacted that the Justices of the Peace in and for the several Districts of this Province shall have power, at any General or Ad-

journd Sessions of the Peace in and for the said District, to appoint a Surveyor of Streets in and for each Town within their respective Districts, and to remove such Officer so appointed at their will and pleasure; and that such Surveyor of Streets shall, before entering upon his office, take an oath in open Court before such Justices, that he will well and faithfully execute the duties thereof, and shall, with two securities to be approved of by such Justices, enter into a bond to His Majesty, His Heirs and Successors, in such sum as to the Justices may seem meet, to account well and truly for all such monies as shall come into his hands by virtue of his said office: *And whereas* it has been found impracticable in Towns remote from that in which the General Quarter Sessions of the Peace are holden to find persons willing to undertake the duties of the said office, from the inconvenience attending their taking the oath of office and giving the required security: For remedy whereof, *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 the said recited Act as requires that the oath of the Street Surveyors appointed for Towns, other than those in which the General Quarter Sessions of the Peace shall be holden, shall be taken in open Court, be and the same is hereby repealed.

So much of 4 Geo. IV. Chap. 3, repealed, as requires the oath of Street Surveyors for Towns to be taken in open Court, except as respects those Towns in which the Court is holden.

II. *And be it further enacted by the authority aforesaid,* That any Street Surveyor appointed under the provisions of the said Act for any Town in this Province, other than those in which the General Quarter Sessions of the Peace shall be holden, shall not proceed to the discharge of the duties of his office until he shall have taken and subscribed the oath of office, required by the said Act, before any Justice of the Peace in the District in which such Towns shall be situated, and given security pursuant to the provisions of the said Act.

Street Surveyors for Towns in which the Quarter Sessions is not holden, shall take the oath of office before a Justice of Peace for the District;

And give security.

III. *And be it further enacted by the authority aforesaid,* That the Justices of the Peace before whom the said oath shall be taken, and the securities entered into, shall forthwith transmit the same to the Clerk of the Peace of the District in which the said Surveyor of Streets shall be appointed.

Oath and security to be transmitted to the Clerk of the Peace.

CHAP. XV.

AN ACT to provide for the erection of a Gaol and Court House in the Eastern District.

[Passed 17th February, 1827.]

Preamble; Commissioners appointed for superintending the erection of a Gaol and Court House at Cornwall, in the Eastern District. 2. A majority of the Commissioners shall decide in all matters entrusted to them; the buildings shall be built on the site of the former Gaol and Court House. 3. Authority to raise £4000 by loan on the credit of the District funds; Treasurer to give his bond for the same. 4. Not less than £300 shall be annually applied towards extinguishing the debt. 5. An additional rate of one half-penny in the pound allowed to be imposed for the purpose of this Act, if found to be necessary.

CHAP. XVI.

AN ACT granting to Chauncey Beadle the exclusive privilege of establishing and running a line of public Stages between the village of Ancaster in the Gore District, and the town of Sandwich in the Western District.

[Passed 17th February, 1827.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XVII.

AN ACT for affording public aid towards the completion of the Welland Canal.

[Passed 17th February, 1827.]

Preamble; £50,000 public Stock may be taken in the Welland Canal Company. 2. Stock shall not be subscribed unless the Company shall agree to allow interest upon the amount paid in, until the expiration of one year from the completion of the whole Canal; such interest to be hereafter adjusted in account. 3. Bond to be given for payment of such interest. 4. Government may transfer the Stock, but not for a price below its nominal value. 5. Application of interest. 6. No deduction for per centage to Receiver-General. 7. Authority to raise £50,000 by loan upon Debenture. 8. Debentures, how prepared and issued. 9. Upon what fund charged. 10. Conditions of loan in regard to its redemption. 11. General provisions respecting the Debentures to be issued under this Act.

CHAP. XVIII.

AN ACT to provide for the construction of a Harbour at the mouth of Kettle-Creek, in the London District.

[Passed 17th February, 1827.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XIX.

AN ACT to provide for a further survey of the works done at the Burlington Bay Canal, and also to afford further aid to complete the same.

[Passed 17th February, 1827.]

Preamble; Certain surveys and estimates required to be made of the work in progress at Burlington Bay: A sum not exceeding £3000 to be raised by loan, upon debenture, for completing the work. 2. Debentures how to be made and issued. 3. Debentures charged on the Provincial Revenues. 4. Debentures may be called in, upon six months' notice; And if not presented, interest shall cease thenceforward to accrue. 5. General provisions respecting debentures; Forgery. 6. No deduction to be made for poundage to the Receiver General. 7. The Governor to appoint a competent Civil Engineer to superintend the work. 8. Monies appropriated by this Act shall be paid into the Bank of Upper Canada, on account of the Commissioners, and paid by them to the Contractor, upon the Engineers estimate of work done. 9. Estimate of the work now done to be made on oath, and also of the cost of completing the work; Contractor to be remunerated for any excess of that estimate above the sum received; Sums now in the hands of the Commissioners to be paid over immediately to the Contractor. 10. Security to be taken from the Contractor before further monies are to be paid for work remaining to be done. 11. Monies paid under this Act, how to be accounted for.

CHAP. XX.

AN ACT for the relief of James Radcliffe.

[Passed 17th February, 1827.]

Preamble; James Radcliffe to be entitled to receive Patents for certain inventions made by him jointly with one George Deming, a foreigner.

CHAP. XXI.

AN ACT to authorise James Atkinson to convey to Trustees a lot of Land, for purposes therein mentioned.

[Passed 17th February, 1827.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXII.

AN ACT to authorise the Reverend John M'Laurin to convey to the Ottawa District [School Trustees a lot of Land, for the purposes therein mentioned.

[Passed 17th February, 1827.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXIII.

AN ACT granting a sum of money to aid in the erection of a Bridge across the Olanabee River, in the District of Newcastle.

[Passed 17th February, 1827.]

£100 granted for that purpose.

CHAP. XXIV.

AN ACT to make good certain monies advanced by His Excellency the Lieutenant-Governor, pursuant to the Addresses of the House of Assembly at the last Session of Parliament.

[Passed 17th February, 1827.]

£3178 5 11 granted.

CHAP. XXV.

AN ACT for granting to His Majesty a Supply for the support of the Civil Government for the year one thousand eight hundred and twenty-seven.

[Passed 17th February, 1827.]

Granting £7470 towards the support of the Civil Service for the year 1827.

STATUTES OF UPPER CANADA,

PASSED IN THE

FOURTH SESSION OF THE NINTH PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT YORK, ON THE FIFTEENTH DAY OF JANUARY, IN THE EIGHTH YEAR OF THE
REIGN OF OUR SOVEREIGN LORD GEORGE THE FOURTH, AND PROROGUED ON
THE TWENTY-FIFTH DAY OF MARCH FOLLOWING.

SIR PEREGRINE MAITLAND, K. C. B.
LIEUTENANT GOVERNOR.

ANNO DOMINI 1828.

CHAP I.

AN ACT to limit to a certain period the proceedings under an Act of the Parliament of this Province, passed in the fifty-fourth year of His late Majesty's reign, intituled, "An Act to declare certain persons therein described Aliens, and to vest their estates in His Majesty," and to afford further facilities to claimants of estates forfeited under the said Act, in certain cases.

[Passed 25th March, 1828.]

WHEREAS it is expedient that the proceedings under a certain Act of the Parliament of this Province, intituled, "An Act to declare certain persons therein described aliens, and to vest their estates in His Majesty," should after a limited period be closed, and that certain facilities should be afforded to claimants of estates forfeited under 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 from and after the first day of July next, no Commission shall issue under the authority of that Act, except such as may be necessary for rectifying any error or errors in the proceeding under which any estate has been returned as forfeited.

Preamble.

(See 59 Geo. III. Sess. 1,

Ch. 12;

2 Geo. IV. Chap. 6;

10 Geo. IV. Chap. 10.)

No Commission under
54 Geo. III. Chap. 9, to
issue after 1st July next.

Claims to Real Estate may be received at any time before sale.

II. *And be it further enacted by the authority aforesaid,* That it shall and may be competent to the Commissioners for forfeited estates to receive claims to real estate which has been returned as forfeited, at any time before such estate has been actually sold; *Provided* such claim shall appear to them to be well founded, and to decide thereupon in the same manner as if such claim had been made within the period heretofore prescribed by law, and that the award thereupon in favour of such claimant shall have the legal effect of divesting the title to such estate out of the Commissioners, and vesting the same in such claimant, according to the nature and degree of the estate awarded.

Provision for enabling the Commissioners to rectify errors in certain cases, notwithstanding the estate may have been sold;

III. *And be it further enacted by the authority aforesaid,* That in all cases in which it shall come to the knowledge of the Commissioners for forfeited estates, after sale has been made under their direction of any real estate as forfeited, that by reason of any error which has taken place in the proceedings relative to the forfeiture, or in any subsequent proceedings, such real estate, or any part thereof, has been improperly returned as forfeited, and when the purchaser of such estate, or his assigns, shall be willing to receive from the Commissioners the return of the purchase money, and legal interest thereon, which they are hereby authorised to pay, and shall surrender to such Commissioners the title to such estate, it shall and may be lawful for such Commissioners, by deed executed by them, in the same manner as they are at present authorised to execute conveyances, to transfer such real estate, which has been so erroneously vested in them, to the person or persons who shall establish before them a legal claim to the same.

Purchaser consent to be first obtained;

Return of purchase money.

Nothing to prevent.

IV. *And be it further enacted by the authority aforesaid,* That nothing contained in this Act shall extend to deprive any party of his right to traverse, or to limit the period for filing the same as now authorised by law.

CHAP. II.

AN ACT for the relief of the Religious Societies therein mentioned.

[Passed 25th March, 1828.]

Whereas (Ch. 7) & 50

WHEREAS religious societies of various denominations of Christians find difficulty in securing the title of land requisite for the site of a church, meeting-house or chapel, or burying-ground, for want of a corporate capacity to take and hold the same in perpetual succession; *And whereas* it is expedient to provide some safe and adequate relief in such cases: *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 whenever any religious congregation or society of Presbyterians, Lutherans, Calvinists, Methodists, Congregationalists, Independants, Anabaptists, Quakers, Menonists, Tunkers or Moravians, shall have an occasion to take a conveyance of land for any of the uses aforesaid, it shall and may be lawful for them to appoint Trustees, to whom, and their successors, to be appointed in such manner as shall be specified in the deed, the land requisite for all or any of the purposes aforesaid may be conveyed; and such Trustees and their successors in perpetual succession, by the name expressed in such deed, shall be capable of taking, holding and possessing such land, and of commencing and maintaining any action or actions in law or equity for the protection thereof, and of their right thereto.

Provision in behalf of certain Religious Societies, allowing lands to be held for their use by Trustees, and their successors, in perpetual succession.

II. *And be it further enacted by the authority aforesaid,* That there shall not be held in trust for the purposes aforesaid more than five acres of land for any one congregation.

No one congregation shall hold more than five acres.

III. *And be it further enacted by the authority aforesaid,* That such Trustees shall, within twelve months after the execution of such deed, cause the same to be registered in the office of the Register of the County in which the land lies.

Trust deeds to be registered.

IV. *And be it further enacted by the authority aforesaid,* That all conveyances made before the passing of this Act, for all or any of the purposes aforesaid, shall be good and valid in law in like manner as if the same had been made after the passing of this Act, and subject to the provisions of this Act; *Provided* such conveyance shall have been already registered, or shall be hereafter registered as aforesaid, within twelve months after the passing of this Act.

Conveyances heretofore made for the purposes of this Act, made valid;

Registry.

CHAP. III.

AN ACT to amend the Assessment Laws of this Province.

[Passed 25th March, 1828.]

WHEREAS it is expedient to enable persons holding lands in the several Districts of this Province to pay the rates and taxes on the same.

Preamble.

(See 59 Geo. III. Sess. 2,
Ch. 7;
6 Geo. IV. Ch. 7;
7 Wm. IV. Ch. 19;
1 Vic. Ch. 46.)

Persons may, in certain
cases, pay to the Treasur-
er of the District in
which they reside, taxes
upon lands situate in
other Districts;

Receipts to be given;

Additional compensation
to the Treasurer in such
cases.

Accounts to be kept by
the Treasurers;

What shall be specified
in such accounts;

Copies of accounts,
verified on oath, to be
transmitted to the
Treasurers of the
Districts in which
the lands lie;
And assessments paid
over.

The Treasurer receiving
assessments from
Treasurers of other
Districts, to credit the
respective lots;

And transmit receipts
to the Treasurers
forwarding the money.

to the Treasurer of the District in which they may reside: *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, in certain cases, for any person or persons holding or owning lands in any District of this Province, which are not returned on the Assessment Roll of any township or place therein, to pay the rates on such lands to the Treasurer of the District in which he, she or they, or their agent or agents, may reside; and the Treasurer who may receive such rates shall and he is hereby required, on being requested so to do, to give a receipt for the same, specifying the amount paid, the period for which it is paid, the lot or parcel of land on which the same is paid, and the concession and township in which such land is situated, and also the time or date of such payment: *Provided always*, that in all cases when the rates, as aforesaid, shall be paid by virtue of this Act to the Treasurer of another District than that in which the land on which such rates are paid is situate, the person so paying the rates shall at the same time pay to such Treasurer a sum equal to five per cent on said rates in addition to such rates; which per centage shall be retained by such Treasurer as a compensation for the duties imposed upon him by this Act.

II. *And be it further enacted by the authority aforesaid*, That it shall be the duty of the Treasurer of any District receiving rates and assessments under this Act, on any land not situated in his District, to keep an exact and accurate account of the monies which he shall receive for each District separately, stating the lots, parcels or tracts of land, on which the same may be paid, and the concessions and townships in which they may be situated, and the period for which such rates are paid, and also the time or date of such payments: a copy of which account, verified upon oath, he shall transmit annually, on the first day of July, to the Treasurer of the District in which the lands may be situated; and he shall at the same time transmit the amount of taxes, rates or assessments, which he may have received under the provisions of this Act.

III. *And be it further enacted by the authority aforesaid*, That the Treasurer of any District, on receiving money from the Treasurer of any other District, shall forthwith credit the several lots or parcels of land specified in the schedule accompanying the money, with the amount mentioned in such schedule to be paid thereon; and shall, within ten days after the same shall have been received, transmit to the Treasurer from whom the same may have been received, a receipt for the amount,

specifying the lots, parcels or tracts of land on which such rates or taxes are paid, the amount paid on each particular lot or parcel of land, the periods for which the same are paid, and the concessions, townships and Districts in which the lands are situated, and the time or date of the several payments; which receipt, the Treasurer who may have received the taxes in the first instance, shall show to any person interested therein, on being requested so to do.

IV. *And whereas*, in consequence of the difficulty of transmitting monies, many of the inhabitants have been unable to pay the taxes on lands owned by them in distant Districts, and it is expedient to extend the period for the payment thereof: *And whereas* none of those persons who have paid the tax on wild lands on or before the first day of January in this present year, have been subject to the payment of more than fifty per cent additional tax, and it is expedient to make provision respecting the increase of taxes in future; *be it therefore enacted by the authority aforesaid*, That if the amount of taxes due and payable on any lots or parcels of land, shall be paid and satisfied on or before the first day of July, which will be in the year of our Lord one thousand eight hundred and twenty-nine, the same shall not be liable to any other or greater increase than fifty per cent; and that from and after the passing of this Act, it shall and may be lawful for the Treasurers of the several Districts, and they are hereby authorised and required, when the taxes, rates or assessments, have been suffered to fall in arrear for any period exceeding four years, to receive from any person and give a receipt for the tax on such lot or parcel of land, with no other addition or advance than fifty per cent on the amount due at the time of the payment thereof: and that in all cases where it shall be necessary to levy the amount of taxes in arrear by distress, or by the sale of a portion of the lands on which such taxes may be due, the amount of tax due thereon shall be levied with an increase of fifty per cent, and no more, exclusive of costs, any law to the contrary in any wise notwithstanding.

No greater accumulation than 50 per cent shall be charged upon any lands on which the assessments shall be paid on or before 1st July, 1829;

And in all cases hereafter, 50 per cent, and no more, shall be charged in addition, where the assessments shall remain in arrear longer than four years.

V. Arrears of assessments which shall be paid by the 1st July, 1829, shall be liable only to an increase of fifty per cent on the amount due for the first five years.

VI. *And be it further enacted by the authority aforesaid*, That from and after the first day of July, which will be in the year of our Lord one thousand eight hundred and twenty-nine, the Treasurers of the several Districts shall not receive any taxes on lands in any District other than that in which they shall severally reside in any case where the rates or taxes have been suffered to run or be in arrear for the space of six years, knowing it to be so; but in such case the said tax shall be transmitted by the party desirous to pay the same, or his agent, to the Treasurer of the District in which the lands are situated.

Treasurers shall not after the 1st July, 1829, receive taxes on Lands in other Districts, if they have been suffered to run in arrear for more than six years;

In such case the assessments must be paid in the District in which the lands lie.

VII. *Provided always, and be it further enacted by the authority aforesaid*, That in all cases where the rates, assessments or taxes, have been suffered

No partial payment shall be received when more than eight years assessments are due.

to remain unpaid for the space of eight years on any tract or parcel of land, it shall not be lawful for any Treasurer to receive and place to the credit of any lot, tract or parcel of land, any sum in satisfaction of such rates, assessments or taxes, less than the full amount due for the eight years which have been suffered so to remain unpaid, any law, usage or custom, to the contrary notwithstanding.

Faulty of neglect or omission in the Treasurer;

VIII. *And be it further enacted by the authority aforesaid,* That if the Treasurer of any District shall neglect or refuse to perform the duties imposed upon him by this Act, he shall forfeit and pay for such neglect or refusal the sum of fifty pounds, to be recovered before the Court of General Quarter Sessions of the Peace, on the oath of one or more credible witness or witnesses, one half of which sum shall be paid to the informer or person prosecuting for the same, and the other moiety to be paid into the public funds of the District; and it shall be the duty of the Magistrates in General Quarter Sessions next after the first day of July in each and every year, to examine the accounts required to be kept under this Act, and to ascertain whether the same have been transmitted, together with the monies to the Treasurers of the several Districts interested therein.

Justices in Quarter Sessions bound to ascertain that he has correctly discharged the duties imposed on him by this Act.

Sixth section of 6 Geo. IV. Chap. 7. repealed;

IX. *And be it further enacted by the authority aforesaid,* That the sixth clause of an Act passed in the sixth year of His present Majesty's reign, intituled, "An Act to amend and make permanent a certain Act of the Parliament of this Province, passed in the fifty-ninth year of the reign of His late Majesty King George the Third, intituled, 'An Act to repeal the several laws now in force relative to levying and collecting rates and assessments in this Province, and further to provide for the more equal and general assessment of lands and other ratable property throughout this Province, and to render more effectual the several laws of this Province imposing rates and assessments, by providing, under certain restrictions, for the levying such rates and assessments, by the sale of a portion of the lands on which the same are charged,'" be and the same is hereby repealed; and that the several Acts and duties therein prescribed and required to be done by the several Treasurers shall be by them respectively performed, at or before the Court of General Quarter Sessions of the Peace which shall ensue next after the first day of July, one thousand eight hundred and twenty-nine, and at the same period in each and every year thereafter; and the respective Clerks of the Peace shall thereon proceed in manner pointed out by the seventh clause of the said last recited Act.

Further time given for performing the duties mentioned in that clause;

1st July, 1829.

Relief afforded where assessments paid have not been credited.

X. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, it shall and may be lawful for all or any person or persons who may have paid the assessment upon their lands from time to time, without the lot or concession being specified as the law requires, or in any case where an erroneous description of any lot or parcel of land may have been given, to make oath before any of His

Majesty's Justices of the Peace within the respective Districts of this Province, that such sum or sums of money as have been paid from time to time for such lands as assessed were for such lots and concessions, specifying the same, to enable the Treasurers of the different Districts wherein lands are so affected, to credit and he is hereby directed to credit such lots so specified with the amount which may have been paid from time to time, upon the assessment roll.

XI. *And be it further enacted by the authority aforesaid,* That when from death or other causes such affidavit cannot be made, it shall and may be lawful for His Majesty's Justices of the Peace within their respective Districts in General Quarter Sessions assembled, to hear and determine upon such evidence as may be adduced respecting such land being paid for, and if in favour of the plaintiff, to issue an order upon the Treasurer directing him to credit the respective lots accordingly.

Proof supplied where the party who has made such payment is dead.

CHAP. IV.

AN ACT to provide for the construction of Aprons to Mill Dams over certain streams in this Province.

[Passed 25th March, 1828.]

WHEREAS it is expedient and found necessary to afford facility to the inhabitants of this Province engaged in the lumber trade in conveying their rafts to market, as well as for the ascent of fish in various streams now obstructed by Mill Dams, for the accommodation of those residing at a distance from the mouths 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 first day of May, in the year of our Lord one thousand eight hundred and twenty-nine, every owner or occupier, or owners or occupiers of any Mill Dam, which is or may be legally erected, or where lumber is usually brought down the stream on which such Mill Dam is erected, or where salmon or pickerel abound therein in this Province, who shall neglect to construct and erect a good and sufficient Apron to his or their Dam, as hereinafter set forth, shall for such offence yearly and every year forfeit and pay the sum of twenty-five pounds of current money of this Province; one moiety

Preamble.

Owners or occupiers of Mills to construct aprons to their dams;

Penalties for neglect;

Appropriation;

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.

As to reformers share, see 6 Wm. IV. Chap. 4, Sec. 2; 3 Vic. Chs. 21 & 22)

Mode of constructing such apron.

II. *And be it further enacted by the authority aforesaid,* That every such Apron shall be erected and constructed in the following manner, that is to say: such Apron shall not be less than eighteen feet wide, by an inclined plane of twenty-four feet eight inches to a perpendicular of six feet, and so in proportion to the height where the width of the stream will admit of it, and where such stream or Dam is less than fifteen feet wide, the whole Dam shall be Aproned in like manner with the same inclined plane.

CHAP. V.

AN ACT to make valid the acts of Road Surveyors, and to make further provision for the same.

[Passed 25th March, 1828.]

Preamble.

(See 50 Geo. III. Chap. 1; 1 & 5 Vic. Chap. 10.)

WHEREAS doubts have been entertained whether by law any person appointed Surveyor of Highways can hold his office, or legally act as Surveyor for a longer period than one year without being re-appointed, and again taking the oath required by law to be taken by every Surveyor of Highways; and whether any report or act of such Surveyor, or the order of any Court of General Quarter Sessions, confirming any report of such Surveyor, made after such period, is legal and valid; *And whereas* in many instances persons appointed Surveyors of Highways have continued to act in that capacity for several years without their appointments being annually renewed, and without again taking the oath required by law to be taken by every such Surveyor, and it is expedient to confirm and make valid the acts of such Surveyors, so far as the same would have been legal and valid had such Surveyors been in this respect legally appointed and qualified: *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 any person who has at any time heretofore been appointed a Surveyor of Highways by the Justices of the Peace in any District of this

All acts done by Road Surveyors who have been suffered to serve beyond their year, without being re-elected or sworn, made valid, notwithstanding the want of such re-election, &c.

Province, in General Quarter Sessions in that month assembled in which by law they are authorised to appoint Surveyors of Highways, and who has continued to act as a Surveyor of Highways, after the General Quarter Sessions in such District in the same month in the year next succeeding that in which he was appointed as aforesaid, although he may not again in any succeeding year have been appointed Surveyor of Highways by the Justices of the Peace of such District, in General Quarter Sessions assembled in the month in which by law they are authorised as aforesaid to appoint a Surveyor of Highways, and although he may not again have taken the oath required by law to be taken by every Surveyor of Highways as aforesaid, shall be deemed and taken to have been a Surveyor of Highways for the County or Riding for which he was originally appointed, and to have been legally qualified to act as such; and that all acts done by him as such Surveyor, and all orders of any Court of General Quarter Sessions for confirming any report made by him as such Surveyor, shall be deemed and taken to be legal and valid, as fully to all intents and purposes as if such Surveyor had been re-appointed in each and every succeeding year by the Justices of the Peace of such District, in General Quarter Sessions assembled in the month in which by law they are authorised as aforesaid to appoint Surveyors of Highways, and had duly taken the oath annually required by law to be taken as aforesaid by every Surveyor of Highways: *Provided* that nothing herein contained shall extend or be construed to extend to confirm or render legal or valid any thing done by any Surveyor of Highways after his removal, who shall have been legally removed from the office of Surveyor of Highways by the Justices of the Peace, in General Quarter Sessions assembled.

But this Act shall not confirm any thing done by Road Surveyors after they have been legally removed from office.

II. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, any person legally appointed Surveyor of Highways, and who shall take and subscribe the oath in such case made and provided, is hereby authorised and required to perform the duty of Road Surveyor until such time as he shall be legally removed from office, without again taking the oath of office, any thing in any law, usage or custom, to the contrary in any wise notwithstanding.

Hereafter Road Surveyors having been sworn, may continue to discharge their duty without again taking the oath of office.

CHAP. VI.

AN ACT for making and maintaining a Road between Ernestown and the Gore of Fredericksburgh.

[Passed 25th March, 1828.]

[See Local and Private Acts, in 2nd Volume.]

CHAP.

CHAP. VII.

AN ACT to provide for the erection of a Light House on the False Ducks Island, in Lake Ontario.

(Passed 25th March, 1828.)

Preamble; Commissioners to be appointed for erecting a Light House on the False Ducks Island, in Lake Ontario. 2. £1000 granted for erecting and furnishing such Light House. 3. Commissioners to report on 1st December next, and account for the monies expended by them; And also to report what tonnage or other duties on vessels will be sufficient to defray the charge of the Light House, and how such duties can be most conveniently collected.

CHAP. VIII.

AN ACT to continue an Act, intituled, "An Act to continue for a limited time, an Act passed in the fifty-eighth year of His late Majesty's reign, intituled, 'An Act to continue, repeal part of, and amend an Act passed in the fifty-sixth year of His Majesty's reign, intituled, 'An Act granting to His Majesty Duties on Licences to Hawkers, Pedlers, and Petty Chapmen, and other trading persons therein mentioned,' and to extend the provisions of the same."

[Passed 25th March, 1828.]

Preamble.

WHEREAS an Act passed in the fourth year of His Majesty's reign, intituled, "An Act to continue for a limited time an Act passed in the fifty-eighth year of His late Majesty's reign, intituled, 'An Act to continue, repeal part of, and amend an Act passed in the fifty-sixth year of His Majesty's reign, intituled, 'An Act granting to His Majesty Duties on licences to hawkers, pedlers and petty chapmen, and other trading persons therein mentioned,' and to extend the provisions of the same," is about to expire: *And whereas* it is expedient to continue the same for a limited period: *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 Québec, 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 recited Act be and the same is hereby continued for four years, and from thence to the end of the then next ensuing Session of Parliament, and no longer.

58 Geo. III. Chap. 5,
continued for four years,
and from thence to the
end of the next Session
of Parliament.

II. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for any person or persons, being His Majesty's subject or subjects, or their agent or agents, to peddle and expose to sale leather, hollow-ware, farming utensils, goods, wares or merchandise, being the growth, produce or manufacture of this Province, having been grown or manufactured by such person or persons, or by persons employed by him, her or them, or printed papers published in this Province, without a licence so to do, any law or usage to the contrary in any wise notwithstanding.

Certain articles grown or manufactured in the Province may be peddled and exposed to sale by the persons growing or manufacturing the same without a licence;

[Made perpetual by 2 Vic. Chap. 23.]

CHAP. IX.

AN ACT to continue for a limited time the Laws imposing Duties upon Stills.

[Passed 25th March, 1828.]

Preamble; 4th George IV. 1st Session, Chap. 18, continued for four years, and from thence to the end of the next Session of Parliament.

CHAP. X.

AN ACT to continue an Act imposing Duties on Goods sold by Auction.

[Passed 25th March, 1828.]

Preamble; 4th George IV. Chap. 17, continued for four years, and to the end of the next ensuing Session of Parliament.

CHAP. XI.

AN ACT to repeal the Laws now in force respecting the late pretended Bank of Upper Canada, and to make provision for settling the affairs of the said Institution.

[Passed 25th March, 1828.]

[REPEALED BY 10 GEO. IV. CHAP. 7.]

CHAP. XII.

AN ACT to provide for the valuation of the labour and materials applied in constructing the Harbour at Burlington Bay, and for other purposes relating to the said Harbour.

[Passed 25th March, 1828.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XIII.

AN ACT to borrow a sum of money from His Majesty's Government, and to make provisions for the payment of the same.

[Passed 25th March, 1828.]

Preamble; £4,500 Sterling to be appropriated annually towards the payment of interest and principal upon any loan which may be contracted for under the provisions of this Act. 2. To be paid by the Receiver-General on warrant of the Governor, &c. 3. Premium on bills of exchange drawn in consequence of any such loan, to be accounted for by the Receiver-General; the grant of £4,500 not to be set apart until the loan shall be effected.

CHAP. XIV.

AN ACT for granting to His Majesty a Supply for the support of the Civil Government, and the Administration of Justice.

[Passed 25th March, 1828.]

Preamble; £2000 granted for the administration of Justice and support of the Civil Government for the year 1828; how to be paid and accounted for. 2. Balance unexpended to remain subject to the future disposition of the Legislature.

CHAP. XV.

AN ACT to make good certain monies advanced by His Excellency the Lieutenant-Governor, pursuant to an Address of the House of Assembly at the last Session of Parliament.

[Passed 25th March, 1828.]

Preamble; £2,857 18 0½ granted to make good certain monies advanced upon an address of the Assembly for paying the contingencies of the Legislature. 2. To be accounted for to His Majesty through the Lords of the Treasury.

CHAP. XVI.

AN ACT granting to His Majesty a sum of money to be applied in defraying the expense of drafting and engraving a Map of the Rideau Canal.

(Passed 25th March, 1828.)

Preamble; £180 granted for enabling the Commissioners for internal navigation to defray the charge of engraving and striking off 500 copies of a Map of the Rideau Canal. 2. How the said sum shall be paid and accounted for; balance unexpended to remain subject to the disposition of the Legislature.

CHAP. XVII.

AN ACT for the relief of John Matthews.

[Passed 25th March, 1828.]

Preamble; Commissioners for forfeited estates authorised to re-pay to John Matthews, Esquire, £25 received from him as the purchase money for an estate imperfectly described. 2. The deed given to the said J. Matthews shall first be surrendered.

CHAP. XVIII

AN ACT for the relief of Eliza Thompson and Eliza Anne Eleanor Clute.

[Passed 25th March, 1828.]

Preamble; Commissioners for forfeited estates authorised to receive the claim of Eliza Thompson and Eliza Anne Eleanor Clute to a certain estate forfeited under an inquisition against Samuel Thompson; power and duty of the Commissioners in regard to such claim.

CHAP. XIX.

AN ACT to enable William Chisholm, Esquire, to erect a Harbour at the Sixteen-mile-Creek in the Township of Trafalgar, in the Gore District.

[Passed 25th March, 1828.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XX.

AN ACT for enabling William Warren Baldwin, Esquire, to carry into effect the Will of the late Laurent Quetton Saint George, and for other purposes relating to the real and personal Estates, which were of the said Laurent Quetton Saint George.

(Passed 25th March, 1828.)

[DISALLOWED.]

CHAP. XXI.

AN ACT to secure to and confer upon certain inhabitants of this Province, the civil and political rights of natural born British subjects.

(Assented to by His Majesty in Council, 7th May, 1828.)

WHEREAS it is expedient to remove by law doubts that may have arisen as to the civil rights and titles to real estate of some of the persons hereinafter mentioned, and to provide by some general law for the naturalization of such persons not being by law entitled to be regarded as natural born subjects of His Majesty, as are actually domiciled 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 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 Québec, in North America,' and to make further provision for the Government of the said Province," and by the authority of the same, That all persons who have at any time received grants of land in this Province from the Crown, and all persons who have held any public office in the Province under the Great Seal or Privy Seal of the Province, or under the Sign Manual of the Governor, Lieutenant-Governor, or Person Administering the Government of the Province, and all persons who have taken the oath of allegiance, or being of the persons who by the laws of this Province are allowed to affirm in civil cases, have made the affirmation of allegiance to His Majesty, or His Majesty's Predecessors, before any person duly authorized to administer such oath or affirmation, and all persons who had their settled place of abode in this Province before the year of our Lord one thousand eight hundred and twenty, and are still resident therein, shall be, and are hereby admitted and confirmed in all the privi-

Statute, 7
Chap. 65;
Ch. 8, Sec. 2;
Ch. 7;
Ch. 7;

ions of
to and
privileges

leges of British birth, and shall be deemed, adjudged and taken to be, and so far as respects their capacity at any time heretofore, to take, hold, possess, enjoy, claim, recover, convey, devise, impart or transmit, any real estate in His Majesty's dominions; or any right, title, privilege or appurtenance thereto, or any interest therein, to have been natural born subjects of His Majesty, to all intents, constructions and purposes whatsoever, as if they and every of them had been born in His Majesty's United Kingdom of Great Britain and Ireland; and that the children, or more remote descendants of any person or persons of either of the foregoing descriptions who may be dead, shall be and are hereby admitted to the same privileges which such parents or ancestors, if living, could claim under this Act: *Provided nevertheless*, that no one (except females) of either of the above description of persons who has not taken the oath, or being of those persons who are allowed by the laws of this Province to affirm in civil cases, has not made the affirmation of allegiance before some person duly authorized to administer the same, shall be entitled to the benefits of this Act, unless he shall take the said oath or affirmation (as the case may be) before some person duly authorized to administer the same.

Their children or descendants;

Oath of allegiance required.

II. *And be it further enacted by the authority aforesaid*, That all persons actually domiciled in this Province on the first day of March one, thousand eight hundred and twenty-eight, not being of either of the descriptions of persons before mentioned, who shall have resided, or shall continue to reside therein, or in some other part of His Majesty's dominions, until they shall have been resident inhabitants of His Majesty's dominions for the space of seven years continually, without having been during that time stated residents in any foreign country, shall be deemed and adjudged, and taken to be, and so far as respects their capacity at any time heretofore, to take, hold, possess, enjoy, claim, recover, convey, devise, impart or transmit, any real estate in this Province, or any right, title, privilege or appurtenances thereto, or any interest therein, to have been natural born subjects of His Majesty to all intents, constructions and purposes whatsoever, as if they and every of them, had been born within this Province: *Provided nevertheless*, that no one of the persons described in this clause (except females) who at the passing of this Act has been resident in His Majesty's dominions seven years continually, as aforesaid, shall be entitled to the benefits of this Act, unless *within three years from and after the passing of this Act*, if at the said passing of the Act he shall be of the age of sixteen years or upwards, (or if he shall not at the said passing of the Act be of the said age, then within three years after he shall attain the said age,) he shall take and subscribe the oath in the schedule to this Act annexed marked (A.) or being of those persons who are allowed by the laws of this Province to affirm in civil cases, shall make affirmation to the same effect, before the Register or Deputy Register of some County in this Province; and that no one of the persons described in this clause, who has not been resident, as aforesaid, seven years continually in His Majesty's dominions, shall be entitled to the benefits of this Act, unless *within three years after* he shall have completed a stated

All persons domiciled in this Province on 1st March, 1828, and residing seven years, to be deemed subjects;

(Extended by 1 Vic. 11. Ch. 2, Sec 2.)

Oath to be taken, or affirmation.

(See 2 Vic. Chap. 20; 4 & 5 Vic. Ch. 7.)

residence of seven years continually, as aforesaid, in His Majesty's dominions, (if at the completion of such residence he shall be of the age of sixteen years or upwards, or if at that time not of that age, then within three years after he shall have attained that age,) he shall take and subscribe such oath, or make such affirmation.

False swearing perjury;

But rights of others shall not be prejudiced thereby.

III. *And be it further enacted by the authority aforesaid,* That any person who shall wilfully swear falsely, or make false affirmation in making said oath or affirmation before the Register or his Deputy, under the provisions of this Act, shall be deemed guilty of wilful and corrupt perjury, and that every such person shall on conviction thereof forfeit all the privileges and advantages which he would otherwise by such oath or affirmation have been entitled to under this Act; but that the rights of others in respect to estates derived from or held under such persons shall not be thereby prejudiced.

Registers may administer the oaths, and shall keep registers.

IV. *And be it further enacted by the authority aforesaid,* That the Register of each and every County in this Province, or his Deputy, shall administer the oath or affirmation by this Act required, to any person above the age of sixteen years who shall desire to take the same; and shall keep books of Registry, in the beginning of which shall be written the oath and affirmation required by this Act, and which shall contain the columns and specifications described in the second schedule to this Act annexed marked (B.), and that in the column appointed for that purpose, the person making the oath or affirmation shall set his signature, or if unable to write, his mark, in the same line of the Register in which entry is made of the name and description of such person.

Duplicate registers to be made, and how preserved.

V. *And be it further enacted by the authority aforesaid,* That duplicate books of such Registry shall be kept, both of which being original, shall contain the actual signatures or marks of the person subscribing; and that on or before the thirty-first day of December, in each and every year, the Register shall transmit one of the originals thereof to the Secretary of the Province, for the time being; and that the said books of Registry shall remain and be preserved as public records in the said offices respectively.

In case of loss of registry how supplied.

VI. *And be it further enacted by the authority aforesaid,* That if from any casualty or otherwise, either of such original Registers, or any part thereof, shall be lost or destroyed, it shall be supplied by a copy taken from the other original of such Register remaining in the office of the Register or Secretary of the Province, (as the case may be) and attested as a true copy upon the oath of the Officer having custody of the same, made before any Commissioner for taking affidavits in the Court of King's Bench, which copy so attested, shall be regarded to all intents and purposes as the original Register.

VII. *And be it further enacted by the authority aforesaid,* That a copy or extract from any book of Registry, made under the authority of this Act, of the whole entry made in such Register, with respect to any person whose name is recorded therein, and certified by the Register or by the Secretary of the Province for the time being, or their respective Deputy or Deputies, shall be deemed and taken to be sufficient evidence of the naturalization of the person therein described.

Extract of register to be evidence.

VIII. *And be it further enacted by the authority aforesaid,* That whenever any Register shall transmit any book of Registry to the Secretary of the Province, as hereinbefore provided, he and his Deputy, if he shall have a Deputy, shall at the end of such book of Registry verify the same on oath, to be taken before some one of His Majesty's Justices of the Peace, in which the said Register and his Deputy shall severally depose, that to the best of his or their knowledge and belief, such book of Registry forms a true and correct record of the statements made to him or them by the several persons therein described, and which they severally verified by oath or affirmation taken before him or them.

Register shall verify his books on oath;

IX. *And be it further enacted by the authority aforesaid,* That after the first day of January in the year of our Lord one thousand eight hundred and fifty, no further oaths shall be administered or proceedings had for the purpose of being naturalized under this Act.

No proceedings to be had under this Act after 1850.

X. *Provided always, and be it further enacted by the authority aforesaid,* That if any person to whom it shall belong to attest the truth of any such record, shall neglect or omit to attest the same in manner aforesaid, he shall forfeit and pay the sum of two hundred pounds, to be recovered by information in His Majesty's Court of King's Bench; but such omission shall not prejudice the right of any person who may have taken the oath or made the affirmation required by this Act, or preclude him from receiving a certificate or extract, according to the provisions thereof.

Penalty for omitting to verify record.

XI. *And be it further enacted by the authority aforesaid,* That a general alphabetical list shall be made and kept by the Secretary of this Province, and by the several Registers, of the surnames and christian names of all persons whose names and descriptions are recorded in the several books of Registry, referring to their place in such books respectively; and that such list and books shall be open at all times to inspection during the hours of business in such office; and that any person desirous of searching in the said list or books, shall pay to the Officer keeping the same, one shilling for each person whose name he shall desire to search for.

Alphabetical lists;

Books to be left open for inspection;

Fee for search.

XII. *And be it further enacted by the authority aforesaid,* That for administering the oath or affirmation, as aforesaid, making the entry required by this Act, and giving a certified copy or extract of such entry, the Register or his Deputy shall be entitled to demand and recover from every person making such oath or affirmation, the sum of one shilling and

Fees.

three pence; and that the Register and Secretary of the Province, and their respective Deputies, shall be entitled to demand and receive for searching and giving such extract at any other time, the sum of one shilling; and that no more or other fees than are expressly allowed by this Act shall be demanded or received for any services done under this Act by the Register or by the Secretary of the Province, or their respective Deputies.

Remedy in case of persons dying before they can be naturalized under this Act.

XIII. *And be it further enacted by the authority aforesaid,* That if any person not entitled to be regarded as a natural born subject of His Majesty, who at the time of the passing of this Act was domiciled in this Province, shall die before the period limited by this Act for his taking the oath according to the provisions thereof, such person shall be nevertheless deemed to have been a natural born subject of His Majesty, so far as regards the taking, holding, imparting and transferring, of any real estate by grant, marriage, dower, devise or inheritance.

Acts respecting eligibility to the Assembly, or 51 Geo. III. Ch. 9, not to be affected by this Act.

XIV. *And be it further enacted by the authority aforesaid,* That nothing in this Act contained shall be taken to repeal, or in any manner alter or affect any Statute passed by the Legislature of this Province, respecting the qualification of voters for Members to serve in the Assembly of this Province, or the eligibility of Members to serve in the said Assembly, or in any manner to affect or interfere with a certain Act of the Legislature of this Province, passed in the fifty-fourth year of His late Majesty's reign, intituled, "An Act to declare certain persons therein described aliens, and to vest their estates in His Majesty," or with any proceedings had thereupon, or to repeal any laws now in force in this Province for the naturalization of foreigners.

Remedy with respect to estates held by aliens or derived through aliens.

XV. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, no person shall be disturbed in the possession, or shall be precluded from the recovery of any lands, tenements or hereditaments, in this Province, on the ground of his or her being or having been an alien, or on the ground of any person from or through whom he or she may claim being or having been an alien; *Provided* the person against whom such disability shall be so objected, being a female, was resident in this Province on the twenty-sixth day of May in the year of our Lord one thousand eight hundred and twenty-six, or being a male, was resident in this Province on the said twenty-sixth day of May, and was then actually under the age of sixteen years.

Exceptions in certain cases.

XVI. *And be it further enacted by the authority aforesaid,* That in all cases where any person claiming to hold as next entitled on account of any person nearer in the line of descent having been an alien, shall in virtue of such claim have taken actual possession of any real estate before the said twenty-sixth day of May, and have made improvements thereon; and also, in all cases where any person claiming to hold as next entitled on account of the person nearer in the line of descent having

been an alien, shall have actually sold or departed with, or shall have actually contracted to sell or depart with his real estate, before the said twenty-sixth day of May, no person being at that time in adverse possession of the same, the provisions of this Act shall not extend to render invalid any right or title to such estate, but such right or title shall be taken and adjudged to be as if this Act had not passed.

A.

I do swear, (or being one of the persons allowed by law to affirm in civil cases, do affirm,) that I have resided seven years in His Majesty's dominions, without having been during that time a stated resident in any foreign country, and that I will be faithful and bear true allegiance to the Sovereign of the United Kingdom of Great Britain and Ireland, and of this Province, as dependant thereon.

Schedules.
(See provisions in 4 & 5
Vic. Ch. 7.)

B.

NAME.	Present Residence	Addition, degree or occupation.	SIGNATURE.	Date of Registry.	Number of entry.

STATUTES OF UPPER CANADA,

PASSED IN THE

FIRST SESSION OF THE TENTH PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT YORK, ON THE EIGHTH DAY OF JANUARY, IN THE NINTH YEAR OF THE
REIGN OF OUR SOVEREIGN LORD GEORGE THE FOURTH, AND PROROGUED ON
THE TWENTIETH DAY OF MARCH FOLLOWING.

SIR JOHN COLBORNE, K. C. B.
LIEUTENANT GOVERNOR.

ANNO DOMINI 1829.

CHAP. I.

*AN ACT to provide for the admission of the evidence of Quakers,
Menonists, Tunkers and Moravians, in criminal cases.*

[Passed 20th March, 1829.]

Preamble.

Quakers, Menonists,
Tunkers and Moravians
admitted to give evidence
in criminal cases;

WHEREAS the administration of the law in criminal proceedings is much impeded by reason that the evidence of persons belonging to certain religious sects, who from scruples of conscience decline taking an oath, cannot be received to the impunity of offenders, and the consequent encouragement of crime; For remedy whereof, *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, every Quaker, Menonist or Tunker, or person being a member of the church or congregation known by the name of "Unitas Fratrum" or the United Brethren, sometimes otherwise called the Moravian Church, in any criminal case in which an oath is required by law, or upon any lawful occasion whatever in the administration of the law for the prevention or punishment of offences wherein the oath of any persons can be admitted, may make his or her affirmation or declaration in these words following,

that is to say: "I, A. B., do solemnly, sincerely and truly declare and affirm," having first made the following declaration or affirmation, viz: "I, A. B., do solemnly, sincerely and truly declare, that I am one of the society called Quakers, Menonists, Tunkers, or Unitas Fratrum or Moravians," (as the case may be,) which affirmation or declaration, as aforesaid, of any Quaker, Menonist, Tunker, or person being of the said church or congregation called Moravians or United Brethren, shall be and is hereby declared to be of the same force and effect to all intents and purposes, in all Courts of law or other places where by law an oath is or shall be allowed, authorised, directed or required, for the purposes aforesaid, as an oath taken in the usual form; and all and every person and persons who is or are or shall be authorised or required to administer any oath for any of the purposes aforesaid, by any law now in force or hereafter to be made, although no express provision is made for that purpose in any such law, shall be and is or are hereby required to administer such affirmation or declaration.

Form of affirmation;

Previous declaration;

Evidence so given to have the same effect as if on oath;

All persons authorised to administer oaths in criminal cases may take affirmations.

II. *And be it further enacted by the authority aforesaid,* That if any person making such affirmation or declaration shall be lawfully convicted of having wilfully, falsely and corruptly, affirmed and declared any matter or thing which, if the same had been deposed in the usual form upon oath, would have amounted to wilful and corrupt perjury, every such person so offending shall incur and suffer all the pains, penalties, forfeitures and disabilities, which by the laws now in force are to be inflicted on persons convicted of wilful and corrupt perjury.

Perjury may be assigned on false affirmation.

III. *And be it further enacted by the authority aforesaid,* That no Quaker, Menonist or Tunker, or person belonging to the society of United Brethren or Moravians, shall by virtue of this Act be qualified or permitted to serve on Juries in criminal cases.

Persons admitted to affirm under this Act not to serve on Juries in criminal cases.

CHAP. II.

AN ACT to authorise the detention of Debtors in certain cases.

[Passed 20th March, 1829.]

[EXPIRED.]

CHAP. III.

AN ACT the better to protect the Mississaga Tribes living on the Indian Reserve of the River Credit, in their exclusive right of fishing and hunting therein.

(Passed 20th March, 1829.)

[EXPIRED.]

CHAP. IV.

AN ACT to afford greater facility in procuring testimony upon claims to Lands in this Province, by the Heirs or Devisees of the original Nominees of the Crown, or their Assignees.

[Passed 20th March, 1829.]

Preamble.

(Referring to 4th Geo. III. Ch. 16, and 4 Geo. IV. Ch. 7)

Commissioners for taking affidavits in the King's Bench may take affidavits relative to claims under heir and devisee Acts:

False swearing in such cases made perjury.

Fee for taking affidavit.

WHEREAS under the several Acts now in force in this Province to afford relief to those persons who may be entitled to claim lands in this Province as heirs or devisees of the original nominee of the Crown, or their assignees, when no Patent has been issued, it is doubtful whether the Governor, Lieutenant Governor, or Person Administering the Government of this Province, has by the said several Acts power and authority to appoint more than one person in each and every District of this Province, for taking and receiving evidence touching and relating to any such claim or claims: *And whereas* it is necessary to afford greater facility in procuring and receiving such evidence: *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 each and every Commissioner in His Majesty's Court of King's Bench in this Province, to take and receive the testimony and evidence of any person or persons relative to such claim or claims to be brought forward under the provisions of the said several Acts, which said testimony and evidence upon oath, the said several Commissioners in His Majesty's Court of King's Bench in this Province, are hereby authorised and empowered to take and receive; and if any person or persons shall wilfully forswear him, her or themselves, before any such Commissioner authorised to receive testimony under the provisions of this Act, he, she or they, shall on conviction thereof be subject to the pains and penalties of wilful and corrupt perjury.

II. *And be it further enacted by the authority aforesaid,* That for each and every affidavit so to be taken by any Commissioner empowered by this Act to take the same, it shall and may be lawful for such Commissioner to demand and receive the sum of one shilling, and no more.

CHAP. V.

AN ACT to repeal an Act passed in the forty-fourth year of George the Third, intituled, "An Act for the better securing this Province against all seditious attempts or designs to disturb the tranquillity thereof."

(Passed 20th March, 1829.)

WHEREAS in the forty-fourth year of His late Majesty's reign, it being thought expedient more effectually to guard the peace of this Colony, an Act was passed, intituled, "An Act for the better securing this Province against all seditious attempts or designs to disturb the tranquillity thereof:" ^{Preamble.} *and whereas* the ordinary laws of this Province are sufficient for the protection of the inhabitants 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 the said recited Act be, and the ^{44th Geo. III. Ch. 7, repealed.} same is hereby repealed.

CHAP. VI.

AN ACT to alter the time of holding the Court of General Quarter Sessions of the Peace in the Ottawa District.

[Passed 20th March, 1829.]

[REPEALED BY 7 WILLIAM IV. CHAP. 11.]

CHAP. VII.

AN ACT to make more effectual provision for settling the affairs of the late pretended Bank of Upper Canada.

(Passed 20th March, 1829.)

[See Local and Private Acts, in 2nd Volume.]

CHAP. VIII.

AN ACT to make valid, under certain restrictions, the Registry of Deeds and Conveyances made by the Registrar of the County of Northumberland, under an appointment adjudged to be invalid.

(Passed 20th March, 1829.)

Preamble.

Certain registries of conveyances made by Thomas Ward, Esquire, under an invalid appointment as Registrar of the County of Northumberland;

WHEREAS in or about the year of our Lord one thousand eight hundred and eight, Thomas Ward, Esquire, was appointed Registrar of the County of Northumberland, in the District of Newcastle, and in that capacity registered many conveyances and other deeds relating to real estate in the said County; *And whereas* the appointment of the said Thomas Ward was afterwards adjudged by the Court of King's Bench in this Province to be invalid, and he was therefore removed from the said office, but hath since continued to keep the memorials and registries of all such deeds and conveyances in his custody, and purchasers and others are exposed to loss and inconvenience from not being able to satisfy themselves of the state of any title, by searching in the office of Registrar of the said County; For remedy whereof, *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 Thomas Ward shall within two months from the passing of this Act transmit and deliver over to the Registrar of the said County of Northumberland, all such memorials and registries by him received and made in the capacity of Registrar of such County, as aforesaid, and before his appointment was declared void as hereinbefore recited.

Memorials and registries so made by T. Ward shall be transmitted to the present Registrar for Northumberland.

When so transmitted they shall form public records of such office;

And shall be deemed valid registries;

Claims of innocent purchasers without notice of any such registry, shall not be prejudiced by this Act.

II. *And be it further enacted by the authority aforesaid,* That such memorials and registries, when so transmitted and delivered over, shall form part of the papers and records of the office of Registrar for the said County of Northumberland, in the same manner as if the same had been entered, proved and recorded, by any person heretofore legally holding the said office; and that all and every such registries of any conveyance or other deed, entered, made and certified by the said Thomas Ward, as such Registrar as aforesaid, before his appointment was adjudged void and his consequent removal from the said office, shall be deemed and taken to have been entered, made and certified, by the lawful Registrar of such County; *Provided always nevertheless,* that nothing in this Act contained shall extend to invalidate, affect or interfere with the title, claim or interest, of any purchaser or purchasers of any lands or estates comprised in any of the said memorials or registries, provided

such purchase shall have been made *bona fide* for valuable consideration, and without notice or knowledge of such lands or estates being comprised in any such memorial or registry, but that such title, claim or interest, shall be and remain as if this Act had not been passed, and not otherwise.

III. *And be it further enacted by the authority aforesaid, That nothing in this Act contained shall extend, or be construed to extend, to make any alteration in the tenure of the office of Registrar in any County of this Province.*

This Act to make no alteration in the tenure of the office of Registrar

CHAP. IX.

AN ACT to render effectual certain securities to be given by the Welland Canal Company, for a loan advanced by His Majesty's Government, and for other purposes relating to the said Canal; and also, for authorizing the making a lateral cut from the Welland Canal through the Town of Niagara to the mouth of the River Niagara, by a Company incorporated for that purpose.

(Passed 20th March, 1829)

[See Local and Private Acts, in 2nd Volume.]

CHAP. X.

AN ACT relative to Confiscated Estates.

(Passed 20th March, 1829.)

WHEREAS it is represented that in several instances lands have been erroneously confiscated and sold under the Statutes heretofore passed for the disposal of estates forfeited during the late war with the United States of America, the purchasers whereof are willing to relinquish their purchases, and to accept in lieu the lands intended to have been respectively proceeded against: *And whereas* such arrangements are expedient and just; *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

Preamble.

(See 59 Geo. III. Ch. 12.)

Power given to Commissioners for forfeited estates, in certain cases, with consent of parties, to transfer lots which were intended to have been sold, in place of those which, by error, were actually sold, and to accept a transfer of the lot erroneously sold in return.

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 appointed for carrying into effect the aforesaid Acts for the disposal of forfeited estates, or the majority of them, from time to time to inquire whether any lots, pieces or parcels of land, not liable to confiscation, have been or may be hereafter returned to and sold by them under the said Acts, and if so, also to inquire whether any other lots, pieces or parcels of land, not returned as forfeited, or if so returned, not actually sold by the said Commissioners, was or were liable to confiscation, and whether the same was intended or ought to have been proceeded against instead of the premises so erroneously forfeited and sold; and in case it shall appear to the satisfaction of the said Commissioners, or the majority of them, that other lots, pieces or parcels of land, were intended or ought to have been proceeded against, instead of the premises that may have been, or may hereafter be respectively erroneously forfeited and sold, it shall and may be lawful for the said Commissioners, or the majority of them, to transfer and convey to the purchaser or purchasers of any such lots, pieces or parcels of land, so erroneously forfeited and sold, as aforesaid, and in lieu thereof, and upon the same terms and considerations, provided such purchaser or purchasers shall be willing to accept the same, the lots, pieces or parcels of land, which they the said Commissioners, or the majority of them, shall so find liable to confiscation, and against which it shall appear proceedings were intended, or ought to have been originally instituted, the said last mentioned lands being first duly vested in the said Commissioners, pursuant to the provisions of the Statutes hereinbefore mentioned.

The lands transferred back to the Commissioners as having been erroneously sold, may be by them conveyed to the rightful claimant thereof.

II. *And be it further enacted by the authority aforesaid,* That whenever any such lots, pieces or parcels of land, so erroneously sold, as aforesaid, shall be relinquished by the purchaser or purchasers thereof, as aforesaid, it shall and may be lawful for the said Commissioners, or the majority of them, to decree and transfer the same to the proper owner or owners thereof, according to his, her or their lawful and just estate and right therein.

When the purchaser of lands erroneously sold shall decline accepting the intended lands in exchange, the money paid by him shall be re-paid with interest, and the land conveyed to the rightful owner.

III. *And be it further enacted by the authority aforesaid,* That in case the purchaser or purchasers of any lots, pieces or parcels of land, that have been, or may hereafter be erroneously sold as aforesaid, shall decline accepting in lieu thereof the premises which ought to have been proceeded against and sold, or in case there shall be no other lands to substitute for such erroneous sale or sales, it shall and may be lawful for the Commissioners, or the majority of them, to restore to the said purchaser or purchasers the purchase money paid to the said Commissioners by him, her or them, respectively, with lawful interest thereon from the period of payment, provided he, she or they, shall be willing to accept the same; and thereupon to decree and transfer the lots, pieces or parcels of land, so erroneously sold, as aforesaid, to the rightful owner or owners thereof, as hereinbefore provided in the second Section of this Act.

CHAP. XI.

AN ACT to improve the navigation of Lake Ontario, by authorising the construction of a Harbour at Cobourg, by a Joint Stock Company.

[Passed 20th March, 1829.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XII.

AN ACT to incorporate certain persons therein named, under the style and title of the "Port Hope Harbour and Wharf Company."

(Passed 20th March, 1829.)

[See Local and Private Acts, in 2nd Volume.]

CHAP. XIII.

AN ACT to provide for the guiding line in the Township of Lancaster, in the Eastern District.

(Passed 20th March, 1829.)

[See Local and Private Acts, in 2nd Volume.]

CHAP. XIV.

AN ACT to provide for the Survey of a part of the Township of Oxford, in the Johnstown District.

(Passed 20th March, 1829.)

[See Local and Private Acts, in 2nd Volume.]

CHAP.

CHAP. XV.

AN ACT to incorporate certain persons for the purpose of making a Turnpike Road in the County of Halton, under the name of the "Dundas and Waterloo Turnpike Company."

(Passed 20th March, 1829.)

[EXPIRED by non-user within five years, under 19th clause.—See 7 Wm. IV. Chap. 79.]

CHAP. XVI.

AN ACT to amend part of an Act passed in the eighth year of the reign of His present Majesty, intituled, "An Act to incorporate certain persons therein mentioned, under the style and title of "The Cataragui Bridge Company."

[Passed 20th March, 1829.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XVII.

AN ACT to incorporate certain persons for the purpose of holding Lands for a Free Church in Dundas, in the District of Gore.

[Passed 20th March, 1829.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XVIII.

AN ACT to enable the Trustees of the Methodist Episcopal Church in York, to exchange certain Real Estate now holden by them, for other Real Estate in or near the said Town of York.

[Passed 20th March, 1829.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XIX.

AN ACT to provide for a Commission of Lunacy and Idiocy, in the case of Peter Vanalstine.

[Passed 20th March, 1829.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XX.

AN ACT to provide for the erection of a Light House on Long Point, in Lake Erie.

[Passed 20th March, 1829.]

Preamble; Necessity of a Light House on Long Point in Lake Erie; Commissioners to erect a Light House on Long Point. 2. Commissioners named. 3. £1000 granted for defraying the expense of building and furnishing the Light House. 4. Commissioners to account; And to report for the information of the Legislature. 5. No contract shall be made for a sum exceeding £1000; Tenders to be called for; Sureties required; Charge of Superintendant limited to 3 per cent.

CHAP. XXI.

AN ACT to provide for the completing the Light House on the False Ducks Island, and for the keeping and maintaining the same during the present year.

[Passed 20th March, 1829.]

[SEE 9 GEORGE IV. CH. 7.]

Preamble; £750 granted in addition, for completing and equipping the Light House on the False Ducks Island; How to be paid. 2. And accounted for. 3. Provision for support of the Light House during the present year. 4. Commissioners to make the necessary arrangements; And to render detailed accounts for the information of the Legislature.

CHAP. XXII.

AN ACT to make good certain Monies issued and advanced in pursuance of the Addresses of the Commons House of Assembly, at the last and present Sessions of Parliament.

(Passed 20th March, 1829.)

Preamble; £4,178 18 9½ granted to make good certain monies advanced by His Excellency in pursuance of an Address, 2. How to be accounted for.

CHAP. XXIII.

AN ACT for the relief of Daniel Erb, and other persons whose names are therein mentioned.

(The Royal Assent to this Bill promulgated by Proclamation, the 27th October, 1829.)

[See Local and Private Acts, in 2nd Volume.]

STATUTES OF UPPER CANADA,

PASSED IN THE

SECOND SESSION OF THE TENTH PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT YORK, ON THE EIGHTH DAY OF JANUARY, IN THE TENTH YEAR OF THE
REIGN OF OUR SOVEREIGN LORD GEORGE THE FOURTH, AND PROROGUED ON
THE SIXTH DAY OF MARCH FOLLOWING.

SIR JOHN COLBORNE, K. C. B.

LIEUTENANT GOVERNOR.

ANNO DOMINI 1830.

CHAP I.

AN ACT to direct the appropriation of Fines in certain cases.

[Passed 30th January, 1830.]

Preamble.

WHEREAS by the criminal law of England as adopted in this Province, various offences are made punishable by fines or penalties, which it is provided shall be either wholly or in part paid to the Church Wardens or Overseers of the poor, or otherwise appropriated to the support of the poor; *And whereas* there being no public provision made for the support of the poor in this Province, such a distribution of the penalties is inapplicable, and it is expedient to remove the obstacle which prevents the execution of the criminal law in the before recited cases, and in all other cases where, by reason of the mode in which any fine or penalty is directed to be appropriated the criminal law of England cannot be fully carried into effect: *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 all cases in which, by the criminal law of England in force in this Province, the whole or any part of any fine or penalty imposed for the punishment of any offence is in any manner appropriated for the support of the poor, or to any parochial or other purpose, inapplicable to the

Such portion of all fines distributed by the law of England to the poor, shall be paid to the Treasurers of the several Districts, for the purposes of the respective Districts.

existing state of this Province, such fine or penalty, or such part thereof as shall be so appropriated, shall be paid, when received, to the Treasurer of the District in which the conviction shall have taken place, to be appropriated to the purposes of the District; and accounted for in the same manner as the assessments levied in the several Districts are generally applicable by law.

CHAP. II.

AN ACT to continue the Laws now in force for establishing the limits to the respective Gaols in this Province.

[Passed 30th January, 1830.]

[REPEALED—SEE CHAP. 3.]

CHAP. III.

AN ACT to repeal and amend the Laws now in force respecting the Limits of the respective Gaols in this Province.

[Passed 6th March, 1830.]

WHEREAS it is expedient to assign certain enlarged Limits to the Preamble. several Gaols within this Province, in which debtors may have the greater (See 4 Wm. IV., Ch. 10.) benefit of exercise and air, without subjecting the Sheriff, or other officer in whose custody the debtor may be, to any action at law for an escape; and also, to render more efficient and summary the remedies to be continued on behalf of creditors against any debtor or debtors availing themselves of the provisions of this 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 whole of a certain Act passed in the second year of the reign of King George the Fourth, intituled, "An Act 2nd Geo. IV., Ch. 6; for assigning Limits to the respective Gaols in this Province;" and also a

7th Geo. IV., Ch. 7;

7th Geo. IV., Ch. 9;

11th Geo. IV., Ch. 2
repealed.(See: *Wm. IV. Chap. 10,*
*Secs. 1 & 2.)*Sixteen Acres of ground
contiguous to the several
Gaols in the Province, to
be assigned as limits,
within which debtors
confined in Gaol, may be
permitted to reside, upon
giving security to the
Sheriff.Debtors having the liberty
of Gaol limits not to be
entitled to weekly
allowance.The limits of the Gaol in
Niagara may be extended
to twenty-six Acres.Debtors may recover
debt charges, and
costs against debtors
with leaving from the
limits, or their bail.

certain other Act passed in the seventh year of the reign of King George the Fourth, intituled, "An Act to continue and amend an Act passed in the second year of the reign of King George the Fourth, intituled, 'An Act for assigning Limits to the respective Gaols in this Province;'" and also a certain other Act passed in the eighth year of the reign of King George the Fourth, intituled, "An Act to repeal part of and amend the law now in force assigning Limits to Gaols in this Province;" and also a certain other Act passed in the eleventh year of His Majesty's reign, and during the present Session of Parliament, intituled, "An Act to continue the laws now in force for establishing the Limits to the respective Gaols in this Province," be and the same are hereby wholly repealed.

II. *And be it further enacted by the authority aforesaid, That it shall and may be lawful for the Justices in General Quarter Sessions of the Peace assembled, in each and every District of this Province, other than the District of Niagara, and they are hereby authorised and required, at the first Session of the General Quarter Sessions of the Peace held after the passing of this Act, to assign and mark as Limits to the respective Gaols in each District of the Province, other than the District of Niagara, not more than sixteen acres of ground, contiguous to the said Gaols; and that after the establishment of such Limits, it shall and may be lawful for any debtor or debtors confined, or to be confined in such Gaols, to be and remain at any part or place within such Limits, without subjecting the Sheriff, or other officer in whose custody such debtor or debtors may be, to any action or suit for any escape from such Gaol Limits: Provided, however, that it shall not be incumbent upon such Sheriff, or other officer, to allow any debtor or debtors the use and benefit of such Limits, unless such debtor or debtors shall furnish good and satisfactory security that he, she or they, shall not at any time during his, her or their confinement, go or remove beyond such established Limits; Provided, nevertheless, that during such time as any debtor in execution shall have the liberty of such Limits, as aforesaid, such debtor shall not be entitled to receive from the plaintiff in the action any weekly maintenance, by reason of any Statute for the benefit of insolvent debtors.*

III. *And whereas from the peculiar local situation of the Gaol of the District of Niagara, owing to the greater distance thereof from the Town, it is expedient that the area assigned as Limits thereto should be more extensive than to others; Be it further enacted by the authority aforesaid, That the Justices of the said District of Niagara shall and may, in manner and form aforesaid, assign as Limits to the said Gaol, any extent of ground not exceeding twenty-six acres.*

IV. *And be it further enacted by the authority aforesaid, That if any debtor or debtors who may be confined in any Gaol within this Province, and who may have given security to entitle himself, herself or themselves, to the benefit of such Limits, shall withdraw or depart from or out of the said Limits, it shall and may be lawful for the Sheriff, or other officer from whose custody such debtor or debtors may so withdraw, to sue for*

and recover from the prisoner, or person or persons giving such security, or either of them, such sum or sums of money as such debtor or debtors may have been confined for in such Gaol or Limits, together with all such costs and damages as he may have sustained by reason of such debtor or debtors withdrawing from and out of the said Limits.

V. *And be it further enacted by the authority aforesaid,* That the Sheriff, or other officer, on such debtor or debtors, so withdrawing or departing, shall be bound to assign over the security to the plaintiff, if required by him; and that the Sheriff upon so doing shall be discharged from any claim the plaintiff may have on him, the said Sheriff, for or on account of such debtor or debtors.

Bond for the Limits may be assigned.

VI. *And be it further enacted by the authority aforesaid,* That this Act shall not extend, or be construed to extend, to any person or persons confined for debt, who may at the same time be in custody for any criminal charge.

This Act not to extend to persons in custody for any criminal charge.

VII. *And be it further enacted by the authority aforesaid,* That upon such assignment of the security to the plaintiff, or his legal representatives, he, she or they may, as assignee or assignees, sue therefore, in his, her or their own name; and that it shall not be in the power of the Sheriff, in whose name such security was taken, to release such action.

Assignee of bond for the limits may maintain an action thereon which shall not be released by the Sheriff.

VIII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for any person or persons having given security to the Sheriff for any prisoner to enjoy the Limits of the Gaol, to surrender such prisoner into the hands of the Sheriff, or his Deputy or Gaoler; and upon such surrender the Sheriff shall, and he is hereby required to deliver up the bond or security given to him by such person or persons, and that he, she or they, shall be wholly discharged therefrom. *Provided always,* that nothing in this clause contained shall extend, or be construed to extend, to prevent the Sheriff of any District from renewing such security, in the same manner as if such prisoner had not enjoyed the Limits of such Gaol.

Bail for the limits may surrender their principal;

Surrender not to prevent fresh security being given.

IX. *And be it further enacted by the authority aforesaid,* That whenever any person or persons shall be in execution upon a *capias ad satisfaciendum*, at the suit of any creditor or creditors, and shall have obtained leave, under the provisions of this Act, to reside upon the Limits of the Gaol where he shall have been confined, it shall and may be lawful for such creditor or creditors to sue out any other species of execution, notwithstanding such person or persons may have been charged in execution as aforesaid: *Provided always,* that his, her or their household furniture, not exceeding twelve pounds ten shillings in value, together with the tools and implements of trade used by such person or persons in any trade or handicraft, shall not be liable to any such subsequent execution so to be sued out as aforesaid.

Creditors may sue out any other species of execution against debtors charged upon *ca. sa.*

Household furniture and tools of such debtors not to be seized on subsequent execution.

Creditors may tender interrogatories to debtors confined on the limits, in like manner as to insolvent debtors :

If debtors neglect to answer interrogatories tendered, for twenty days, they shall stand committed to close custody,

False swearing subjects offenders to the penalties of perjury.

X. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for any such creditor or creditors, as last aforesaid, to tender such and the like interrogatories to any such debtor or debtors, so residing on the Limits of any Gaol, as aforesaid, in like manner as may now be tendered to any insolvent debtor charged in execution ; and in case such debtor or debtors shall refuse or neglect to answer such interrogatories for the space of twenty days next after a copy thereof shall have been delivered to such debtor or debtors, he, she or they, shall no longer be entitled to the benefit of such Limits, but shall be re-committed to the Gaol of the District where he, she or they, shall be confined.

XI. *And be it further enacted by the authority aforesaid,* That if any person or persons shall upon any answer or answers to such interrogatories swear falsely, he, she or they, shall be liable to all the pains and penalties of wilful and corrupt perjury.

XII. Prisoners enjoying the old Limits, to continue thereon until new Limits assigned.

CHAP. IV.

AN ACT for the relief of indigent Debtors.

[Passed 6th March, 1830.]

Preamble.
(See 11 Geo. IV. Ch. 3
Sec. 9.)

Wearing apparel and bedding in actual use, not to be seized under execution.

WHEREAS it is expedient that not only the bed and bedding of debtors should be exempt from being seized and sold in execution of Judgment, but also that their necessary wearing apparel, and the bed and bedding of their family, should in like manner be exempt from such seizure and sale: *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 all cases wherein a writ of execution shall be issued upon any Judgment obtained in any Court in this Province, it shall not be lawful for the Sheriff, or other officer executing such writ, to seize the necessary wearing apparel of the debtor or debtors against whom such Judgment shall have been obtained, or of his, her or their family, nor the bed or bedding in actual use by the members of his, her or their family, in satisfaction of such Judgment, any law, usage or custom, to the contrary notwithstanding.

CHAP. V.

AN ACT to extend the provisions of the Law of Set-off, and to prevent unnecessary and vexatious Law-suits.

[Passed 6th March, 1830.]

WHEREAS the provision for setting mutual debts, one against the other, is highly just and reasonable at all times, and ought to be extended so as to allow a defendant to recover the balance due to him; *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 if in any action to be hereafter commenced in His Majesty's Court of King's Bench, or in any of His Majesty's District Courts in this Province, the defendant having given notice of set-off, or pleaded the same according to law, shall on trial of said action prove a sum due to him, or if he be sued as executor or administrator, to the testator or intestate, from the plaintiff, or if the plaintiff sue as executor or administrator from the testator or intestate, greater than such plaintiff has proved due to him, or his testator, or intestate from such defendant, or his testator or his intestate, it shall and may be lawful for the jury to render a verdict for the defendant to the amount of the difference of their respective claims proved as aforesaid, and for every such defendant to enter up judgment for such sum, besides his costs and charges, and to have execution therefore.

Preamble.

(See 4 & 5 Vic. Ch. 3, Sec. 37.)

Defendants having given notice of, or pleaded a set-off, may recover judgment for the amount proved by them beyond plaintiff's demand, and have execution therefore.

II. *And be it further enacted by the authority aforesaid,* That in any action within its jurisdiction which shall hereafter be commenced in any Court of Requests in this Province, the Commissioners thereof shall give judgment against the plaintiff for such sum, not exceeding the limit of their jurisdiction, as they may judge from the evidence to be a balance due from him to the defendant, and such defendant shall thereupon be entitled to an execution therefore, in the same manner as if he had been the plaintiff in the case and the other party defendant: *Provided always nevertheless,* that such Court shall not have power to take cognizance of any demand advanced on the part of the defendant, which from its nature or amount would not come within the jurisdiction of such Court if brought forward on the part of the plaintiff.

Courts of Request may, in certain cases, give judgment for a balance due from plaintiffs to defendants.

CHAP. VI.

AN ACT for the better regulation of the Currency.

[Passed 6th March, 1830.]

[REPEALED BY 6 WM. IV. CHAP. 27.]

CHAP. VII.

AN ACT to provide for an increase of the number of Overseers of Highways, Pounds and Pound-keepers, in the respective Townships throughout this Province.

[Passed 6th March, 1830.]

[REPEALED BY 5 WM. IV. CH. 8.]

CHAP. VIII.

AN ACT to alter the times of sitting of the General Quarter Sessions in the Niagara District.

[Passed 6th March, 1830.]

[REPEALED BY 3 WM. 4, CH. 22; & 7 WM. 4, CH. 11.]

CHAP. IX.

AN ACT to revive and continue, with certain modifications, an Act passed in the fifty-ninth year of His late Majesty's reign, intituled, "An Act to alter the laws now in force for granting Licences to Inn-keepers, and to give to the Justices of the Peace, in General Quarter Sessions assembled, for their respective Districts, authority to regulate the Duties hereafter to be paid on such Licences."

[Passed 6th March, 1830.]

WHEREAS an Act passed in the fifty-ninth year of His late Majesty's reign, intituled, "An Act to alter the laws now in force for granting licences to Inn-keepers, and to give to the Justices of the Peace, in General Quar-

Preamble.

(See 3 Wm. IV. Chap. 14;
3 Vic. Chap. 21.)

ter Sessions assembled, for their respective Districts, authority to regulate the duties hereafter to be paid on such licences," hath expired, and it is expedient for the purpose of raising a revenue for the improvement of the roads and bridges within this Province, to revive and amend 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 the said Act, with the exception of that part of the second clause which relates to the adjournment of the Court of General Quarter Sessions to the last Monday of December; and also the third clause of the said Act, and so much of the fourth clause as relates to the amount to be paid for a licence, shall be and continue in force for two years from the passing of this Act, and from thence to the end of the next ensuing Session of Parliament, and no longer.

58th George III., except certain clauses, revived and continued for two years.

(See 2 Vic. Chap. 25, continued for four years.)

II. *And be it further enacted by the authority aforesaid*, That every person, who at any time during the continuance of this Act, shall keep a shop and tavern, and who shall take out a licence for that purpose, shall pay to the Inspector for such licence the same sum as by the laws of this Province shall be required to be paid by shop-keepers who take out licence for the purpose of enabling them to sell spirituous liquors by retail, any thing in any former Act of the Parliament of this Province to the contrary notwithstanding.

Shop and tavern-keepers to take out a licence.

III. [Repealed by 3 Vic. Ch. 21.]

Sessions may adjourn to the 5th January in each year, for licencing inn-keepers.

IV. *And be it further enacted by the authority aforesaid*, That it shall not be lawful for the said Justices, or a majority of them, as aforesaid, to order or direct the said Inspectors to receive, or any Inn-keeper to pay, for any such licence as aforesaid, a greater sum than ten pounds, or a smaller sum than one pound sixteen shillings, Sterling, and the additional sum of twenty shillings, Currency, now imposed by law.

Not more than £10, nor less than £3, to be required for a licence.

(See 3 Vic. Ch. 21.)

V. [Repealed by 3 Vic. Ch. 21.]

Duties applicable to the improvement of the high-ways.

CHAP. X.

AN ACT to encourage the establishment of Agricultural Societies in the several Districts of this Province.

(Passed 6th March, 1830.)

[EXPIRED.]

CHAP. XI.

AN ACT to grant a further Loan to the Welland Canal Company, and to regulate their further operations.

[Passed 6th March, 1830.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XII.

AN ACT to afford further aid to complete the Burlington Bay Canal, and for other purposes relative to the said Canal.

[Passed 6th March, 1830.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XIII.

AN ACT to incorporate the Trustees of the Grantham Academy.

[Passed 6th March, 1830.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XIV.

AN ACT granting to His Majesty a sum of money for the improvement of the Roads and Bridges in this Province.

[Passed 6th March, 1830.]

[TEMPORARY.]

CHAP. XV.

AN ACT to confirm the survey of a part of the concession line between the seventh and eighth concessions of the Township of Cornwall.

[Passed 6th March, 1830.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XVI.

AN ACT to correct the survey of the fifth concession line of the Township of Yonge.

(Passed 6th March, 1830.)

[See Local and Private Acts, in 2nd Volume.]

CHAP. XVII.

AN ACT to repeal an Act passed in the forty-ninth year of His late Majesty's reign, intituled, "An Act to encourage the destroying of Wolves in this Province," and to make further provision for exterminating those destructive animals.

[Passed 6th March, 1830.]

[EXPIRED.]

CHAP. XVIII.

AN ACT to pension Charlotte Pomeroy, widow of the late Timothy Conklin Pomeroy.

[Passed 6th March, 1830.]

Preamble; £20 annually granted to His Majesty, to be paid to the widow of T. C. Pomeroy. 2.
Pension to cease upon her youngest child attaining sixteen years.

C H A P. XIX.

AN ACT to borrow a sum of money in England at a reduced rate of interest, to cancel the Public Debt of this Province.

[Passed 6th March, 1830.]

[SEE 3 WM. IV. CH. 59.]

Preamble ; Receiver-General to pay annually £5,400 for interest to persons contracting in England for a loan, and for the gradual liquidation of the principal. 2. Warrants to be issued therefore; not more than four per cent interest to be given on such loan. 3. His Majesty's Receiver-General to contract for the loan. 4. Money borrowed to be applied to the liquidation of the present debt. 5. £150 to be paid to the Receiver-General for his trouble.

C H A P. XX.

AN ACT to authorise the Quarter Sessions of the Home District to provide for the relief of insane destitute persons in that District.

[Passed 6th March, 1830.]

Preamble.

WHEREAS it appears by the petition of the Chairman of the Quarter Sessions in and for the Home District, and also by presentment of the Grand Jury of the said District, that several insane persons, destitute of any provision for their maintenance, have been charitably received into the Gaol of the Home District, and that there being no funds for their support provided by Law, a charge has been incurred from necessity, and paid from the funds of the District without any legal authority for the same; *And whereas* it is just and expedient to indemnify all persons concerned in such advance, and also to provide a remedy for the future in such cases: *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 at the next ensuing Quarter Sessions of the Peace in the Home District, it shall and may be lawful for the Clerk of the Peace, and he is hereby required to lay before the Grand Jury of the said Quarter Sessions an account in detail of all sum and sums of money advanced, or which shall be necessary to advance until the said Sessions, for the purpose of maintaining and supporting insane destitute persons, as aforesaid.

Clerk of the Peace to lay before the Grand Jury of the Sessions an account of money necessary for maintaining insane persons.

II. *And be it further enacted by the authority aforesaid,* That at the said Quarter Sessions it shall and may be lawful for the said Grand Jury to make presentment to the said Court of the just and reasonable sum to be allowed for maintenance and support of such insane persons, expended for the time before the said Quarter Sessions; and also, to present such sum or sums as they may think necessary for the purpose of maintaining and supporting insane destitute persons in the said District, at the discretion of the Grand Jury, either in the Gaol or some other place, for the year next ensuing the said Sessions; which presentment shall be made once in each and every year, and the like account in detail each and every year exhibited for the monies expended in the past years, respectively, shall be laid before the Grand Jury, as above provided to be done at the now next ensuing Quarter Sessions.

Grand Jury to make presentment of what is reasonable for the support of insane persons;

Such presentment to be made annually.

III. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Chairman of the Quarter Sessions, from time to time, to issue his warrant for the payment of such sum or sums of money to the amount so presented, which said sum or sums of money shall be payable by the Treasurer of the said District, for the time being, out of the monies of the said District in his hands and unappropriated, and which said account, so laid before the said Grand Jury from time to time, so far as the same are approved of, and the said warrant, shall be a sufficient discharge and indemnity to all persons concerned in the expenditure of such sum or sums of money.

The sum of money presented to be paid by the Treasurer.

IV. *And be it further enacted by the authority aforesaid,* That the said Court of Quarter Sessions shall from time to time, by writ of subpoena, call before them all such person or persons as shall be required by the Grand Jury, and shall swear such person or persons in open Court, true answer to make to all such question or questions as shall be asked of them by the said Grand Jury, touching and concerning insane destitute persons in the said District, and their maintenance and support, and the said person or persons shall be examined on the said oath before the said Grand Jury; and all or any person or persons wilfully giving false evidence under this Act before the Grand Jury, at any such Quarter Sessions, shall be liable to all the pains and penalties of wilful and corrupt perjury: *Provided always,* that no greater sum shall be advanced in the course of any year than shall be previously presented for that year at the Sessions by the Grand Jury, as aforesaid.

Witnesses may be summoned before the Grand Jury;

False swearing subjected to the penalties of perjury.

V. *And be it further enacted by the authority aforesaid,* That this Act shall continue in force two years from the passing thereof, and from thence to the end of the next ensuing Session of Parliament, and no longer.

Continuance of this Act. (Continued for two years by 3 Wm. IV. Ch. 46; and revived and continued for four years by 7 Wm. IV. Ch. 29, and by 4 & 5 Vic. Chap. 33.)

CHAP. XXI.

AN ACT for the relief of the sufferers who sustained loss during the late War with the United States of America.

[Passed 6th March, 1830.]

Preamble.

(See 3 Wm. IV. Ch. 26:
4 & 5 Vic. Ch. 14, Sec. 2)

WHEREAS it is just and expedient, that the pecuniary suffering of such of Your Majesty's faithful subjects in this Province as sustained loss during the late war with the United States of America should, as far as the limited means at the disposal of the Legislature will warrant, be partially relieved by the Provincial Parliament, without expressing any belief that the inhabitants of this Colony should under the circumstances of the late war, assume the remuneration of sufferers for losses sustained by the Colonists in a national war: *And whereas* Your Majesty having already paid the sum of fifty-seven thousand four hundred and twelve pounds and ten shillings, to those sufferers, and having required the payment of an equal sum by this Province before any further payment would be authorised by your Majesty: *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, out of the revenues arising from the duties hereinafter mentioned, the sum of fifty-seven thousand four hundred and twelve pounds and ten shillings, towards the payment of the losses sustained by the sufferers during the late war with the United States of America.

£57,412 10s. granted to His Majesty towards payment of losses sustained during the late war.

Duties arising from the importation of salt and whiskey to be applied to the payment thereof;

Provided His Majesty's Government shall pay an equal sum.

II. *And be it further enacted by the authority aforesaid,* That the revenues arising, or which shall hereafter arise, from and out of the duties already levied and collected, or hereafter to be levied and collected, upon salt and whiskey imported from the United States of America into this Province, be wholly appropriated towards the liquidation of the said sum of fifty-seven thousand four hundred and twelve pounds and ten shillings, and interest thereon; *Provided always,* that His Majesty's Government shall pay an equal sum for the relief of the said sufferers.

Monies in the hands of the Commissioners of forfeited estates applied to the payment of the losses.

III. *And be it further enacted by the authority aforesaid,* That all monies which now are in the hands of the Commissioners for forfeited estates, or may hereafter come into their hands, shall be applied towards the payment of the principal and interest of the said sum of money.

IV. *And be it further enacted by the authority aforesaid,* That no other revenues, duties, or monies of this Province, than those hereinbefore mentioned, shall be used or held applicable to the payment of the sum of money hereby granted, or the interest thereon, or any part thereof.

No other revenues than those mentioned shall be applicable to the payment of the said sum.

V. *And be it further enacted by the authority aforesaid,* That so much of the Act passed in the fourth year of His Majesty's reign, intituled, "An Act further to regulate by law the commercial intercourse of the Province of Upper Canada with the United States of America," as imposes the duty of six pence per bushel on salt imported from the United States of America, be and the same is hereby continued, and shall remain in force until the sum of money hereby granted, and the interest thereon, shall be fully paid, and no longer.

So much of 4 Geo. IV, Ch. 1, as imposes a duty of six pence a bushel on salt imported from the United States, continued.

VI. *And be it further enacted by the authority aforesaid,* That the monies arising from the duties hereby granted to His Majesty for the purposes of this Act, shall be paid by the Receiver-General of this Province, in discharge of such warrant or warrants as shall from time to time be issued by the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, and shall be accounted for to His Majesty through the Lords Commissioners of His Majesty's Treasury, in such manner and form as His Majesty, His Heirs and Successors, shall be graciously pleased to direct.

Monies to be accounted for through the Lords of His Majesty's Treasury.

CHAP. XXII.

AN ACT to authorize the Receiver General of this Province to raise by debenture, on the credit of certain duties therein mentioned, a sum of money for the relief of the sufferers during the late War with the United States.

[Passed 6th March, 1830.]

[REPEALED BY 3 WM. 4, CHAP. 26.]

CHAP. XXIII.

AN ACT to provide for the payment of Militia Pensions, by reviving and continuing, for a limited time, the Law for that purpose which has recently expired.

(Passed 6th March, 1830.)

Preamble; 7 Geo. IV. Ch. 6, continued for four years.

CHAP. XXIV.

AN ACT to raise by Loan a certain sum of money, to be expended on the Public Highways within this Province.

[Passed 6th March, 1830.]

Preamble; £8,000 may be raised by loan in aid of the funds to be laid out on the roads. 2. Receiver General to issue debentures. 3. Debentures charged upon the general funds of the Province. 4. Debentures may be called in upon public notice being given. 5. Provisions contained in 7 Geo. IV. Ch. 20, respecting debentures thereby authorized to be issued, to be applicable to debentures issued under the authority of this Act. 6. Receiver General not to be entitled to poundage.

CHAP. XXV.

AN ACT to cover the payments by His Excellency the Lieutenant-Governor, of certain Contingent expenses of the Legislature.

[Passed 6th March, 1830]

Preamble; £4,038 5s. 8½d. granted to His Majesty, to make good certain monies advanced by the Lieutenant-Governor. 2. How to be accounted for.

CHAP. XXVI.

AN ACT to make good certain monies advanced by His Excellency the Lieutenant-Governor, to erect the Don and Humber Bridges.

(Passed 6th March, 1830.)

Preamble; £1,183 9s. 8d. granted to His Majesty, to make good that sum advanced by the Lieutenant Governor to erect bridges over the Don and Humber Rivers; How to be accounted for.

CHAP. XXVII.

AN ACT to reimburse the Honourable John Henry Dunn, for monies advanced by him to the Commissioners for the Burlington Bay Canal.

[Passed 6th March, 1830.]

Preamble; £656 17s. granted to His Majesty, to make good that sum advanced by the Receiver General; 2. How accounted for.

CHAP. XXVIII.

AN ACT to provide for the erection of a House for the Light-Keeper, and for keeping and maintaining the Light House on Long Point, in Lake Erie, for the present year.

[Passed 6th March, 1830.]

Preamble; £400 granted to His Majesty for the erection of a Dwelling House on Long Point. 2. How accounted for. 3. Commissioners to make arrangements for keeping a light on Long Point during the current year. 4. Commissioners to render an account of all monies expended.

CHAP. XXIX.

AN ACT to authorise the Magistrates of the Eastern District to borrow a certain sum of money for the building of a Gaol and Court House therein.

[Passed 6th March, 1830.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXX.

AN ACT to grant a sum of money towards opening a road from the River aux Perches, on Lake Huron, in the Western District, to Townsend, in the London District.

[Passed 6th March, 1830.]

Preamble; £25 granted to His Majesty towards opening a road, and Henry Jones appointed Commissioner for the expenditure thereof. 2. How accounted for. 3. Account and vouchers to be laid before the Assembly.

CHAP. XXXI.

AN ACT to grant a sum of money to His Majesty, in aid of the York Hospital.

[Passed 6th March, 1830.]

Preamble; £100 granted to His Majesty in aid of the York Hospital. 2. How to be accounted for.

CHAP. XXXII.

AN ACT granting one hundred pounds in aid of the funds of the Female Benevolent Society of Kingston.

[Passed 6th March, 1830.]

Preamble; £100 granted to His Majesty in aid of the funds of the Female Benevolent Society in Kingston. 2. How to be accounted for.

CHAP. XXXIII.

AN ACT for the relief of Samuel Theal.

[Passed 6th March, 1830.]

Preamble; Six months time allowed to Samuel Theal to traverse an inquisition. 2. If judgment be rendered for the Traverser, Commissioners to execute a deed to him of the land in dispute. 3. Commissioners may repay the purchase money and interest to the purchaser. 4. Security for costs to be given by the Traverser.

CHAP. XXXIV.

AN ACT to secure to Thomas Hornor, a Patent right, in a new invented Threshing Machine.

[Passed 6th March, 1830.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXV.

AN ACT for the relief of John Eastwood and Colin Skinner.

[Passed 6th March, 1830.]

Preamble; £125 granted to His Majesty to repay to John Eastwood and Colin Skinner, certain duties on machinery. 2. How to be accounted for.

CHAP.

CHAP. XXXVI.

AN ACT to make valid certain marriages heretofore contracted, and to provide for the future solemnization of matrimony in this Province.

(The Royal Assent to this Bill was signified, by Message of His Excellency the Lieutenant-Governor, to the Legislative Council and Assembly of this Province, on the second day of March, 1831.)

WHEREAS doubts have arisen respecting the legality of certain marriages heretofore contracted and solemnized in this Province; *And* ^{Preamble.} *whereas* the parties thereto, and their issue, may be subject to disabilities ^(See 33 Geo. III. Ch. 5; 38 Geo. III. Chap. 4; 39 Geo. III. Chap. 15; 2 Geo. IV. Chap. 11.) unless such marriages be confirmed by law; in order therefore to afford relief to such persons, and establish the legitimacy of their issue: *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 marriage or marriages of all persons, not being under any canonical disqualification ^{Former Marriages confirmed.} to contract matrimony, that have been publicly contracted in this Province before any Justice of the Peace, Magistrate, or Commanding Officer of a Post, or before any Minister or Clergyman, before the passing of this Act, shall be and are hereby confirmed, and shall be considered good and valid in law; and the parties to such marriages, and the issue thereof, shall be entitled to all the rights, and subject to all the obligations, resulting from marriage and consanguinity, any law, usage or custom, to the contrary in any wise notwithstanding.

II. *And to enable any person who may be desirous to preserve the evidence of their marriage, and of the birth of their children, Be it further enacted by the authority aforesaid,* That it shall and may be lawful, at any time within six years after the passing of this Act, for any Justice of the Peace, at the request of either of the parties, to administer the following oath, or affirmation, as the case may be, to the husband and wife, or either of them: "I, A. B., do solemnly swear, or affirm, as the case may be, 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 that such marriage was solemnized by M. D. of the District of ———," which form of attestation shall be subscribed by the party making the same, and certified under the hand and seal of the Justice administering

^{Method of preserving testimony of former Marriages;}

the said oath or affirmation, who shall be entitled to receive therefor one shilling; and it shall be the duty of the Clerk of the Peace, upon payment of the sum of two shillings and six pence, to enter and record such attestation, duly certified as aforesaid, in a register or book to be by him kept for that purpose; and such register, or an attested copy thereof, shall be considered sufficient evidence of such marriage, and of the birth of the said children; and the said Clerk of the Peace is hereby required to give such copy duly certified to any person demanding the same upon payment of two shillings. *Provided always*, that nothing in this Act contained shall extend, or be construed to extend, to make valid any marriage illegally solemnized, when the parties to such illegal marriage, or either of them, shall have subsequently contracted matrimony according to law.

Former marriages not to be rendered valid where a subsequent marriage has been legally contracted.

III. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for any Clergyman or Minister of any church, society, congregation or religious community of persons, professing to be members of the Church of Scotland, Lutherans, Presbyterians, Congregationalists, Baptists, Independants, Methodists, Menonists, Tunkers or Moravians, who shall be authorised, in manner hereinafter mentioned, to solemnize the ceremony of marriage within this Province between any two persons, neither of whom is under any legal disqualification to contract matrimony.

Ministers of certain Denominations authorised to solemnize matrimony.

IV. *Provided nevertheless, and be it further enacted by the authority aforesaid*, That no person shall be taken or deemed to be a Clergyman or Minister of such church, society, 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 form of such church, society, congregation, or religious community, of which he professes to be a Clergyman or Minister, and unless he shall be a subject of His Majesty, and shall appear before the Justices of the District in which he shall reside, in General Quarter Sessions assembled, and unless he shall produce proof of his ordination, constitution or appointment as such Minister, and shall then and there take the oath of allegiance to His Majesty, which oath the said Court shall then and there administer; and thereupon, if it shall appear to the majority of the Justices then present that he has been regularly ordained, constituted or appointed, as aforesaid, they are hereby authorised and required to grant him a certificate under the seal of the Court, and signed by the Chairman and the Clerk of the Peace, for which the said Clerk shall be entitled to receive the sum of five shillings, certifying him to be a Minister or Clergyman of such church, society, congregation, or religious community; which certificate may be in the following form:

Certificates to be obtained from the Quarter Sessions by Ministers, before they can solemnize matrimony.

“Be it remembered, that at the General Quarter Sessions of the Peace, holden at _____ in and for _____ District, on the _____ day of _____, in the year of our Lord _____, before A. B. and others, Esquires, Justices of our Sovereign Lord the King, assigned to keep the peace in the said

District, came C. D. of ———, who professes to be a Minister or Clergyman of the church, society, congregation, or religious community, (as the case may be,) it appeared to a majority of the Justices that he the said C. D. was duly ordained, constituted or appointed, as the case may be, a Minister or Clergyman of the said church, society, congregation, or religious community.

“E. F., *Chairman.*”

“G. H., *Clerk of the Peace.*”

V. *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 marriage between any two persons as aforesaid, unless such their intention of marriage shall have been declared openly and in an audible voice in the church, chapel, meeting-house, or place of public worship of such congregation, or religious community, on three several Sundays, either in some intermediate part of the service, or immediately before it began, or immediately after it ended, together with the number of times the said declaration shall have respectively been made, or unless such Minister or Clergyman shall have been duly authorised 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.

Banns to be published or licence obtained before the solemnization of any marriage.

VI. *And be it further enacted by the authority aforesaid,* That every Minister, or Clergyman, or Justice of the Peace, who has been or shall be authorised to celebrate marriage by virtue of this Act, or any other Act of this Province, shall, if required at the time by either of the parties married by such Minister, Clergyman, or Justice of the Peace, give a certificate under his hand of such marriage, specifying in such certificate the names of the parties, the time, and the names of two or more persons who witnessed such marriage, and whether such marriage has been solemnized by licence or by publication of banns; and also once in every twelve months return a certified list under his hand of all marriages by him solemnized within the said term of twelve months, or since his last preceding return, to the Clerk of the Peace in and for the District in which such marriages shall have been respectively solemnized, specifying in such list the names of the parties so by him married, the respective dates of such marriages, and the names of two or more persons who witnessed each of said marriages, and whether such marriages, respectively, shall have been solemnized by licence or publication of banns; and such Minister, or Clergyman, or Justice of the Peace, shall, at the time of returning a certified list as aforesaid, pay to the said Clerk of the Peace the sum of two shillings and six pence; and it shall thereupon be the duty of the said Clerk to record the said certified list in the register or book required by law to be kept by him, of the registry of certified marriages of members of the Church of Scotland, Lutherans, Congregationalists, Baptists, Independants, Methodists, Menonists, Tunkers, Presbyterians or Moravians; and such register, or a certified copy thereof, shall be con-

Certificate of marriage to be given by the person solemnizing the same;

Return of marriages to be made annually to the Clerk of the Peace;

Clerk of the Peace to record such return, which shall be evidence.

sidered, in case of the death or absence of the witnesses to any marriage, a sufficient evidence of the said marriages; and the said Clerk of the Peace is hereby required to give such copy of the registry of any of the said marriages, duly certified, to any person demanding the same, upon the payment of two shillings; and if any such Minister, or Clergyman, or Justice of the Peace, shall refuse or neglect to return such certified list as aforesaid, he shall forfeit and pay the sum of forty pounds, to be recovered by action of debt in His Majesty's Court of King's Bench, one moiety thereof to the use of the informer who shall sue for the same, and the other to be paid to the Receiver-General of this Province, to and for the use of His Majesty, His Heirs and Successors, for the public uses of this Province and the support of the Civil Government thereof, 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 His Majesty shall direct.

Persons neglecting to
make returns to
forfeit £40.

STATUTES OF UPPER CANADA,

PASSED IN THE

FIRST SESSION OF THE ELEVENTH PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT YORK, ON THE SEVENTH DAY OF JANUARY, IN THE FIRST YEAR OF THE
REIGN OF OUR SOVEREIGN LORD WILLIAM THE FOURTH, AND PROROGUED ON
THE SIXTEENTH DAY OF MARCH FOLLOWING.

SIR JOHN COLBORNE, K. C. B.
LIEUTENANT GOVERNOR.

ANNO DOMINI 1831.

CHAP. I.

*AN ACT to prevent a failure of Justice by reason of immaterial variances
in certain Law proceedings, and to require all Courts to take judicial
notice of private Acts of Parliament.*

[Passed 16th March, 1831.]

WHEREAS great expense is often incurred, and delay or failure of justice takes place at trials, by reason of variances between writings produced in evidence, and the recital or setting forth thereof upon the record on which the trial is had, in matters not material to the merits of the case, and such record cannot now in any case be amended at the trial, and in some cases cannot be amended at any time: *And whereas* great additional expense is often incurred by reason of the necessity of pleading specially private Acts of Parliament, which the several Courts of Justice cannot judicially notice unless they be so pleaded or given in evidence; *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 every Court of Record holding plea in civil actions; any Judge sitting at

Preamble.

(See 7 Wm. IV. Chap. 3,
Secs. 15 & 16.)

Variance may be amended in civil cases and in prosecutions for misdemeanors, at the discretion of the Court or Judge holding plea thereof.

Nisi Prius, and any Court of Oyer and Terminer, and General Gaol Delivery in this Province, if such Court or Judge shall see fit so to do, to cause the record on which any trial may be pending before any such Court or Judge in any civil action, or in any indictment or information for any misdemeanor, when any variance shall appear between any matter in writing or in print produced in evidence, and the recital or setting forth thereof upon the record whereon the trial is pending, to be forthwith amended in such particular by some officer of the Court, on payment of such costs (if any) to the other party as such Court or Judge shall think reasonable, and thereupon the trial shall proceed as if no such variance had appeared; and in case such trial shall be had at Nisi Prius, the order for the amendment shall be endorsed on the postea and returned together with the record, and thereupon the papers, rolls, and other records of the Court, from which such record issued, shall be amended accordingly.

Courts required to take judicial notice of private Acts of Parliament.

II. *And be it further enacted by the authority aforesaid,* That all Acts of the Provincial Parliament of this Province, whether the same shall be deemed public or private Acts, shall equally be taken notice of judicially by all Courts, Judges, Justices, and other persons whomsoever, without being specially pleaded; and that a copy of any such Act, printed by proper authority in this Province, shall be taken as sufficient evidence thereof, any law to the contrary notwithstanding.

CHAP. II.

AN ACT to enable Married Women more conveniently to alien and convey their Real Estate, and to repeal an Act passed in the forty-third year of the reign of King George the Third, intituled, "An Act to enable Married Women, having Real Estate, more conveniently to alienate and convey the same."

[Passed 16th March, 1831.]

Preamble.
(See 2 Vic. Chap. 6.)

WHEREAS the laws now in force enabling Married Women more conveniently to alien their Real Estate, do not afford the facility required, and at the same time unnecessarily expose purchasers to risk, from the chance of the Married Woman dying, or retracting her consent after her execution of the conveyance, by means whereof such conveyances may be defeated to the great prejudice of innocent purchasers: *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 August, next after the passing of this Act, it shall and may be lawful for any Married Woman being above the age of twenty-one years, residing within this Province, and seized of Real Estate therein, to alien and convey such Real Estate by deed, to be executed by her jointly with her husband, to such use and uses as to her and her husband shall seem meet: *Provided always nevertheless*, that such deed shall not be valid or have any effect unless such Married Woman shall execute the same in presence of one of the Judges of the Court of King's Bench in this Province, or in the presence of a Judge in the District Court, or of a Judge of the Surrogate Court of the District in which such Married Woman shall reside, or of two Justices of the Peace for such District, and unless such Judge or two Justices of the Peace (as the case may be) shall examine such Married Woman, apart from her husband, respecting her free and voluntary consent to alien and depart with her Estate as mentioned in the deed, and shall on the day of the execution of such deed, certify on the back of the deed in some form of words to the effect following: "*That on the day mentioned in the certificate, such Married Woman did appear before him, or them, (as the case may be,) at the place to be named in the said certificate, and being examined by him, or them, (as the case may be,) apart from her husband, did appear to give her consent to depart with her Estate in the deed mentioned, freely and voluntarily, and without any coercion, or fear of coercion, on the part of her husband, or of any other person or persons whatsoever.*"

Married women residing in this Province may alien their real estates by deed executed jointly with their husbands;

Provided such deeds be executed in the presence of a Judge of King's Bench, or of the District or Surrogate Courts, or of two Justices of the Peace for the District where such married women reside;

Such Judge, &c. to examine such married women, and grant certificates of their consent to depart with their estates.

(See 2 Vic. Ch. 6, Sec. 1.)

Form of certificate. (Superseded by form given in 2 Vic. Ch. 6)

II. *And be it further enacted by the authority aforesaid*, That when the Married Woman resides out of this Province, the deed may be executed by her in the presence of a Judge of the Court of King's Bench, or of a Judge of the District Court, or of the Surrogate Court, or of two Justices of the Peace in and for any District of this Province, whose certificate shall be effectual for the purposes aforesaid: *Provided always*, that it shall not in any case be necessary for any such Judge or Justices, as aforesaid, to attest the execution of any deed as a subscribing witness: *Provided always*, 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 of 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.

When married women live out of the Province, deed may be executed before any such Judges or Justices for any District;

Judge, &c. not required to attest the execution of any deed;

No greater effect to be given any such deeds than would attach thereto in case such married woman had been sole.

III. *And be it further enacted by the authority aforesaid*, That in all cases in which a Married Woman shall, before the passing of this Act, have made any conveyance which would be valid in law if such certificate had been obtained within the period of twelve months, as was required by the laws then in force in this Province, such certificate may at

Where married women have heretofore conveyed their estates, but no certificate hath been granted within twelve months, such certificate may nevertheless be now granted, notwithstanding the twelve months have expired;

Such certificates not to affect sales made previous to the granting thereof.

any time after the passing of this Act be obtained, notwithstanding the period of twelve months may have expired, and the same shall have the like effect, and no other, as if given within twelve months: *Provided always nevertheless*, that nothing herein contained shall affect, or be construed to affect the right to lands of any person or persons who may have obtained a deed according to law for any lands which may have been previously conveyed by a Married Woman, but not acknowledged before a Judge pursuant to the laws of this Province.

Five shillings to be paid for certificates.

IV. *And be it further enacted by the authority aforesaid*, That the sum of five shillings shall be paid for every such certificate, and no more.

43rd Geo. III. Chap. 5, repealed;

V. *And be it further enacted by the authority aforesaid*, That a certain Act of the Parliament of this Province, passed in the forty-third year of the reign of His late Majesty King George the Third, intituled, "An Act to enable Married Women having Real Estate more conveniently to alien and convey the same," shall, from and after the said first day of August next, be repealed, except as to any conveyances which have been or shall be executed while the same was in force.

Such repeal not to affect conveyances executed while the same was in force.

CHAP. III.

AN ACT to establish a Market and to establish Wharfage Fees in the Town of Amherstburgh, in the Western District.

[Passed 16th March, 1831.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. IV.

AN ACT to amend and extend the provisions of an Act passed in the eighth year of His late Majesty's reign, intituled, "An Act to provide for the erection of a Gaol and Court House in the Eastern District."

[Passed 16th March, 1831.]

[TEMPORARY.]

CHAP.

CHAP. V.

AN ACT to indemnify the Magistrates of the Newcastle District, and to authorise them to raise a loan on the credit of the funds of the said District, to complete a building erected at the Village of Amherst, as the Gaol and Court House of the said District.

[Passed 10th March, 1831.]

Preamble; Gaol now building to be deemed the legal Gaol of the District; Magistrates of the District indemnified for the illegal expenditure of the money heretofore applied towards erecting a new Gaol. 2. Funds of the District may be applied towards erecting the new Gaol, not exceeding the sum of £6000. 3. Loan authorised not exceeding £2,500. 4. Interest not to exceed six per cent, and not less than £300 per annum to be applied towards the liquidation of such loan. 5. Treasurer not to receive per centage on money loaned.

CHAP. VI.

AN ACT to erect the County of Prince Edward into a separate District.

[Passed 16th March, 1831.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. VII.

AN ACT to extend the time for taking the oath prescribed by a certain Act passed in the ninth year of His late Majesty's reign, intituled, "An Act to secure to and confer upon certain inhabitants of this Province the civil and political rights of natural born British subjects."

[Passed 16th March, 1831.]

WHEREAS the time allowed by the second clause of an Act passed in the ninth year of His late Majesty's reign, intituled, "An Act to secure to and confer upon certain inhabitants of this Province the civil and political rights of natural born British subjects" will shortly expire: *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

Preamble,

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 the said second clause of the said Act as limits the time for taking the oath therein prescribed to three years from the passing thereof, be and the same is hereby repealed.

9 Geo. IV. Ch. 21, part of the second clause repealed.

Time extended for taking oath prescribed by 9 Geo. IV.

II. *And be it further enacted by the authority aforesaid,* That the said period of three years be extended, and the same is hereby extended to four years from and after the passing of this Act, and thence to the end of the then next ensuing Session of Parliament.

Act to be publicly read at the Court of Quarter Sessions.

III. *And be it further enacted by the authority aforesaid,* That this Act shall be publicly read by the Clerk of the Peace, immediately after empannelling the Grand Jury, at the several Quarter Sessions of this Province, for four successive sittings of such Court after the first day of July next.

CHAP. VIII.

AN ACT to provide for settling and determining by arbitration certain difficulties that have arisen or may arise between persons owning land in the eighth concession of Saltfleet, and persons owning or claiming to own lands in the first concession of Binbrook, who through mistake may have made improvements on the rear part of the said eighth concession of Saltfleet.

[Passed 16th March, 1831.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. IX.

AN ACT for vesting in Trustees the Market Square in the Town of York, for the benefit of the inhabitants of the said Town.

[Passed 16th March, 1831.]

[REPEALED BY 4 WILLIAM IV. CHAP. 23.]

CHAP. X.

AN ACT to incorporate certain persons therein mentioned, under the style and title of the Tay Navigation Company.

[Passed 16th March, 1831.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XI.

AN ACT to incorporate certain persons under the style and title of the Marmora Foundery Company.

[Passed 16th March, 1831.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XII.

AN ACT to incorporate the Niagara Harbour and Dock Company.

[Passed 16th March, 1831.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XIII.

AN ACT to repeal an Act passed in the fifth Session of the sixth Parliament of this Province, intituled, "An Act for granting to His Majesty a sum of money towards defraying the expenses of the Civil Administration of the Government of this Province," and for granting to His Majesty a certain sum of money to be applied towards the payment of the expenses of the Administration of Justice and the support of the Civil Government of this Province.

[Passed 16th March, 1831.]

MOST GRACIOUS SOVEREIGN :

WHEREAS by a message transmitted to the House of Assembly and Preamble.
Legislative Council by His Excellency Sir John Colborne, Knight,

Commander of the Most Honourable Military Order of the Bath, Lieutenant-Governor, the intention of Your Majesty is communicated to the Provincial Parliament of placing at the disposal of the Legislature the revenues raised, levied and collected, under the Imperial Act of the fourteenth year of the reign of King George the Third, intituled, "An Act to establish a fund towards further defraying the charges of the Administration of Justice and support of the Civil Government within the Province of Quebec, in America," and expressing Your Majesty's earnest desire that the Legislature would make provision for defraying such of the expenses of the Civil Service of the Colonial Government as ought not to be dependant upon annual votes; *And whereas* the revenue about to be placed under the control of the Legislature has greatly increased during the last seven years, and is constantly increasing, and amounts at this time to upwards of seventeen thousand five hundred pounds; *And whereas* the sum of six thousand five hundred pounds Sterling, is required for the services hereinafter mentioned, which it is expedient should be permanently provided for; *And whereas* by an Act in the fifth Session of the sixth Parliament of this Province, intituled, "An Act for granting to His Majesty a sum of money towards defraying the expenses of the Civil Administration of the Government of this Province," the sum of two thousand five hundred pounds was granted to His late Majesty King George the Third, annually, in aid of the support of the Civil Government of this Province, which it is expedient to repeal: *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 passed in the fifth Session of the sixth Parliament of this Province, intituled, "An Act for granting to His Majesty a sum of money towards defraying the expenses of the Civil Administration of the Government of this Province," shall be and the same is hereby repealed.

56 Geo. III. Ch. 26,
repealed.

£6,500 sterling granted
to His Majesty.

II. *And be it further enacted by the authority aforesaid*, That there be annually granted to His Majesty, His Heirs and Successors, from and out of the rates and duties raised, levied and collected, or hereafter to be raised, levied and collected, to and for the public uses of this Province, and in the hands of the Receiver-General, and unappropriated, the sum of six thousand five hundred pounds Sterling, which sum shall be applied for defraying the charges hereinafter mentioned, that is to say: The salary of the Lieutenant-Governor, or Person Administering the Government of this Province, two thousand pounds Sterling; the salaries of the Judges of His Majesty's Court of King's Bench, three thousand three

hundred pounds Sterling; the salaries of the Attorney and Solicitor-General, five hundred pounds Sterling; the salaries of five Executive Councillors, five hundred pounds Sterling; the salary of the Clerk of the Executive Council, two hundred pounds Sterling; and shall be paid by the Receiver-General of this Province, in discharge of any warrant or warrants which shall for that purpose be issued by the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, and shall be accounted for to His Majesty by His Majesty's Receiver-General of this Province, through the Lords Commissioners of His Majesty's Treasury, in such manner and form as His Majesty, His Heirs and Successors, shall be graciously pleased to direct.

III. *And be it further enacted by the authority aforesaid,* That this Act shall come into operation and take effect from and immediately after the revenues arising under the said Act passed in the fourteenth year of the reign of His late Majesty George the Third shall, by Act of the Imperial Parliament or otherwise, be placed under the control of the Parliament of this Province.

Period when this Act shall come into operation

CHAP. XIV.

AN ACT to repeal the Laws now in force granting Poundage to the Receiver-General, and to provide a salary for that Officer in lieu thereof.

[Passed 16th March, 1831.]

WHEREAS it is expedient to repeal the laws now in force ascertaining the rates which the Receiver-General of this Province shall be authorised to take and receive, to and for his own use and benefit, out of the monies at the disposition of the Parliament, passing through his hands, and to provide a salary for that officer in lieu 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 so much of the last clause of an Act passed in the thirty-third year of the reign of His late Majesty King George the Third, intituled, "An Act to establish a further fund for the payment

Preamble.

Part of the 7th section of 33rd Geo. III, Ch. 13, and 43 Geo. III, Ch. 3, repealed.

of the salaries of the officers of the Legislative Council and the House of Assembly, and for defraying the contingent expenses thereof," as authorises the Receiver-General of this 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 the said Act; and also, an Act passed in the forty-second year of the reign of His late Majesty King George the Third, intituled, "An Act to ascertain and declare 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, and to provide by law for the receipt and transmission of monies due to this Province for duties collected in Lower Canada," be and the same are hereby repealed.

One-half per cent. receivable by the Receiver-General for agency.

II. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Receiver-General of this Province to retain out of every hundred pounds which shall or may be paid by the said Receiver-General, or any other person authorised by the Government of Lower Canada to pay the same, as the proportion of duties due to this Province from Lower Canada, the sum of ten shillings, as a compensation for the charge of agency in receiving and paying over the same; *Provided always, and be it further 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 color 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 hereinbefore mentioned, than such as are hereinbefore specified, mentioned and contained, any law, usage or custom, to the contrary in any wise notwithstanding.

£700 sterling granted annually to His Majesty, as the salary of the Receiver-General.

III. *And be it further enacted by the authority aforesaid,* That from and out of the rates and duties raised, levied and collected, to and for the uses of this Province, and in the hands of the Receiver-General, unappropriated, there be granted to His Majesty, His Heirs and Successors, the sum of seven hundred pounds Sterling, annually, which sum of seven hundred pounds Sterling, shall be appropriated, applied and disposed of, in payment of the salary of the Receiver-General of this Province.

How paid and accounted for.

IV. *And be it further enacted by the authority aforesaid,* That the said sum of seven hundred pounds Sterling, shall be paid to the Receiver-General of this Province, in discharge of such warrant or warrants as shall for that purpose be issued by the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, and shall be accounted for to His Majesty by the Receiver-General of this Province, through the Lords Commissioners of His Treasury, for the time being, in such manner and form as His Majesty, His Heirs and Successors, shall be graciously pleased to direct.

V. *And be it further enacted by the authority aforesaid,* That the salary granted by this Act shall take date and be payable from the first day of July, one thousand eight hundred and thirty-one. Salary to become payable 1st July, 1831.

VI. *Provided always, and be it further enacted by the authority aforesaid,* That nothing in this Act contained shall extend, or be construed to extend, to prevent the Receiver-General from receiving his usual poundage upon all monies passing through his hands, from the passing of this Act to the first day of July next ensuing. Usual poundage receivable until 1st July, 1831.

CHAP. XV.

AN ACT to provide a salary for the Clerk of the Crown in Chancery, and to remunerate him for past services.

[Passed 16th March, 1831.]

[EXPIRED.]

CHAP. XVI.

AN ACT granting to His Majesty a sum of money, to be raised by debenture, for the improvement of Roads and Bridges in the several Districts of this Province.

[Passed 16th March, 1831.]

Preamble. 2. £20,000 to be raised by debenture. 3. Account of the debentures redeemed and outstanding to be laid before Parliament each year. 4. Interest to be paid half-yearly. 5. Separate warrants to be issued for the payment of each debenture. 6. Forging the debentures declared a capital felony. 7. Debentures charged upon the public revenues. 8. Receiver General not entitled to poundage. 9. Debentures may be redeemed by giving notice to the holders in the Gazette.

CHAP. XVII.

AN ACT to afford further aid to the Welland Canal Company, and to repeal part of and amend the laws now in force relating to the said Company.

[Passed 16th March, 1831.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XVIII.

AN ACT to grant a sum of money, and to provide for the improvement of the navigation of the River aux Raisin, in the County of Glengarry.

[Passed 16th March, 1831.]

Preamble; £300 granted to His Majesty for the improvement of the navigation of the River aux Raisins. 2. How to be accounted for. 3. Commissioners for laying out the said sum. 4. Commissioners duty.

CHAP. XIX.

AN ACT to authorise the laying out several sums of money granted by an Act of the last Session of the Legislature, intituled, "An Act granting to His Majesty a sum of money for the improvement of the Roads and Bridges in this Province," and which sums remain unexpended.

[Passed 16th March, 1831.]

Preamble; £100 unexpended in Bathurst how to be applied. 2. £75 unexpended in Gore how to be applied. 3. £100 unexpended in London how to be applied. 4. The sum of money unexpended in the Western District how to be applied. 5. Duty of the Commissioners. 6. £50 unexpended in the hands of the Treasurer of the Midland District how to be applied.

CHAP. XX.

AN ACT to remunerate James Gordon Strobridge, for labour and materials provided and applied by him in constructing the Burlington Bay Canal.

[Passed 16th March, 1831.]

Preamble; £2356 13s. 9½d. granted to His Majesty to remunerate J. G. Strobridge, for work done to the Burlington Canal; How paid and accounted for.

CHAP. XXI.

AN ACT to indemnify Roswell Mount, Esquire, for monies advanced by him to complete a Bridge across the River Thames, from Delaware to Carradoc.

[Passed 16th March, 1831.]

Preamble; £75 3s. 1d. granted to His Majesty to remunerate R. Mount, Esq. for building a Bridge; How to be paid and accounted for.

CHAP. XXII.

AN ACT to make good certain monies paid under the warrants of His Excellency the Lieutenant Governor, in advance, to defray the contingencies of the last Session of the Legislature.

[Passed 16th March, 1831.]

Preamble; £3212 12s. 3d. to be issued, to make good the same sum advanced for contingencies of the Legislature. 2. How to be accounted for.

CHAP. XXIII.

AN ACT to grant a sum of money to His Majesty in aid of the York Hospital.

[Passed 16th March, 1831.]

Preamble; £100 granted to His Majesty in aid of the York Hospital. 2. How to be paid and accounted for.

CHAP. XXIV.

AN ACT for affording aid to William Chisholm, Esquire, towards the completion of the Harbour at Oakville, in the Township of Trafalgar.

[Passed 16th March, 1831.]

[SEE 3 VIC. CH. 50]

Preamble; £2,500 authorised to be raised by Debentures to be loaned to William Chisholm, Esquire, 2. Receiver-General to issue the Debentures. 3. Provisions of a former Act to be applicable to the Debentures issued under this Act. 4. Mr. Chisholm to give security to the Receiver-General before the money is advanced.

CHAP. XXV.

AN ACT to make further provision for completing the Kettle-Creek Harbour, in the District of London.

[Passed 16th March, 1831.]

Preamble; £3,500 to be raised by Debenture for the completion of Kettle-Creek Harbour. 2. Receiver-General to issue Debentures. 3. Provisions contained in the 8 Geo. IV. Ch. 18, to be applicable to Debentures issued under this Act.

CHAP. XXVI.

AN ACT for vesting the Estates which were of the late Laurent Quetton Saint George, deceased, in this Province, in William Warren Baldwin, and for declaring the trusts upon which certain other Estates are held by the said William Warren Baldwin, for the purpose of enabling the said William Warren Baldwin the better to carry into effect the Will of the said Laurent Quetton Saint George, and for other purposes relating to the real and personal Estates which were of the said Laurent Quetton Saint George, in this Province.

[Passed 16th March, 1831.]

[See Local and Private Acts, in 2nd Volume.]

STATUTES OF UPPER CANADA,

PASSED IN THE

SECOND SESSION OF THE ELEVENTH PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT YORK, ON THE SEVENTEENTH DAY OF NOVEMBER, IN THE SECOND YEAR OF
THE REIGN OF OUR SOVEREIGN LORD WILLIAM THE FOURTH, AND PROROGUED ON
THE TWENTY-EIGHTH DAY OF JANUARY FOLLOWING.

SIR JOHN COLBORNE, K. C. B.
LIEUTENANT GOVERNOR.

ANNO DOMINI 1831—2.

CHAP. I.

AN ACT to prevent the operation within this Province of an Act of Parliament made in England in the twenty-first year of the reign of King James the First, intituled, "An Act to prevent the destroying and murdering of Bastard Children," and to make other provisions for the prevention and punishment of Infanticide.

[Passed 23rd December, 1831.]

WHEREAS doubts have been entertained respecting the true meaning of a certain Act of Parliament made in England, in the twenty-first year of the reign of His late Majesty King James the First, intituled, "An Act to prevent the destroying and murdering of Bastard Children," and the same has been found difficult and inconvenient to be put in practice: 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, no clause, matter or thing, in the said Act passed in the twenty-first year of the reign of King James the First, shall extend to and be in force in this Province.

Preamble.

(See Statutes of Canada, 4 & 5 Vic. Ch. 27, sec. 14.)

21st James 1st not to be in force in this Province.

Trials for the murder of bastard children to proceed like other trials for murder.

II. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, the trial of any woman charged with murder of any issue of her body, male or female, which being born alive, would by law be bastard, shall proceed and be governed by such and the like rules of evidence and presumption, as are by law used and allowed to take place in respect to other trials for murder, and as if the said Act passed in the reign of King James the First had never been made.

Concealing birth of a bastard child a misdemeanor;

II. *And be it further enacted by the authority aforesaid,* That if any woman shall be delivered of a child, and shall, by secret burying or otherwise disposing of the dead body of the said child, endeavour to conceal the birth thereof, every such offender shall be guilty of a misdemeanor; and being convicted thereof shall be liable to be imprisoned, with or without hard labour, in the common Gaol or House of Correction for any term not exceeding two years, and it shall not be necessary to prove whether the child died before, at, or after its birth: *Provided always,* that if any woman tried for the murder of her child shall be acquitted thereof, it shall be lawful for the Jury by whose verdict she shall be acquitted, to find, in case it shall so appear in evidence, that she was delivered of a child, and that she did, by secret burying or otherwise disposing of the dead body of such child, endeavour to conceal the birth thereof, and thereupon the Court may pass such sentence as if she had been convicted upon an indictment for the concealment of the birth.

Punishable by imprisonment;

Upon an acquittal for murder, Jury may find concealment.

CHAP. II.

AN ACT to remove doubts respecting the jurisdiction over offences committed upon the Lakes and Rivers in this Province.

[Passed 23rd December, 1831.]

Preamble.

WHEREAS in the several Statutes passed for the division of this Province into Counties and Districts, express provision has not been made respecting the navigable and other waters lying within the limits of this Province, but not included within the boundaries of any surveyed township, and doubts may therefore arise respecting the jurisdiction over offences committed upon such waters, and it is expedient to remove such doubts: *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 lakes,

rivers, and other waters of this Province, which are not comprehended within the defined limits of any town, township or county, shall and may be taken to be, and are hereby declared to be parts of that District respectively, within the exterior side lines of which any such lake, river or other water would lie and be if such exterior side lines were produced in that direction, to the utmost limits of this Province.

Navigable waters to be taken to be parcel of the several Districts to which they are opposite.

II. *And be it further enacted by the authority aforesaid,* That all crimes and offences committed in or upon any of the said waters, may be enquired of and tried within any District lying adjacent to such waters, and shall and may be laid and charged to have been committed within the jurisdiction of the Court which shall try the same; and such Court shall and may proceed thereon to trial, judgment and execution, or other punishment for such crime or offence, in the same manner as if such crime or offence had been really committed within the District where such trial may be had, any law, usage or custom, to the contrary notwithstanding.

Crimes committed upon navigable waters may be tried in any District adjacent thereto.

CHAP. III.

AN ACT to remove doubts respecting the jurisdiction of Commissioners of Customs in this Province.

[Passed 28th January, 1832.]

WHEREAS by an Act passed in the fourth year of the reign of His late Majesty King George the Fourth, intituled, "An Act to repeal an Act passed in the forty-first year of His late 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 also an Act passed in the forty-third year of His late Majesty's reign, intituled, "An Act to explain and amend an Act passed in the forty-first year of His Majesty's reign, intituled, 'An Act 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, and to make more effectual provision for the due collection of duties on goods imported into this Province," it is enacted, that the Commissioners of Customs, to be appointed in each of the Districts of this Province under

Preamble.

the authority of that Act, shall have power to hear and determine, in a summary way, all informations exhibited before them for the condemnation of any goods, wares or merchandize, seized as forfeited under the provisions of the said Act, when the value thereof, together with the vessel, boat, raft or carriage, in or upon which the same shall be found or shall have been imported, shall not exceed forty pounds; and also to hear and determine, in like manner, all informations which may be exhibited before them for penalties to be recovered under and by virtue of the said Act; *And whereas* doubts may be entertained whether the said Commissioners, and the provisions above recited, can legally exercise jurisdiction in cases of seizures made and penalties incurred under the Act passed in the Parliament of the United Kingdom of Great Britain and Ireland in the sixth year of His said late Majesty's reign, intituled, "An Act to regulate the trade of the British possessions abroad," notwithstanding the said Act declares, that all such penalties and forfeitures shall and may be prosecuted, sued for and recovered, in any Court of record having jurisdiction in the Colony or Plantation where the cause of prosecution arises, and it is expedient that such doubts should be removed: *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 Commissioners of Customs acting in and for the several Districts of this Province, respectively, shall be deemed to be, and to have been since the passing of the said Act of the Parliament of this Province hereinbefore recited, a Court of record, having jurisdiction in cases of forfeiture and penalties not exceeding in value or amount the sum of forty pounds of lawful money of Upper Canada; and that such jurisdiction shall be deemed to have extended, and shall hereafter extend, to cases of forfeitures and penalties, not exceeding the amount aforesaid, under the said Act passed in the sixth year of His said late Majesty's reign, or under any other Act passed or to be passed in the Parliament of the United Kingdom of Great Britain and Ireland, or in the Parliament of this Province, and relating to the imposition or collection of duties on merchandize, unless in any such Act to be hereafter passed it shall be expressly otherwise provided.

Commissioners of Customs
declared to be a Court of
record, for the hearing of
certain informations upon
seizures, and for
penalties.

CHAP. IV.

AN ACT to facilitate summary proceedings before Justices of the Peace, and to afford to such Justices reasonable protection in the discharge of their duty.

[Passed 28th January, 1832.]

WHEREAS great inconvenience often arises in summary proceedings before Justices of the Peace, from the want of a general form of conviction: Preamble.
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 all cases wherein a conviction shall take place, and no particular form for the record thereof hath been directed, the Justice or Justices duly authorised to proceed summarily therein, and before whom the offender or offenders shall have been convicted, shall and may cause the record of such conviction to be drawn up in the manner and form following, or in any words to the same effect, *mutatis mutandis*, that is to say:

Justices, in certain cases, to draw up records of conviction, in the following form;

— District, } Be it remembered, that on the — day of —, Form.
 to wit: } in the year of our Lord —, at —, in the District of —, A. B. of —, in the District of —, labourer, (or as the case may be,) personally came before me, (or before us,) C. D. one (or more, as the case may be,) of His Majesty's Justices of the Peace for the said District of —, and informed me, (or us, as the case may be,) that E. F. of —, in the District of —, labourer, (or as the case may be,) on the — day of —, in the year of our Lord —, at —, in the said District of —, did, (here set forth the fact for which the information is laid,) contrary to the form of the Statute in such case made and provided; whereupon the said E. F. after being duly summoned to answer the said charge, appeared before me, (or us, as the case may be,) on the — day of —, in the year of our Lord —, at —, in the said District of —, and having heard the charge contained in the said information, declared that he was not guilty of the said offence, (or as the case may happen to be, did not appear before me, (or us,) pursuant to the said summons, or did neglect and refuse to make any defence against the said charge;) whereupon I, or we, (as the case may be,) or nevertheless I, or we, (as the case may be,) the said Justice or Justices, did proceed to examine into the truth of the charge contained in the said information, and on the — day of

— aforesaid, at —, in the District of —, aforesaid, one credible witness, to wit, A. W. of —, in the District of —, labourer, (or as the case may be,) upon his oath deposeth and saith, (if E. F. be present, say in the presence of the said E. F.) that on the — day of —, in year of our Lord —, the said E. F. at —, in the said District of —, (here state the evidence, and as nearly as possible in the words used by the witness; and if more than one witness be examined, state the evidence given by each; or if the defendant confess, then instead of stating the evidence say, and the said E. F. acknowledged and voluntarily confessed the same to be true,) therefore it manifestly appearing to me, (or us, as the case may be,) that he the said E. F. is guilty of the offence charged upon him in the said information, I, or we, (as the case may be,) do hereby convict him of the offence aforesaid, and do declare and adjudge that he the said E. F. hath forfeited the sum of —, of lawful money of this Province, for the offence aforesaid, to be distributed, or paid, (as the case may be,) according to the form of the Statute in that case made and provided.

Given under my hand, or our hands, (as the case may be,) and seal, (or seals,) the — day of —, in the year of our Lord —.

One Justice may hear informations and complaints, to be determined before two or more Justices:

Conviction may be enforced by any Justice of the District, having a record of such conviction before him:

II. *And be it further enacted by the authority aforesaid,* That in all cases in which two or more Justices of the Peace are authorised and required to hear and determine any complaint, one Justice shall be competent to receive the original information or complaint, and to issue the summons or warrant requiring the party to appear before two or more Justices of the Peace, as the case may require, and after examination upon oath into the merits of the said complaint, and the adjudication thereon, by any two or more such Justices being made, as the case may require, all and every the subsequent proceedings to enforce obedience thereto, or otherwise, whether respecting the penalty, fine, imprisonment, costs, or other matter or thing now enacted, or to be hereafter enacted, may be enforced by either of the said Justices, or by any other Justice of the Peace for the same District, having before him or them a record of such conviction, certified by the Justice or Justices who adjudged the case, in such and the like manner as if done by the same two or more Justices who so heard and adjudged upon the said complaint; and where the original complaint or information shall have been made to any other Justice, than him or them before whom the same shall be afterwards heard and determined, the form of conviction shall be made conformable to the fact in that respect.

Convictions appealed from and affirmed, or not appealed from within a proper time, shall not be vacated for want of form.

III. *And be it further enacted by the authority aforesaid,* That in all cases in which it shall appear by the conviction that the defendant has appeared and pleaded, and the merits have been tried, and that the defendant has not appealed against the said conviction, where an appeal is allowed, or that the conviction, if appealed against, has been affirmed, such conviction shall not afterwards be set aside or vacated in consequence of any defect of form whatever.

IV. *And whereas* in cases of summary convictions, or the proceedings thereon, it may sometimes happen that Justices of the Peace may, by some irregularity or defect in the form of their proceedings, render themselves liable to actions of trespass, when there was no disposition on their part to oppress the party, and where the guilt of the defendant may have been manifest, and it is reasonable to protect Justices wherever it shall appear that their proceedings have been grounded upon good causes, and where they have acted without malice: *Be it therefore enacted by the authority aforesaid,* That in all actions whatever, which shall at any time after the passing of this Act be brought against any Justice or Justices of the Peace in this Province, for or on account of any conviction by him or them had or made under or by virtue of any Statute in force in this Province, or for or by reason of any Act, matter or thing whatsoever, done or commanded to be done by such Justice or Justices for the levying of any penalty, apprehending of any party, or otherwise carrying such conviction into effect, in case such conviction shall have been quashed, the plaintiff or plaintiffs in such action or actions, besides the value and amount of such penalty or penalties which may have been levied upon the said plaintiff or plaintiffs, in case any levy thereof shall have been made, shall not be entitled to recover any more or greater damages than one shilling, nor any costs of suit, unless it shall be expressly alleged in the declaration in the action wherein the recovery shall be had, and which shall be in an action on the case only, that such acts were done maliciously, and without any reasonable or probable cause.

In cases where convictions shall be quashed, no more damages than one shilling, and the amount levied by virtue thereof shall be recoverable against any Justice, unless the act complained of shall be charged in the declaration to have been done maliciously, and which shall be recoverable only in an action on the case.

V. *And be it further enacted by the authority aforesaid,* That such plaintiff shall not be entitled to recover against such Justice any penalty which shall have been levied, nor any damages or costs whatever, in case such Justice shall prove at the trial that such plaintiff was guilty of the offence whereof he had been convicted, or on account of which he had been apprehended, or had otherwise suffered, and that he had undergone no greater punishment than was assigned by law to such offence.

No damages or costs to be recovered when the Justice shall make it appear upon the trial that the party was guilty of the offence whereof he had been convicted.

C H A P. V.

AN ACT to afford means for attaching the property of absconding Debtors.

[Passed 28th January, 1832.]

WHEREAS it is necessary, for the protection of persons engaged in trade, to afford the means of attaching the property of absconding debtors, that the same may be taken in execution and sold for the benefit of their creditors: *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*

Preamble.
(See 5 Wm. IV. CA. 5;
2 Vic. Chap. 5;
3 Vic. Chap. 7.)

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, being indebted *to an inhabitant of this Province*, shall, before the passing of this Act, have secretly departed from this Province, or if any person or persons so indebted shall, after the passing of this Act, secretly depart from this Province, or keep concealed within the same, it shall and may be lawful for any person or persons, their servants or agents, to whom such absconding or concealed person or persons is or are indebted in the sum of five pounds or upwards, to make application to the Court of King's Bench in this Province, in Term time, or to any Judge thereof in vacation, or to any Judge of the District Court in the different Districts of this Province, either within or without the limits of the District for which such Judge is appointed, where the sum claimed is within the jurisdiction of such District Court, and there make an affidavit that the said absconding or concealed person or persons is or are indebted to him, her or them, in the sum of five pounds or upwards, expressing the cause of action, and that he, she or they, do verily believe that the said absconding or concealed person or persons hath departed this Province, or is concealed within the same, (which affidavit may also be taken before a Commissioner for taking affidavits in the King's Bench,) with intent and design to defraud him, her or them, and other creditors, (if any there be,) of their just dues, or to avoid being arrested or served with process, which departure or concealment shall also be proved to the satisfaction of such Court, or Judges of such Court, by the oath or affidavit of at least two credible witnesses; and upon such proof, the said Court of King's Bench, and District Court, respectively, in Term time, or the Judges thereof in vacation, or any one of them, shall forthwith direct a warrant or warrants to be issued under the seal of the said Courts, respectively, and signed by the Clerk of the Crown, or the Clerk of such District Court, (as the case may be,) directed to the Sheriff of the District in which such absconding or concealed person or persons has been resident, or to the Sheriff or Sheriffs of any or every other District within the Province, commanding such Sheriff or Sheriffs, respectively, to attach, seize, take, and safely keep, all the estate, as well real as personal, found within his District, *of the said absconding or concealed person or persons*, of what kind or nature soever, together with all evidences of debt, books of account, vouchers and papers relating thereto; upon receipt of which warrant the Sheriff to whom the same may be directed shall forthwith execute the same, and with the assistance of two substantial freeholders, make a just and true inventory of all such estate and effects as he shall seize and take by virtue thereof, and shall return the same, signed by himself and the said freeholders, to such Court from whence the warrant issued.

(See 5 Wm. IV. Chap. 5, Sec. 2.)

King's Bench or District Court, may issue warrants for the attachment of the property of absconding debtors;

Sheriff, with the assistance of two Freeholders, to make and return an inventory of property and effects seized.

II. *And be it further enacted by the authority aforesaid, That immediately upon making the seizure of the estate and effects of the absconding or concealed person or persons, it shall be the duty of the Sheriff making such seizure, to cause a notice to be inserted in the Upper Canada Gazette, and also in some one or more of the newspapers printed in his District, and continued therein weekly for at least three calendar months; which notice shall set forth, that by virtue of the said writ he has seized all the estate, real and personal, of such absconding or concealed person or persons, and unless such absconding or concealed person or persons (naming the same,) return within the jurisdiction of the Court from whence such warrant issued, and put in bail to the action, or cause the claim or claims of such plaintiff or plaintiffs (naming the same,) to be discharged within three calendar months after such public notice, (to be computed from the first day of publishing the same in the Upper Canada Gazette,) all his, her or their estate, real or personal, or so much thereof as may be necessary, will be held liable for the payment, benefit and satisfaction of the claim or claims of such plaintiff or plaintiffs.*

Sheriff to cause a notice of such seizure to be inserted in the U. C. Gazette, and some other paper in his District, for at least three months;

If absconding debtor does not return, or put in bail within three months, property to be held liable for the payment of the creditor seizing the same.

III. *And be it further enacted by the authority aforesaid, That the Sheriff to whom any warrant of attachment shall issue, shall take into his charge and keeping all the property, estate and effects, of such absconding or concealed person or persons, and shall be allowed all necessary disbursements for keeping the same.*

Sheriff to take charge of property attached, and to be paid his disbursements.

IV. *And be it further enacted by the authority aforesaid, That if any person or persons against whose estate or effects such warrant or warrants of attachment may have been issued, or any person or persons on his, her or their behalf, shall at any time before the expiration of three calendar months from the first publication of the notice before mentioned, execute and tender to the creditor or creditors who sued out such warrant or warrants, as aforesaid, a bond, with good and sufficient sureties, binding the obligors, jointly and severally, with a condition in double the amount of the sum claimed, that the person or persons aforesaid shall not depart the Province without satisfying the said claims, in the event of the same being proved and Judgment recovered as in ordinary cases where proceedings have been commenced against the person, or that he, she or they, will render such absconding or concealed person or persons to the custody of the Sheriff of the District to whom such writ shall have been directed, or that they will pay the amount of the claim of the party suing out such attachment, or the value of the property or estate so taken and seized, to the said claimants, it shall and may be lawful for such Court or Judge to order a supersedeas to such warrant or warrants, and all and singular the property which may have been attached shall be restored; and if it shall appear at any trial to be subsequently had, and shall be so certified by the Judge presiding at such trial, that the person or persons against whose estate or effects such warrant or attachment was issued hath not been absconding or concealed at the time of issuing such warrant, then such person or persons shall recover his, her or their costs of the*

Upon absconding debtor causing a bond to be given for his not leaving the Province, or for his surrender to the Sheriff if Judgment shall pass against him, Court may award a Supersedeas to the attachment.

(See 5 Wm. IV. Chap. 5, Sec. 3.)

If it shall be proved at the trial of any cause wherein such attachment shall have issued, that defendant had not absconded or concealed himself, plaintiff shall pay all the costs of the attachment.

person or persons suing out the said warrant, which costs may be taxed by the Court from whence the said attachment may have issued.

If absconding debtor do not appear and give such bond as aforesaid, within three months after the issuing of the attachment, suit shall go on against him as in ordinary cases.

(See 5 Wm. IV. Chap. 5, sec. 7.)

V. *And be it further enacted by the authority aforesaid,* That if after the period of three calendar months from the first publication of the notice above mentioned, the absconding or concealed party, or some one on his behalf, do not appear and give bonds, with sureties as before mentioned, for the payment of the claims of the party suing out the attachment, as aforesaid, in the event of Judgment being given against such absconding or concealed party, then the proceedings in the suit against the estate, property and effects, of such absconding or concealed party shall be the same as if the suit had been commenced in the usual manner against the person, and Judgment and execution against the goods and lands of the said party shall follow, as hath been the custom of the Courts of this Province previous to the passing of this Act.

Process may be served at the last place of abode of any absconding debtor, and by leaving a copy at the Crown Office in the District where he was last resident, or in the Office of Clerk of the District Court:

All subsequent proceedings may be left in the Crown Office, or Office of Clerk of District Court, in which declaration shall have been filed

VI. *And be it further enacted by the authority aforesaid,* That in order to proceed in the recovery of any debt due by the person or persons against whose property a writ of attachment shall have been ordered under this Act, process may be served by leaving a copy thereof at the last place of abode of such person within this Province, with any grown up person there dwelling, and also by affixing a copy of such process in the Crown Office, or in the Office of the Deputy Clerk of the Crown in the District where the absconding or concealed person was last resident, or in the Office of the Clerk of the District Court of such District, when the proceedings shall be in the District Court, eight days before the return thereof; and all subsequent proceedings necessary to be served on the defendant in ordinary cases shall be deemed to be served upon such absconding or concealed person by filing a copy in the Crown Office, or in the Office of the Deputy Clerk of the Crown in which the declaration shall have been filed, as aforesaid, or in the Office of the Clerk of the District Court, as the case may be.

Notwithstanding judgment by default may be signed, plaintiff shall prove his case in like manner as if general issue had been pleaded:

If plaintiff shall not prove his case, only nominal damages shall be given, and no costs.

VII. *And be it further enacted by the authority aforesaid,* That notwithstanding Judgment by default may be signed in any action in which the process and other proceedings may have been served in the manner aforesaid, such Judgment shall in no case be final; and it shall be incumbent on the plaintiff nevertheless to prove his cause of action in the same manner as if the general issue had been pleaded, or the deed denied in case the action shall have been brought on any specialty, and in case the Jury at any such assessment of damages shall not find the plaintiffs' demand or any part thereof proved, the verdict shall be rendered for nominal damages only, and the plaintiff shall recover no costs of suit.

Perishable goods may be appraised and sold;

VIII. *And be it further enacted by the authority aforesaid,* That in case any Sheriff or Sheriffs shall, by virtue of any warrant or warrants to be issued in pursuance of this Act, seize and take any perishable goods or chattels, it shall and may be lawful for such Sheriff to have the same

appraised and valued by two substantial freeholders or competent judges, and upon the request of the person or persons suing out such warrant or warrants, to expose and sell the same at public auction to the highest bidder, giving at least eight days notice of the time and place of such sale, if the articles so seized will admit of such delay, but if otherwise, then the Sheriff shall proceed to sell the same at such time as in his discretion may seem meet; *Provided also*, that it shall not be compulsory upon such Sheriff to seize or sell such perishable articles, until the person or persons suing out such warrant or warrants of attachment shall have given a bond to the defendant or defendants, with good and sufficient sureties in double the amount of the appraised value of such articles, (ascertained as aforesaid,) conditioned, that the person or persons directing such seizure and sale will re-pay the value of such articles so seized and sold to the owner thereof, together with all costs and damages that may have been incurred in consequence of such seizure and sale, in case judgment be not obtained for such person or persons so suing out such warrant or warrants of attachment.

Upon the sale of perishable goods, plaintiff to give bond in double the amount of appraised value, to refund the value of goods seized in case judgment shall not be given for such plaintiff.

IX. *And be it further enacted by the authority aforesaid*, That if any person or persons being indebted to or having the custody or possession of any property or effects of any such absconding or concealed person or persons, shall after such public notice given as aforesaid, and a copy thereof duly served upon him, her or them by the said Sheriff, pay any debt or demand, or deliver any such property or effects to any such absconding or concealed person or persons, or his, her or their attorney, agents, factors or assigns, the person or persons so paying any such debt, or delivering such property or effects, shall be deemed to have paid or done the same fraudulently, and is and are hereby made liable to answer the same, or the amount or value thereof, to the person or persons suing out such warrant of attachment, in the event of such person or persons recovering judgment and execution against such absconding or concealed person or persons; and if any such person or persons, being so indebted, or having such custody as aforesaid, shall after such public notice, and being served with a copy thereof as aforesaid, be sued by such absconding or concealed person or persons for any such debt, or property or effects, he, she or they, so sued, may plead the general issue, and give this Act and the special matter in evidence.

All payment of debts or surrender of property to an absconding debtor shall be deemed fraudulent after notice;

And such debtor so paying shall answer over to the creditor of such absconding debtor, and if sued for any such debt or property in his possession, may plead general issue, and give this Act in evidence.

X. *And be it further enacted by the authority aforesaid*, That the costs of such Sheriffs, either for seizing, securing, or taking charge of property and effects so attached, under and by virtue of any warrant or warrants issued in pursuance of the provisions of this Act, shall be paid in the first instance by the party or parties suing out such warrant or warrants, as aforesaid, his, her or their attorney or agent, to the Sheriff to whom such writ may be directed, and may be recovered by such Sheriff by action in any of His Majesty's Courts of record in this Province; and in case such person or persons recover judgment against the person or persons

Sheriff's expenses of executing attachment payable in the first instance by plaintiff, but to be afterwards allowed in taxed costs where judgment passes for plaintiff.

so absconding or concealed, the same shall be allowed with costs of suit, to be taxed by the proper officer as the ordinary disbursements of the suit.

Appraisers to receive five shillings per diem.

XI. *And be it further enacted by the authority aforesaid,* That the freeholders and appraisers authorised by this Act, shall be entitled to receive for each day they may be employed in carrying its enactments into effect, the sum of five shillings.

If goods &c of any absconding debtor shall not be found sufficient to pay the demand against him, his debts may be collected by action in the name of his creditor:

XII. *And be it further enacted by the authority aforesaid,* That if after judgment and execution by any plaintiff or plaintiffs against any absconding or concealed person or persons, obtained under and by virtue of the provisions of this Act, the goods and chattels, lands and tenements, of such absconding or concealed person or persons, taken and seized by any Sheriff or Sheriffs by virtue of such execution or executions, shall not be sufficient to discharge the same, it shall and may be lawful for the plaintiff or plaintiffs to sue for and recover of and from any person or persons indebted to the absconding or concealed person or persons as aforesaid, the amount of the debt so owing by them to the absconding or concealed person or persons, or so much thereof as may be necessary to satisfy the claim of such plaintiff or plaintiffs, and payment made by such person or persons to such plaintiff or plaintiffs shall be considered legal and valid to all intents and purposes, and shall operate as a discharge for the debt, or so much thereof (as the case may be,) owing to the absconding or concealed person or persons: *Provided always,* that the declaration in such action shall contain an introductory averment to this or the like effect, that is to say:

Form of the commencement of declaration against the debtor of an absconding debtor, by his creditor.

A. B. who sues under the provisions of an Act of the Parliament of this Province for attaching the property of absconding debtors, in order to recover from C. D. debtor to one E. F. an absconding or concealed person, such sum as C. D. may owe to the said E. F. or so much thereof as will discharge the sum of ———, being the amount due by the said E. F. to him the said A. B. complains, &c.

Before execution shall issue against any absconding debtor's effects, plaintiff shall give bond to defendant, and file same in Court, to answer in case judgment shall be set aside or reversed.

(See 5 Wm. IV. Ch. 5, Sec. 7.)

XIII. *And be it further enacted by the authority aforesaid,* That before execution shall issue upon any judgment obtained under this Act against an absconding or concealed debtor, a bond to the defendant in double the sum to be levied, to be executed by the plaintiff and two sufficient sureties, to be approved of by some one of the Judges of the Court in which the action shall have been instituted, shall be filed among the papers of the cause; the condition of which bond shall be to the effect, that if the defendant, his executors or administrators, shall within the period allowed by law contest the justice of the plaintiff's demand, and succeed in reversing the recovery, the plaintiff, his executors or administrators, shall restore to the defendant, his heirs, executors or administrators, the amount that shall have been levied upon execution in such cause, with interest, and shall make good to the defendant, his heirs, executors or

administrators, any further damage occasioned by the seizure and sale of real and personal estate, in order to satisfy the judgment obtained against such absconding or concealed debtor.

XIV. *And be it further enacted by the authority aforesaid,* That at any time within one year after the rendering of Judgment against an absconding or concealed debtor, such debtor may, upon his personal appearance in Court in Term time, apply through his counsel, or in case of his death, his executors or administrators, may within the same period, apply for a re-hearing of the cause, which re-hearing shall be granted upon giving security for costs, and the cause may be again tried upon a record to be prepared for that purpose, on which the entry of a new venire may be made after the entry of issue joined, or of judgment by default, without any continuance or alteration of the record in consequence of the death of parties; but the title of any purchaser, other than the plaintiff himself, at the Sheriffs' sale upon the execution which shall have previously issued in such cause, shall not be affected by the defendant obtaining a verdict or judgment upon such subsequent proceeding.

Upon personal appearance of absconding debtor, he may have a re-hearing within a year, upon giving security for costs;

Reversal of judgment not to affect Sheriff's sale of effects.

XV. *And be it further enacted by the authority aforesaid,* That nothing in this Act contained shall be construed to prevent one or more new trials being granted, either after the first verdict, or after the verdict rendered upon the re-hearing, when the same shall appear necessary to the ends of justice.

New trials may be granted.

XVI. *And be it further enacted by the authority aforesaid,* That in case any re-hearing under this Act, after the period shall have elapsed within which a new trial can be moved for, or in case a new trial shall be refused, the verdict shall be taken to be conclusive, so far as respects the liability of the obligors in the bond required to be filed previous to the suing out execution; and it shall not be necessary for the defendant succeeding on such re-hearing to enter final judgment for that purpose.

After time for re-hearing or for new trial has elapsed, verdict shall be conclusive upon obligors whose bond has been filed previous to suing out execution;

Defendant not bound to enter judgment.

XVII. *And be it further enacted by the authority aforesaid,* That if after the period of one month from the return day of any execution against the goods and chattels, lands and tenements, of any absconding or concealed person or persons, (the same having been satisfied,) no other warrant or warrants of attachment shall come into the hands of any such Sheriff, against the property or effects of such absconding or concealed person or persons, all the property and effects then remaining in the hands of such Sheriff, together with all books of accounts, evidences of debt, vouchers and papers relating thereto, shall be delivered to the person or persons in whose custody the same were found, being the factor, agent or servant, of such absconding or concealed person, and the responsibility of such Sheriff as respects such property shall from thenceforth cease.

Residue of property remaining after execution satisfied, to be delivered back to the custody from whence the same was taken, unless within one month any other attachment shall be lodged with the Sheriff.

Act to continue in force
two years.

XVIII. *And be it further enacted by the authority aforesaid, That this Act shall continue and be in force for the period of two years, and from thence to the end of the then next ensuing Session of Parliament, and no longer: Provided always, that it shall nevertheless be lawful to proceed in any matter that may be depending under this Act until the same shall be brought to a final termination according to the provisions thereof.*

(See 5 William 4. Chap. 5, which continues this Act, and which is itself made perpetual by 3 Victoria, Chap 7.)

C H A P . V I .

AN ACT to provide for making Stock held in Companies having a joint transferable Stock, liable to the satisfaction of debts.

[Passed 28th January, 1832.]

Whereas.

WHEREAS it is just and expedient that the Stock held by individuals, either in Banking institutions, or in other Companies lawfully created within this Province, and having a joint transferable Stock, should be subject to be taken and sold in satisfaction of debts, in the same manner as other personal property: *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 Stock held by any person in any Bank, or in any Corporation or Company in this Province having a joint transferable Stock, shall be liable to be taken and sold in execution, in the same manner as other personal property of the debtor.

Stock in corporate
companies rendered liable
in execution for debt.

Stock to be transferred in
the books of the
Corporation upon Sheriff's
certificate of sale.

II. *And be it further enacted by the authority aforesaid, That it shall and may be lawful for the Cashier of any such Bank, or for the proper officer of any other such Corporation or Company, upon the production of a certificate under the hand and seal of office of the Sheriff acting upon any execution, declaring to whom any Stock taken upon such execution shall have been sold by him, to transfer such Stock from the name of the original Stockholder to the name of the person or persons who may be named in such certificate as the purchaser or purchasers under such execution; and that such purchaser or purchasers shall from*

thenceforth be entitled to receive all dividends and profits arising from such Stock, and shall in all other respects be considered in the place and stead of the former Stockholder.

CHAP. VII.

AN ACT to confirm British Subjects in their titles to Real Estates in this Province, derived through Aliens.

[Passed 28th January, 1832.]

WHEREAS it is expedient, except under certain circumstances hereinafter mentioned, to confirm British subjects in such titles to real estates in this Province as are liable to be impeached, on the ground of the person from or through whom such titles have been derived having been aliens: *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 shall be disturbed in the possession, or precluded from the recovery of any lands, tenements or hereditaments in this Province, on the ground that any person from or through whom he or she may claim, by title acquired or derived before the passing of this Act, was an alien.

Preamble.

(See 9 Geo. IV. Chap. 21. Secs. 15 & 16.)

Titles to estates not to be disturbed by reason of their being derived through aliens.

II. *Provided always nevertheless, and be it further enacted by the authority aforesaid,* That in all cases where any person claiming to hold as next entitled, on the ground that the person nearer in that line of descent was an alien, shall in virtue of such claim have taken actual possession of any real estate before the passing of this Act, and have made improvements thereon; and also in all cases where any person claiming to hold as next entitled, on the ground that the person nearer in the line of descent was an alien, shall have actually sold or departed with, or shall have actually contracted to sell or depart with his real estate, before the passing of this Act, (no person being at the time in adverse possession thereof,) the provisions of this Act shall not extend to render invalid any right or title to such estate so claimed on the ground aforesaid, but such right or title shall be taken and adjudged to be as if this Act had not been passed.

Provided that no actual possession or sale shall be affected hereby.

CHAP. VIII.

AN ACT respecting the time and place of sitting of the Court of King's Bench.

[Passed 23rd December, 1831.]

WHEREAS by an Act of the Parliament of this Province, passed in the thirty-fourth year of the reign of His late Majesty King George the Third, intituled, "An Act to establish a Superior Court of Civil and Criminal Jurisdiction, and to regulate the Court of Appeal," it is provided, "that His Majesty's Court of King's Bench in this Province 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;" *And whereas* no public building has yet been erected for the accommodation of the Court of King's Bench, and it may be found convenient to allow the said Court to be holden at some eligible place in the immediate vicinity of the Seat of Government, although not within the actual limits of the city, town or place, in which the Governor or Lieutenant-Governor shall usually reside: *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 Act hereinbefore recited as appoints the place at which the Court of King's Bench shall be holden, shall be and the same is hereby repealed.

Preamble.

(See 4 Wm. IV. Ch. 2;
7 Wm. IV. Ch. 1;
1 Vic. Ch. 15;
Statutes of Canada,
4 & 5 Vic. Chap. 5.)

So much of 34 Geo. III.
Ch. 2, Sec. 1, as fixes the
place of holding the Court
of King's Bench repealed.

Court of King's Bench
may be held within one
mile of the seat of
Government of this
Province.

(See Act of Union Sec. 44,
which virtually repeals
this provision.)

II. *And be it further enacted by the authority aforesaid,* That His Majesty's Court of King's Bench in this Province shall be holden at a place certain, that is, in the city, town or place, which shall be for the time the Seat of the Civil Government of this Province, or within one mile of such city, town or place; and that the place in which the said Court shall be holden under the authority of this Act, shall be deemed and taken, with reference to the sitting of such Court, to form part and parcel of the city, town or place, which shall be for the time the Seat of the Civil Government of this Province, notwithstanding it may be without the geographical limits thereof.

Hilary term to commence
on the first Monday in
February.

III. [Repealed by 7 William IV. Chap. 1, Sec. 6.]

IV. *Provided always nevertheless, and be it further enacted by the authority* Not to affect any process or proceeding now in progress. *aforsaid,* That any writs, process, entry or proceeding, which hath been or shall be issued, had or made, in which the 'Term of Hilary during this present year, or any return day thereof, is described and set forth otherwise than according to the provision in this Act contained, shall nevertheless be valid and effectual, and the commencement and end of such Term of Hilary, and other return day therein mentioned in any such writ, process, entry or proceeding, shall with respect to such writ, process, entry or proceeding, and all subsequent proceeding thereon, be deemed and taken to be as it should and ought to have been according to the periods in this Act appointed for the commencement and duration of the said Term of Hilary.

V. Repealed by 4 William IV. Chap. 3.]

Act to continue in force two years.

CHAP. IX.

AN ACT to make valid certain proceedings in the Home District Court.

[Passed 28th January, 1832.]

WHEREAS the Terms of sitting of the District Court of the Home Preamble: District are by law concurrent with the 'Terms of the Court of King's Bench, respectively; *And whereas* by the operation of an Act passed in this present Session of Parliament, intituled, "An Act respecting the time and place of sitting of the Court of King's Bench," the Term of the said District Court which would have commenced on the Monday next after the twenty-fifth day of December, in the year of our Lord one thousand eight hundred and thirty-one, is postponed and delayed until the first Monday in the February following; *And whereas* doubts may arise, and inconvenience to the suitors in the said District Court may ensue, if some provision be not made for confirming and making valid the proceedings had therein before the passing of the said recited Act, and it is expedient to prevent such doubts and inconvenience: *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 the provisions in the said recited Act passed in the present Session of the Parliament of this Province con-

Provisions of the Act altering the time and place of sitting of the Court of King's Bench, to be applicable to the Home District Court, *mutatis mutandis*.

tained, respecting the proceedings had in the Court of King's Bench before the passing thereof, shall extend, and be construed to extend, to the District Court of the Home District, as far as relates to the like proceedings had in the said District Court, any law, usage or custom, to the contrary notwithstanding.

CHAP. X.

AN ACT for altering and amending the Charter of the President, Directors and Company, of the Bank of Upper Canada, and for increasing the number of Shares to be held in the Capital Stock of the said Company.

[Passed 29th January, 1832.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XI.

AN ACT to incorporate certain persons under the style and title of the President, Directors and Company, of the Commercial Bank of the Midland District.

[Passed 28th January, 1832.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XII.

AN ACT to repeal part of and amend the Charter of the Niagara Canal Company.

[Passed 28th January, 1832.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XIII.

AN ACT to incorporate a Joint Stock Company, to improve the navigation of the Grand River.

[Passed 28th January, 1832.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XIV.

AN ACT for incorporating a Joint Stock Company, under the style and title of the President, Directors and Company, of the Port Dover Harbour.

[Passed 28th January, 1832.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XV.

AN ACT to incorporate a Joint Stock Company, under the style and title of the President, Directors and Company, of the Port Burwell Harbour.

[Passed 28th January, 1832.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XVI.

AN ACT to repeal part of and to extend the provisions of an Act passed in the last Session of the Parliament of this Province, intituled, "An Act to erect the County of Prince Edward into a separate District."

[Passed 28th January, 1832.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XVII.

AN ACT to establish a Police in the Town of Brockville, in the District of Johnstown.

[Passed 28th January, 1832.]

[See Local and Private Acts, in 2nd Volume.]

CHHP. XVIII.

AN ACT to repeal part of an Act passed in the fourth year of His late Majesty's reign, intituled, "An Act to divide the County of Carleton, in the Bathurst District."

[Passed 28th January, 1832.]

Preamble.

(See Act of Union Sec 16)

So much of 4 Geo. IV. Chap. 5, as limits the representation of Carleton and Lanark, repealed

Writs to be issued for the return of an additional member for Lanark and Carleton.

WHEREAS by an Act passed in the fourth year of His late Majesty's reign, intituled, "An Act to divide the County of Carleton, in the Bathurst District," it was among other things provided, that nothing in the said Act contained should extend, or be construed to extend, to give to the Counties of Lanark and Carleton a greater increase of representation in the House of Assembly of this Province than by law these Counties would have been entitled to if the said District had not been divided into two Counties; *And whereas* the population of these Counties renders it necessary that they should be represented in the House of Assembly by more than one Member each: *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 the said recited Act as limits the representation of the Counties of Lanark and Carleton, be and the same is hereby repealed.

II. *And be it further enacted by the authority aforesaid,* That 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, to issue writs for the return of one Member for each of the said Counties in addition to the Members now serving, in the same manner as the Governor, Lieutenant-Governor, or Person Administering the Government, issues writs for the return of Members in cases of a general election of representatives to the Provincial Parliament.

CHAP. XIX.

AN ACT to provide for the appointment of Commissioners to ascertain the North boundary line of the Township of Niagara, and to establish a public highway contiguous to the same.

[Passed 28th January, 1832.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XX.

AN ACT to impose an additional Duty on Licences to vend wines, brandy and spirituous liquors.

[Passed 28th January, 1832.]

Preamble; additional duty on licences to sell spirituous liquors to be levied. 2. Persons selling spirituous liquors on board steamboats or other vessels to take out licences. 3. Penalty for selling spirituous liquors on board steamers and other vessels. 4. Accounting clause. 5. Duties arising under this Act to be applicable to the improvement of the roads. 6. Continuation of the Act.

[SEE 4 Wm. IV. CH. 18; 4 Wm. IV. CH. 50; 6 Wm. IV. CH. 4; 7 Wm. IV. CH. 27; 3 Vic. CHAPS. 19, 20, 21, 22. SUPERSEDED BY 3 Vic. CH. 20, SECS. 7 & 8, AND CH. 22. SEC. 2, THOUGH NOT EXPRESSLY REPEALED.]

CHAP. XXI.

AN ACT to continue in force for a limited time an Act passed in the fourth year of His late Majesty's reign, intituled, "An Act to restrain the selling of beer, ale, cider, and other liquors not spirituous, in certain Towns and Villages in this Province, and to regulate the manner of Licencing the same."

[Passed 28th January, 1832.]

Preamble; 4 Geo. IV. Chap. 15, renewed and continued for four years.

CHAP. XXII.

AN ACT to authorise a loan to the President, Directors and Company, of the Cobourg Harbour.

[Passed 28th January, 1832.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXIII.

AN ACT to authorise a loan to the President, Directors and Company of the Port Hope Harbour and Wharf Company.

[Passed 23th January, 1832.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXIV.

AN ACT authorising a loan to the President and Directors of the Desjardin's Canal Company.

[Passed 25th January, 1832.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXV.

AN ACT for granting to His Majesty a sum of money to defray the expense of erecting a Light-House between Nicholson's Island and the Ducks, and for appointing Commissioners to superintend the erection thereof.

[Passed 28th January, 1832.]

£1000 granted for that purpose.

CHAP. XXVI.

AN ACT granting to His Majesty a sum of money to be expended in the completion of the Burlington Bay Canal, and to defray the expenses thereof.

[Passed 28th January, 1832.]

[See Local and Private Acts, in 2nd Volume.]

CHAP.

CHAP. XXVII.

AN ACT granting to His Majesty a sum of money for the purposes therein mentioned.

[Passed 28th January, 1832.]

(£680 granted to make good certain sums voted in the 9th Parliament.)

CHAP. XXVIII.

AN ACT granting to His Majesty a sum of money in aid of the erection of an Hospital in or near the Town of Kingston.

[Passed 28th January, 1832.]

Preamble; £3000 granted to His Majesty in aid of the erection of an Hospital at Kingston; money to be paid by instalments of £1000 per annum. 2. Commissioners appointed for superintending the erection of the building. 3. Money to be paid by warrant, and accounted for through the Lords of the Treasury.

CHAP. XXIX.

AN ACT to grant a sum of money to His Majesty in aid of the York Hospital.

[Passed 28th January, 1832.]

Preamble; £150 granted in aid of the funds of the York Hospital. 2. To be paid by warrant, and accounted for through the Lords of the Treasury.

CHAP. XXX.

AN ACT granting to His Majesty a sum of money to obtain plans and estimates of a Penitentiary to be erected in this Province, and to appoint Commissioners for the same.

[Passed 28th January, 1832.]

Preamble; £100 granted to His Majesty to enable Commissioners to obtain information respecting the management of Penitentiaries. 2. Commissioners appointed; Commissioners to make a report of their proceedings, to be laid before the Legislature, 3. Accounting clause.

CHAP. XXXI.

AN ACT to extend the provisions of an Act passed in the first year of His Majesty's reign, intituled, "An Act granting to His Majesty a sum of money to be raised by Debenture, for the improvement of roads and bridges in the several Districts of this Province."

[Passed 28th January, 1832.]

Preamble; Road monies unexpended in the hands of Commissioners to be expended, and accounted for by Commissioners on or before 1st August. 2. Commissioners appointed to expend £50 on a road leading from John Eastman's to Richmond; £25 to be applied on a road in Elizabethtown; Commissioners appointed.

CHAP. XXXII.

AN ACT for appropriating certain monies towards the payment of the war losses.

[Passed 28th January, 1832.]

Preamble; Certain monies to be ratably applied to the payment of the war losses. 2. Monies to be accounted for through the Lords of the Treasury.

CHAP. XXXIII.

AN ACT granting to His Majesty a sum of money to defray the contingent expenses of the last Session of the Provincial Parliament.

[Passed 28th January, 1832.]

Preamble; £4,347 8 1 granted to His Majesty for certain purposes. 2. Monies to be accounted for through the Lords of the Treasury.

CHAP. XXXIV.

AN ACT granting a sum of money for the relief of sick and destitute Emigrants at Prescott.

[Passed 28th January, 1832.]

Preamble; £250 granted to His Majesty for the relief of emigrants arriving at Prescott. 2. Money how to be paid and accounted for. 3. Trustees appointed for expending the money.

CHAP. XXXV.

AN ACT to provide for Partition of Real Estates.

[Royal Assent given by Message.]

WHEREAS in many cases much inconvenience is experienced from the want of some Court competent to order the partition of lands held in joint tenancy, tenancy in common, and co-parcenary: *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 joint tenants, tenants in common, and co-parceners of any estate or estates, in lands, tenements or hereditaments within this Province, may be compelled to make or suffer partition of such estate or estates in manner hereinafter prescribed, and that when such estate or estates is or may be situated in two or more Districts, the proceedings under this Act shall be heard before the Court of King's Bench, and where such estate or estates is or may be situated in one District only, the proceedings may be had before the District Court or Court of King's Bench.

Preamble.

Proceedings for the partition of real estate may be had before King's Bench or District Court.

II. *And be it further enacted by the authority aforesaid*, That any person being a joint tenant, co-parcener, or tenant in common of any such estate or estates, or the executor, administrator, guardian or agent of any such person, may file his or her petition in the Court of King's Bench or District Court, as the case may require, praying that partition of such estate or estates may be made; which petition shall set forth the nature of the title or claim of the demandant, the tract or tracts of land, the tenements or hereditaments of which partition is demanded, and also the name and place of residence of each joint tenant, co-parcener and tenant in common with such demandant, if they shall be known to such demandant, and if on examination it shall appear that the demandant has a good and legal right and title to any part or proportion of such estate or estates, then the Court shall proceed, at the term in which such petition may be filed, to order and direct a partition to be had and made, in the manner prescribed by the provisions of this Act: *Provided*, it shall appear that the notice required by this Act hath been sufficiently and legally given, and no sufficient reason shall appear why the prayer of the petitioner should not be granted, otherwise the Court shall order and direct notice of such demand of partition to be given, either by publication in one or more newspapers printed in this Province, when the

Petition may be presented to King's Bench or District Court, praying that partition be made;

Notice of the petition to be given to parties interested;

Notice on Agent sufficient
if the party resides out
of the Province.

parties concerned reside out of this Province, or by personal notice, to be served at least forty days before the ensuing term, if the party or parties concerned reside within this Province: *Provided always*, that when the person or persons of whom partition is demanded reside out of this Province, and have an agent or attorney residing within this Province, personal notice of such demand or partition shall be given to such agent or attorney, as is required in the case of resident proprietors.

After due notice hath
been given, Court may
order partition.

Writ to be directed to
the Sheriff of the District
or Districts where the
lands lie, commanding
him by the oaths of three
freeholders, to make
partition.

Two freeholders to
be appointed.

III. *And be it further enacted by the authority aforesaid*, That if at the first or succeeding term (in case a continuance hath been granted) after the filing of such petition, it shall appear to the Court that due notice hath been given, and if no sufficient reason shall appear why partition should not be made, the Court shall proceed to order such partition, and shall issue their writ, directed to the Sheriff of the District in which the estate or estates shall or may lie, or to the Sheriff of either of the Districts in which the estate or estates shall or may lie, in case such estate or estates is or are in more than one District, commanding him by the oaths of three judicious and disinterested freeholders of the vicinity, to be appointed by said Court and named in said writ, who are not of kin to any of the said parties concerned, to cause to be set off and divided to the demandant in said petition, such part or proportion of such estate or estates as the Court shall have ordered and directed; and in making such partition, it shall be the duty of said freeholders to view and examine such estate or estates, to set apart the same in such lot or lots as will be most advantageous and equitable, having due regard to the improvements, situation and quality of the different parts of such estate or estates; and if the bounds or title of any tract or tracts, or any part thereof, shall be controverted, it shall be the duty of the said freeholders to separate the same from the uncontroverted part, and to make partition of the estate or estates in such manner, that a due proportion of the controverted as well as the uncontroverted part may be allotted to the demandant.

Appointed points to be
decided as other issues
of law or fact by the
Court or Jury, as the
case may be.

IV. *And be it further enacted by the authority aforesaid*, That when the facts alleged in any petition for partition hereafter to be preferred in consequence of this Act are controverted by any of the tenants in common, co-parceners, or joint tenants, the answer or objection to the petition shall be made in writing in the form of a plea, to which the petitioner may reply or demur, to the end that the matter in dispute may be reduced to an issue in law or fact, and receive a determination by the Court or a Jury in the manner other issues are determined; and in case the issue be determined in favor of the petitioner, judgment shall be entered by the Court, that partition be made by disinterested freeholders, as aforesaid, and the Court shall proceed to appoint them accordingly: *And also*, that the petitioner recover against the adverse party the costs attending the trial, and execution may issue for the said costs in the form prescribed by law as in other cases; but if on such pleading it shall be determined that the petitioner holds a less share or proportion in the

Costs to be awarded to
the successful party.

common and undivided property than he has in his petition alleged, the adverse party shall recover against the petitioner his reasonable costs; but notwithstanding, judgment may be rendered in favor of the petitioner to have an assignment of such parts of the real estate in severalty as he in fact held in common and undivided.

V. *And be it further enacted by the authority aforesaid, That if at any time after the filing of a petition, as aforesaid, and before a writ shall have issued to the Sheriff, the person or persons, joint tenants, co-parceners or tenants in common, of whom partition is demanded, shall appear by him or themselves, or by his or their attorney, and shall pay their proportion of the costs which have occurred on such partition, and shall consent to a partition of such estate or estates, then partition shall be made of such estate or estates, by such person or persons as said joint tenants, co-parceners, or tenants in common shall agree upon; and in case they do not agree upon any person or persons to make such partition before the end of the term, then a writ shall issue to the Sheriff as is hereinbefore provided.*

Parties consenting to partition may appoint arbitrators to make partition, and if they do not agree on the persons to be named, the Court may name them.

VI. *And be it further enacted by the authority aforesaid, That when any writ of partition shall issue, as aforesaid, if the freeholders who are directed to make such partition shall be of opinion that the estate or estates cannot be divided according to the demand of the writ, without prejudice to or spoiling the whole, the freeholders shall then make and return to the Court a true valuation and appraisement of such estate or estates; whereupon, if the said Court shall approve the said return, and if any one or more of the parties shall elect to take the said estate or estates at the appraised value, the same shall be adjudged to him or them, he or they paying, or securing to be paid to the other parties their proportion of the appraised value according to their respective rights; and the Sheriff shall, according to the order of the Court, make and execute conveyances to the party or parties electing to take the same, subject nevertheless to a lien thereon in favour of the others of the said parties, until payment be made to them of their respective shares of the money, as aforesaid; and in case the said parties shall not agree who shall take the said lands and tenements on the terms aforesaid, then the said Court shall or may, at the instance of the demandant in the said partition, make an order for the sale of the said lands and tenements at public auction, by the Sheriff who shall have holden the said inquisition, or his successors in office, after due and fair notice of the time and place of such sale, by advertisements published and set up in the several Districts where the lands lie, and also in such public newspaper as shall be most likely to give fair and full notice of such sale to all parties concerned and others; which public notice shall be given at least twenty days before the time of sale in cases where the lands all lie in the same District, and at least sixty days when the lands lie in different Districts; and the said Sheriff is hereby authorised, empowered and ordered, to execute deeds to the*

Course of proceeding when partition cannot be made without spoiling the whole estate;

Lands may be sold in certain cases.

purchasers of the lands and tenements so as aforesaid sold, on receiving payment of the consideration money, or taking sufficient security therefor, to the satisfaction of the Court, which money or security shall be brought into Court before or at the time of the said Sheriff's acknowledging the deed, in open Court, to be distributed and paid by order of the said Court amongst the several parties entitled to receive the same, in lieu of their respective parts and proportion of the said lands and tenements, according to their just rights and proportions.

When partition made, the same shall be described by metes and bounds, and a plan shall accompany the return to the Court having cognizance thereof;

Partition when approved of, to be recorded by the Clerk;

Record to be deemed an effectual partition.

Costs to be taxed, and execution to issue therefor on a final determination of the partition;

New partition may be awarded, if the ends of justice shall seem to require it.

Guardians may act for infants.

VII. *And be it further enacted by the authority aforesaid,* That when any writ of partition shall issue, or when the parties interested shall agree on some person or persons to make partition, it shall be the duty of the inquest, or persons so agreed on, to make a true and accurate plan or map, and field book of such lands as may be so divided, and to describe particularly the metes and bounds of all tenements so divided and aparted; which plan or map, field book and description, the persons or inquest shall sign, and send under seal to the next Court having cognizance of the same; and after the division and return thereof shall be made to the Court, it shall be examined by the Court, and if found justly and accurately made, the Clerk shall record such return, which record shall be deemed valid and effectual in law for the partition of such lands, tenements or hereditaments, and thereupon the party or parties shall have and hold the shares or parcels to them respectively allotted in severalty.

VIII. *And be it further enacted by the authority aforesaid,* That the Court before whom any partition shall be had, shall tax the costs and expenses which may accrue on such proceedings, and shall issue execution therefor against such person or persons, their goods, chattels, lands, tenements and hereditaments, interested in such partition, as shall not have paid their proportion of the costs and expenses so taxed: *Provided always nevertheless,* that it shall be in the power of the Court in which any such proceeding for partition is depending, to award a new partition by another Jury, when it shall appear necessary for the ends of justice, in the same manner and for the same causes as new trials are now grantable by law, but that no new partition shall be granted when all the parties interested are resident within the Province, unless the same is applied for before the end of the term next after that in which the former verdict has been rendered.

IX. *And be it further enacted by the authority aforesaid,* That the guardians of all minors are hereby respectively authorised and empowered, on behalf of their wards, to do and perform any act, matter or thing, respecting the partition of land under this Act, and the same shall be deemed valid and effectual in law, to every intent and purpose as if the same had been done by such minor after his arrival at full age.

X. *And be it further enacted by the authority aforesaid,* That if any partner shall have a larger share set off than is such partner's true and

real interest, or if any share set off should be more than equal in value to the proportion it was set off for, then and in every such case, upon complaint to the Court which caused such partition to be made, within three years of the making thereof, by any aggrieved partner or partners, who at the time of making such partition were out of the Province, and not notified thereof agreeably to the provisions of this Act, the said Court shall cause partition thereof to be made anew, and in such new partition so much and no more shall be taken off from any, than as such share shall be adjudged more than the proportion of the whole it was designed for, estimating such lands or real estate as in the state they were in when first divided; and in case any improvements shall be made on the part that may by such new partition be taken off, as aforesaid, the partner, or his assigns, who made such improvements, shall have reasonable satisfaction made him by the partner or partners to whose share the same shall be added, by the estimation of the freeholders employed in making such new partition, or the major part of them; and the same Court who ordered partition, are also empowered to issue execution for such satisfaction, and for costs in such new partition, the same being first taxed and allowed by the said Court.

Parties out of the Province may within three years apply to the Court for redress, if they conceive themselves aggrieved, and a new partition may be awarded.

STATUTES OF UPPER CANADA,

PASSED IN THE

THIRD SESSION OF THE ELEVENTH PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT YORK, ON THE THIRTY-FIRST DAY OF OCTOBER, IN THE THIRD YEAR OF
THE REIGN OF OUR SOVEREIGN LORD WILLIAM THE FOURTH, AND PROROGUED ON
THE THIRTEENTH DAY OF FEBRUARY FOLLOWING.

SIR JOHN COLBORNE, K. C. B.
LIEUTENANT GOVERNOR.

ANNO DOMINI 1833.

CHAP. I.

*AN ACT to repeal part of, amend and reduce to one Act of Parliament
the several laws now in force in this Province for the recovery of
small Debts, and to extend the jurisdiction of the Court of Requests
within the same.*

[Passed 13th February, 1833.]

Preamble.

(See 7 Wm. IV. Ch. 12.)

(See also Statutes of
Canada, 4 & 5 Vic. Ch. 3,
which repeals both these
Acts and establishes a new
jurisdiction for the
recovery of small debts.)

32 Geo. III. Chap. 6;
part of 37 Geo. III. Ch.
6, sec. 6; and 56 Geo. III.
Ch. 5, repealed.

WHEREAS it is found necessary to repeal part of, and amend and reduce to one Act of Parliament the several laws now in force in this Province for the recovery of small debts, and also to extend the jurisdiction of the Court of Requests 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 first day of September next, a certain Act passed in the thirty-second year of the reign of His late Majesty King George the Third, intituled, "An Act for the more easy and speedy recovery of small debts;" a certain other Act passed in the fifty-sixth year of His said Majesty's reign, intituled, "An Act to extend the jurisdiction of the Court of Requests;" and also so much of the sixth clause of a certain other Act passed in the thirty-

seventh year of His said late Majesty's reign, intituled, "An Act to extend the jurisdiction and regulate the proceedings of the District Court and Court of Requests," as applies to the said Court of Requests, be and the same are hereby repealed.

II. *And be it further enacted by the authority aforesaid,* That from and after the first day of September next, it shall and may be lawful for any two or more Commissioners, acting under and by virtue of a commission from the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, who is hereby duly authorised and empowered to grant the same, under his hand and seal of office, to assemble, sit and hold a Court of Justice, to be called a Court of Requests, on the first and third Saturday of each month, at some place within their respective divisions; *which divisions shall be ascertained and declared by the Justices in Quarter Sessions assembled, or the greater part of them, at the General Quarter Sessions which shall be holden first after the first day of April next*; and the said Commissioners for the time being, or any two or more of them, shall have power and authority, and are hereby authorised, empowered and required, to hear and determine all matters of debt or contract, when the demand doth not exceed the sum of ten pounds, and to give and pronounce such judgment and decree therein respectively, and to award execution thereupon, with such costs as are hereinafter specified, against the goods and chattels of all and every the person and persons against whom they shall give or pronounce any judgment or decree, as to them shall seem just in law or equity; and that the acts, orders, judgments and decrees, of the said Commissioners shall be final between the parties thereto: *Provided always,* that the Commissioners hereinbefore mentioned shall be appointed and hold their office during pleasure only.

Two or more Commissioners may hold a Court of Requests,

On the first and third Saturday of each month, within their divisions;

(See 7 Wm. IV. Ch. 12, Sec. 9.)

Magistrates to declare the respective divisions at their Quarter Sessions;

Jurisdiction of the Court.

Commissioners to hold their office during pleasure.

III. *And be it further enacted by the authority aforesaid,* That so soon as the said divisions shall have been declared in each District, as aforesaid, the same shall be numbered by the said Justices in General Quarter Sessions assembled, beginning at number one and continuing to the highest number of such divisions in each District; and shall be particularly described in a book to be kept for that purpose, and deposited in the office of the Clerk of the Peace.

Divisions to be numbered, and described in a book to be kept by the Clerk of the Peace.

IV. *And be it further enacted by the authority aforesaid,* That the Clerk of the Peace in and for each District shall transmit to the office of the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, a copy of the book or list of divisions from time to time declared, as aforesaid, within the limits of the District of which he is Clerk of the Peace, describing them according to their respective numbers.

Clerk of the Peace to transmit to the Governor's office a copy of such book,

V. *And be it further enacted by the authority aforesaid,* That from and after the first day of September next, it shall and may be lawful for every

Clerk of the Court to issue summonses;

Summonses may be served by leaving copy at defendant's house ;

Summons to be served six days before the day of appearance ;

Upon proof of service, Court may give judgment not exceeding £10 ;

Proceedings to be entered in a book ;

Defendant not to be summoned out of his division ;
(See 7 Wm. IV. Ch. 12.)

No judgment to be given over 40s. where party not personally served.
(See 7 Wm. IV. Ch. 12, Sec. 3.)

Privilege of Barristers and Attornies taken away.

Court not to hold plea of any gambling debt, or for liquors drunk at a tavern.

Titles to real estate not to be involved.

person or persons, who then or thereafter may have any debt or debts owing to him her or them, not exceeding the sum of ten pounds, currency of this Province, by any person or persons whatsoever, being an inhabitant of the District within which the Court shall be holden, to cause such person or persons to be summoned, by a writing under the hand of the Clerk of the said Court, who shall be appointed as hereinafter mentioned, a copy of which shall be left with some grown person at the dwelling-house or usual place of abode of such person or persons, or by service of the same on the person of such debtor, to appear before the Commissioners of the said Court ; and the said Commissioners, after such summons, as aforesaid, shall, upon proof of such copy of said summons having been so left or served, at least six days previous to the day of appearance, have full power and authority by virtue of this Act, to make, or cause to be made, such acts, orders, decrees, judgments and proceedings, between such plaintiff and his, her or their debtors, defendants, touching such debt or debts, not exceeding the sum of ten pounds, currency of this Province, in question before them, as they shall find consistent with law or equity ; and all such acts, orders, decrees, judgments and proceedings, shall be entered in a book to be kept for that purpose. *Provided always*, that nothing in this Act contained shall extend, or be construed to extend, to authorise the summoning of any defendant or defendants before any Court of Requests within any District other than that which shall be established by the Magistrates in Quarter Sessions, as by law directed, for the division in which such defendant or defendants shall, at the time of issuing such summons, be resident ; *And provided also*, that the Court shall in no case give judgment against a defendant for a larger sum than forty shillings, unless it shall be proved to them that he has been personally served with the summons issued in such cause.

VI. *And be it further enacted by the authority aforesaid*, That no Barrister, Attorney at Law, or Solicitor, being served with process of the said Court, shall be allowed to plead or maintain any privilege against the process, authority, jurisdiction or judgment thereof ; nor shall any Barrister, Attorney at Law, or Solicitor, have or maintain any privilege of bringing in a superior Court an action upon any cause of action, which from its nature shall be properly cognizable in the Court of Requests.

VII. *Provided always, and be it further enacted by the authority aforesaid*, That nothing in this Act contained shall extend, or be construed to extend to authorise the holding plea in such Court for any gambling debt whatsoever, or for any spirituous liquors drunk at a tavern : *Provided also, and be it further enacted by the authority aforesaid*, That nothing in this Act contained shall extend to give jurisdiction to any Court of Requests to take cognizance of any cause involving the right or title to real estate.

VIII. *And be it further enacted by the authority aforesaid,* That a statement of the particulars of the demand upon which any party shall sue in the said Court of Requests, shall be annexed to or endorsed on every summons taken out, and served on the defendant or defendants with such summons; to which bill of particulars the name of the plaintiff or plaintiffs bringing the suit shall be subscribed; and to the items contained in the said bill of particulars the said plaintiff or plaintiffs shall be required to confine his, her or their proof at the trial.

Particulars of plaintiff's demand to be annexed to summons, to which parties are confined at the trial.

IX. *And be it further enacted by the authority aforesaid,* That in order to prevent unnecessary expense, it shall and may be lawful for the said Commissioners, or any one of them, at any time to give judgment, and cause the same to be entered, on the voluntary confession of any defendant, when the amount demanded does not exceed the jurisdiction of the said Court; which confession may be in the form hereinafter set forth; and that judgment shall not be entered up on any such confession, in a case where no summons has been sued out by the plaintiff, until such plaintiff shall have made an affidavit, to be endorsed on or annexed to the confession, declaring that the defendant before giving that confession did truly and bona fide owe him the amount therein specified.

Judgment may be given on the confession of the party, or affidavit by plaintiff of the debt having been due bona fide.

X. *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 Commissioners in the said Court, whereby he, she or they, shall wilfully and corruptly forswear themselves, such person or persons shall on conviction suffer the pains and penalties inflicted on persons guilty of wilful and corrupt perjury.

False swearing declared perjury.

XI. *And be it further enacted by the authority aforesaid,* That the present Courts of Request shall be and continue established until the first day of September next, and that all suits or controversies which shall remain unsettled, or which shall not have been finally disposed of in the several Courts of Request in this Province, shall, after the first day of September next, be transferred to the Court of Requests, having the jurisdiction in such suit or controversy, established by this Act, together with all papers and proceedings relating thereto; which said unsettled suits or controversies shall be proceeded in until finally disposed of by the Court of Requests having jurisdiction, and established by this Act, in the same manner that such unsettled suits or controversies would have been proceeded in if this Act had not been passed.

Continuance of present Courts of Request until 1st September;

Suits instituted in present Court continued in new Court.

XII. *And be it further enacted by the authority aforesaid,* That this Act shall extend to all new Districts which may be hereafter created or set apart within this Province, and that the Justices of the Peace in such new Districts shall, at their first Court of General Quarter Sessions to be by them holden, partition and set off the same into divisions, and do and perform all such other matters and things in the same manner as is required by this Act of the Justices in the several Districts now by law established.

This Act to extend to all new Districts.

Court may administer oaths to witnesses or parties ;

XIII. And for the better discovery of the truth, and the more solemn determination of matters and causes which shall be depending in the said Court : *Be it therefore further enacted by the authority aforesaid,* That it shall and may be lawful for the said Commissioners, or any two or more of them, assembled in Court as aforesaid, and they are hereby authorised and empowered to administer, or cause to be administered, an oath or oaths to the plaintiff or plaintiffs, defendant or defendants, respectively, and to such witness or witnesses as shall be produced by each party, and also to all or any of the officers of the said Court, and to all other persons whatsoever, for or concerning any business relative thereunto ; and to take the affirmation or affirmations of such plaintiff or plaintiffs, defendant or defendants, witness or witnesses, or other persons, as aforesaid, who are or shall be of the people called Quakers, or of such other denomination of Christians as are allowed to give evidence on their affirmation : *Provided always,* that although the Court may for their better satisfaction and for the discovery of the truth, require the plaintiff or defendant to be examined on oath or affirmation, they shall in no case give judgment for either party in any cause for more than forty shillings, or allow or disallow any set-off to a greater amount than forty shillings, on the mere oath or affirmation of the plaintiff or defendant respectively, nor without sufficient evidence to warrant such judgment independent of such oath or affirmation.

No judgment sustained or set-off allowed or disallowed for a sum over 40s by oath of either party.

Commissioners to take an oath to the following effect.

XIV. *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 of the power given by this Act, until he or they shall respectively have taken an oath to the effect following :

Form.

“I, A. B. do swear that I will faithfully, impartially and honestly, according to the best of my judgment, hear and determine such matters and things as shall be brought before me as a Commissioner of the Court of Requests, of Division Number ———, constituted and established under and by virtue of an Act of the Legislature of this Province, intituled, ‘An Act to repeal part of, amend and reduce to one Act of Parliament, the several Laws now in force in this Province for the recovery of small debts, and to extend the jurisdiction of the Court of Requests within the same,’ without favour or affection to either party—So help me God.”

Oath may be administered by a Justice of the Peace, and transmitted to the Clerk of the Peace.

Which oath may be administered by any Justice of the Peace, and shall be by such Justice transmitted to the Clerk of the Peace of the District in which the Division for which such Commissioner shall have been appointed shall be situated.

Commissioners to appoint a Clerk ;

His duty.

XV. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, it shall be the duty of the Commissioners of each Court of Requests to appoint a fit and proper person to discharge the duties of Clerk, who shall be subject to be removed from his office by the Commissioners, or a majority of them, for the time being ; and whose duty it shall be to issue all summonses, subpoenas, executions, and other

process necessary to be issued out of the said Court, to receive from the Bailiffs all money collected under this Act, and to pay the same over to the parties to whom it was decreed, and to keep a faithful record in a suitable book to be by him provided for that purpose, (which book shall be the property of the District,) of all the proceedings of the Court for which he may be appointed; and which Clerk shall, before he enters upon the duties of his office, take the following oath:

“I, A. B. do swear, that I will well and truly perform and fulfil all duties belonging to the office of Clerk of the Court of Requests for the ———, and will faithfully make, enter and preserve, all proceedings and remembrances of the said Court, to the best of my skill and ability. So help me God.” *Provided always*, that no Clerk so appointed shall enter upon the duties of his office until he shall have given security to the Commissioners in the sum of one hundred pounds for the proper performance of his duty, that is to say, shall enter into the covenant hereinafter mentioned, binding himself without limitation as to amount, with two or more sureties to such amounts severally as shall together make up one hundred pounds, such sureties to be persons sufficiently responsible in the judgment of the Commissioners; and it shall also be the duty of the said Commissioners, and they are hereby empowered to appoint one or more fit and proper persons to discharge the duties of Bailiff according to the provisions of this Act; which Bailiff or Bailiffs shall give security in the same manner and to the same amount as the Clerk of such Court, and shall hold his office during the pleasure of the Commissioners, who, or a majority of them, may in their discretion remove such Bailiff and appoint another in his stead.

Clerk's oath;

Clerk to give security in the sum of £100 to perform the duties of his office.

Commissioners to appoint a Bailiff, who shall give security.

XVI. *And be it further enacted by the authority aforesaid*, That the security to be given by every Clerk or Bailiff of any Court of Requests in this Province, shall be in the following form, or to the like effect, that is to say:

Know all men by these presents that we, A. B. Clerk, or Bailiff, (as the case may be,) of Division number ———, in the District of ———, C. D. of the District of ———, and E. F. of ———, in the District of ———, (when more sureties here insert their names,) do hereby jointly and severally covenant and promise that A. B. Clerk, or Bailiff, (as the case may be,) of the ——— Division, as aforesaid, shall well and truly pay over to the person or persons entitled to the same all such monies as he shall receive by virtue of his office of Clerk, or Bailiff, (as the case may be,) from the date of this covenant, during his continuance in office, and that he shall not within that period negligently or wilfully misconduct himself in his said office of Clerk, or Bailiff; (as the case may be,) nevertheless it is hereby declared that no other or greater sum shall be recovered against the sureties respectively than as follows, that is to say:

Form of security.

Against C. D.

Against E. F.

If other sureties add them in like manner.

In witness whereof we have hereunto set our hands and seals the
_____ day of _____

L. S.
L. S.
L. S.

Signed, sealed and delivered, }
in presence of }

Party injured may bring
action upon the security
given by the Clerk or
Bailiff.

XVII. *And be it further enacted by the authority aforesaid,* That any person or persons who may be injured, delayed or damaged, by the negligent or wilful misconduct of any Clerk or Bailiff of any Court of Requests, shall and may sue upon such covenant in his own name, and the Commissioner or Commissioners of such Court are hereby authorised to give such judgment thereon as to them shall seem just in law and equity, not exceeding in amount the sum to which their jurisdiction is limited: *Provided always,* that nothing herein contained shall prevent the bringing any action upon such covenant in a superior Court for a cause of action beyond the jurisdiction of the Court of Requests.

Bailiff to attend all sit-
tings of the Court.

XVIII. *And be it further enacted by the authority aforesaid,* That every Bailiff appointed by the Commissioners of any Court of Requests shall attend at the sittings of such Court at ten o'clock of the day on which any process or execution shall have been made returnable; and it shall and may be lawful for the said Commissioners to administer, and they are hereby authorised to administer, an oath to such Bailiff, to the effect following, that is to say:

Oath to be administered
to him touching services.

“You, A. B., Bailiff of Division number _____ of the Court of Requests, in the _____ District, shall truly answer all such questions as shall be put to you by the Court, touching the service or execution of any writ or process issued from this Court which may have been placed in your hands, and returnable here this day. So help you God.”

Plaintiff neglecting to
attend and substantiate his
claim, to pay costs, and a
compensation to defend-
ant.

XIX. *And be it further enacted by the authority aforesaid,* That whenever any plaintiff or plaintiffs who may hereafter bring an action in the Court of Requests shall fail to appear, or otherwise establish his, her or their claim, either in his, her or their own person or persons, or by agent, at the time specified in the summons, it shall be the duty of said Commissioners to give judgment against such plaintiff or plaintiffs for all costs attending the same, as also such sum to compensate the defendant or defendants for loss of time in attending the said Court as the said Commissioners (unless they shall find such failure to have occurred with the assent of or upon a previous understanding with the defendant) may deem just and equitable.

Court may give judgment
in favor of defendant for
so much of his set off as
shall exceed plaintiff's
demand;

XX. *And be it further enacted by the authority aforesaid,* That in all actions which may hereafter be brought before the Commissioners of the Court of Requests, if it shall be proved to the satisfaction of the Court that the claim of the defendant exceeds that of the plaintiff, it shall be

the duty of the said Commissioners, and they are hereby required, to enter judgment in favor of the defendant for such balance as may appear to be due to the said defendant, together with costs. *Provided always*, that no set off shall be allowed to be given in evidence before such Commissioners which shall exceed the sum of ten pounds. *And provided always*, that if the plaintiff shall contest such set off, it shall be incumbent on the Commissioners to suspend judgment, and to admit both parties on the next or other subsequent Court day to produce evidence respecting the same, unless the defendant shall satisfy the Commissioners, by evidence on oath, that he did, four days before the return of the summons issued against him, serve the plaintiff with a statement of the particulars of his set off, signed by the defendant, in which case the Commissioners may on the first day appointed for the trial hear and determine the same, confining the set off to the items specified in such bill of particulars.

No set off beyond £10 to be received;

Plaintiff entitled to four days notice of set off, or Court shall adjourn to consider same.

XXI. *And be it further enacted by the authority aforesaid*, That if any witness or witnesses necessary in any trial live out of the Division where any case may be tried, but within the District in which such Division is situated, then, and in such case, he, she or they, may be subpoenaed in like manner as if he, she or they, lived within such Division, but no costs shall be allowed for such witness against the opposite party, unless the Commissioners shall find that his evidence was necessary to make out the case of the party calling him.

Witnesses may be summoned out of Division, if within the District; costs of such witness in the discretion of the Court.

XXII. *And whereas* it is customary among the people of this Province to contract for the payment of a certain specified amount, or of certain sums, in produce or labour, or in some manner otherwise than in money, and doubts may arise with the Commissioners acting under this Act whether they can adjudge such amount or sums to be paid in money: *Be it therefore further enacted by the authority aforesaid*, That in any such case, after the day is passed in which the produce or goods should have been delivered, or other thing should have been done, it shall be in the power of the Court, if they find it just in other respects, to give judgment for the amount in money, as if the debt or agreement had been for money.

Judgment may be given for stock notes.

XXIII. *And be it further enacted by the authority aforesaid*, That all fines levied under the provisions of this Act shall be by the Commissioner or Commissioners of every Court of Requests paid over to any Overseer or Overseers of Highways in the Division wherein such fine or fines shall have been levied; and such Overseer or Overseers are hereby authorised and required to expend the same in the same manner as other monies coming into their hands to be expended on the Highways, and shall render an account thereof, within three months after the expenditure thereof, to the Commissioner or Commissioners from whom he shall have received the same; and such Commissioner or Commissioners are hereby required to make a return of such fines and expenditure to the ensuing Quarter Sessions.

Disposition of fines.

Disorderly persons may be imprisoned or fined by the Court.

XXIV. *And be it further enacted by the authority aforesaid,* That if any person shall use contemptuous or insulting language to the Commissioners aforesaid, while discharging the duties imposed upon them by this Act, or shall in any manner disturb the proceedings of any Court of Requests, it shall and may be lawful for the said Commissioners to imprison such offender or offenders in the Common Gaol of the District, for a period not exceeding six days, or impose a fine, not exceeding two pounds, at the discretion of the Commissioners, such fine to be levied and collected in a summary way, by warrant of distress, to be issued by the said Commissioners, directing the same to be made of the goods and chattels of the offender.

Execution may be levied out of Division in certain cases;

XXV. *And be it further enacted by the authority aforesaid,* That when any execution shall be issued out of the said Court against any defendant or defendants, or against any plaintiff or plaintiffs, and sufficient goods and chattels of the party or parties against whom such execution shall have been issued, shall not be found within the Division where such cause shall have been tried to satisfy the same, then and in such case it shall and may be lawful to levy the amount of such execution, or the balance thereof, of the goods and chattels of such party or parties, in any other Division within the same District, and the Clerk of the Court from whence the same issued may direct another execution for the amount due, to the Bailiff of the same Division, or the Bailiff of the Division in which the execution is to be enforced. *Provided always,* that the Bailiff of the Division in which judgment was entered shall not be compelled to go out of his Division, nor shall the cost of travelling from one Division to another be taxed against the person against whom the execution shall be issued.

No costs allowed for travelling out of Division.

No execution on judgments over 40s. to issue within forty days;

Unless in case of danger.

XXVI. *And be it further enacted by the authority aforesaid,* That when any judgment in the said Court shall exceed the sum of forty shillings, it shall not be lawful for the said Commissioners to issue any execution thereon until the expiration of forty days from the time of giving and recording such judgment; unless the party obtaining judgment shall make it appear by his own oath, or other testimony to the satisfaction of the Commissioners, that he will be in danger of losing the debt in consequence of such delay; in which case, and also in the case of any judgment against a Clerk or Bailiff, for monies received by him and not paid over, it shall be lawful for the said Commissioners, or any one of them, to order the issue of execution at such time as he may think fit.

Eight days notice of sale to be given in all cases.

XXVII. *And be it further enacted by the authority aforesaid,* That no Bailiff shall proceed to the sale of any effects, taken by virtue of any writ of execution issued by a Court of Requests, unless public notice in writing be given at least eight days before such sale, at the most public place in the town or township where such effects may have been taken in execution, of the time and place where such effects are to be exposed to sale.

XXVIII. *And be it further enacted by the authority aforesaid,* That if any action shall hereafter be brought in any of the superior Courts, which might have been tried in the Court of Requests, no higher costs shall be taxed to the plaintiff than would have been recoverable in the Court of Requests, unless it shall be shewn to the Court, or to a Judge thereof in vacation, that from the nature of the plaintiff's evidence, or the situation of his witnesses, he could not have proved his case in the Court of Requests, or unless in the action in the superior Court the defendant shall have been arrested.

Costs of actions in the Superior Courts cognizable in the Court of Requests, limited to Court of Requests costs;

Except in certain cases.

XXIX. *And be it further enacted by the authority aforesaid,* That whenever either of the parties to any cause shall apply for an adjournment, in consequence of the absence of some material witness, or for other sufficient reasons, shewn upon oath to the satisfaction of the Court, it shall be the duty of the Commissioners to grant the application, upon the payment of reasonable costs by the party applying for such adjournment.

Court may adjourn any trial for sufficient reason.

XXX. *And be it further enacted by the authority aforesaid,* That the several fees and sums of money hereinafter limited and expressed, and no more, shall be taken.

COMMISSIONER'S FEES.

Table of fees.

For every final judgment—two shillings.

CLERK'S FEES.

For recording judgment—six pence.

For every summons or subpoena—six pence.

For every copy of judgment (if demanded)—one shilling.

For every execution—one shilling.

BAILIFF'S FEES.

For serving every summons or subpoena within one mile of the Clerk's House—one shilling.

For every mile in travelling to execute process or execution, where the distance exceeds one mile—four pence.

For serving a writ of execution, seizing and selling effects, and making return, if the judgment does not exceed five pounds—two shillings and six pence.

Do. do. if judgment exceeds five pounds, in like proportion.

The allowance to be paid to all and every of the witnesses, to be left to the discretion of the Commissioners, but not to exceed two shillings and six pence per day to each.

Witnesses fees.

XXXI. *And be it further enacted by the authority aforesaid,* That the following forms may be used by the Commissioners of the Court of Requests :

IN THE COURT OF REQUESTS.

District, }
Division No. }
to wit: }
To

Plaintiff,
Defendant.
the Defendant.

Forms to be used in the Court.

You are hereby summoned and required to be and appear before the Commissioners of His Majesty's Court of Requests, to be held at _____, in the Township of _____, by eleven o'clock in the forenoon, of Saturday the _____ day of _____, to answer the demand of _____, for _____ pounds, _____ shillings and _____ pence, of lawful money of this Province, which he claims from you, and a statement of which claim is hereunto annexed. Herein fail not, as judgment will be given against you for default.

Witness _____ A. B., Clerk of said Court, this _____ day of _____.

IN THE COURT OF REQUESTS.

District, } To
Division No. }
to wit: }

You are hereby summoned and required to be and appear before the Commissioners of His Majesty's Court of Requests, to be held at _____, in the Town of _____, on Saturday the _____ day of _____, at _____ o'clock in the forenoon, to testify the truth according to your knowledge in a certain cause then and there to be tried between _____, plaintiff, and _____, defendant, on the part of the _____. Herein fail not at your peril.

Witness _____ A. B., Clerk of the said Court, this _____ day of _____, in the year of our Lord one thousand eight hundred and thirty _____.

TO A. B., BAILIFF.

District, }
Division No. }
to wit: }

You are hereby authorised and required to make _____ of the goods and chattels of _____, in the said District, the sum of _____, Provincial currency, to satisfy a judgment given by the Court of Requests, held in Division number _____, in the said District, on Saturday the _____ day of _____, at the suit of _____, in the plea of debt heard against the said _____, together with the sum of _____, being the costs of the said suit; and should there be any overplus after deducting the legal expenses of the seizure and sale, you are to return the same to the said _____, and you are to certify to the said Court, on Saturday the _____ day of _____, what you shall have done in the execution hereof. Herein fail not.

Witness _____ A. B., Clerk of the said Court.

Debt }
Costs }
Bailiff's Fees..... }

IN THE COURT OF REQUESTS.

I, _____, of the Town of _____, in the _____ District, do hereby acknowledge that I am justly indebted to _____, in the sum of _____, being the amount due to _____, on a note, account or contract, (as the case may be,) and I do consent that judgment be forthwith entered against me for the said sum, with the costs, but no execution to be issued until the _____ day of _____ next.

Witness

(Form of the oath to be administered to a witness.)

“The evidence you shall give to this Court touching the matter in question shall be the truth, the whole truth, and nothing but the truth. So help you God.” Oath to witness or party.

CHAP. II.

Chap III in Revised Statutes

AN ACT relating to the bailing and commitment, removal and trial of Prisoners, in certain cases.

[Passed 13th February, 1833.]

WHEREAS it is expedient to define under what circumstances persons may be admitted to bail in cases of felony or misdemeanor, and to make better provision for taking examinations, informations, bailments and recognizances, and returning the same to the proper tribunals; and also, for obtaining the evidence of prisoners confined in any prison upon the limits thereof, without the necessity of suing out a writ of habeas corpus: *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 when any person shall be taken on a charge of felony, or suspicion of felony, before one or more Justice or Justices of the Peace, and the charge shall be supported by positive and credible evidence of the fact; or by such evidence as if not explained or contradicted shall, in the opinion of the Justice or Justices, raise a strong presumption of the guilt of the person charged, such person shall be committed to prison by such Justice or Justices, in manner hereinafter mentioned; but if there shall be only one Justice present, and the whole evidence given before him shall

Preamble.
(See Statutes of Canada, 4 & 5 Vic. Ch. 24, which contains provisions superseding some or all of the enactments of this Statute.)

Duty of Justices before whom persons may be brought on charges of felony.

be such as neither to raise a strong presumption of guilt, nor to warrant the dismissal of the charge, such Justice shall order the person charged to be detained in custody until he or they shall be taken before two Justices at the least; and where any person so taken, or any person in the first instance taken before two Justices of the Peace, shall be charged with felony, or on suspicion of felony, and the evidence given in support of the charge shall, in their opinion, not be such as to raise a strong presumption of the guilt of the person charged, and to require his or her committal, or such evidence shall be adduced on behalf of the person charged as shall, in their opinion, weaken the presumption of guilt, but there shall notwithstanding appear to them, in either of such cases, to be sufficient ground for judicial inquiry into his or her guilt, the person charged shall be admitted to bail by such two Justices in the manner hereinafter mentioned. *Provided always*, that nothing herein contained shall be construed to require any Justice or Justices to hear evidence on behalf of any person or persons so charged, as aforesaid, unless it shall appear to him or them to be meet, and conducive to the ends of justice, to hear the same.

Justices to take the examination of witnesses, and reduce same to writing in presence of the accused;

II. *And be it further enacted by the authority aforesaid*, That the two Justices of the Peace, before they shall admit the bail, and the Justice or Justices, before he or they shall commit to prison any person arrested for felony, or on suspicion of felony, shall take the examination of such person, and the information upon oath of those who shall know the facts and circumstances of the case, and the particular grounds of suspicion, in cases where direct proof is not adduced, and shall put the same into writing in the presence of the party accused, if he be in custody, who shall have full opportunity afforded him of cross-examining such witnesses, if he shall think proper so to do; and the two Justices shall thereupon certify such bailment in writing; and every such Justice shall have authority to bind by recognizance all such persons as know or declare any thing material touching any such felony, or suspicion of felony, to appear at the next Court of Oyer and Terminer and General Gaol Delivery, or Sessions of the Peace, at which the trial thereof is intended to be had, then and there to prosecute or give evidence against the party accused; and such Justice or Justices, respectively, shall subscribe all such examinations, informations, bailments and recognizances, and deliver, or cause the same to be delivered, to the public prosecutor, before or at the opening of the said Court.

Witnesses to be bound in recognizance to give evidence.

Duty of Justices when persons brought before them on charge of misdemeanor;

III. *And be it further enacted by the authority aforesaid*, That every Justice of the Peace before whom any person shall be taken on a charge of misdemeanor, or suspicion thereof, shall take the examination of the party charged, and the information, upon oath of those who shall know the facts and circumstances of the case, and shall put the same, or so much thereof as shall be material, into writing, before he shall commit to prison, or require bail from the person so charged; and in every case of bailment, shall certify the bailment in writing, and shall have authority to bind all persons by recognizance to appear to prosecute or give

evidence as in cases of felony, and shall subscribe all examinations, informations, bailments and recognizances, and deliver, or cause the same to be delivered, to the public prosecutor, or Clerk of the Court in which the trial is to be, before or at the opening of the Court, as in cases of felony; and that no traverse or other postponement of any trial to be thereupon had shall be allowed, except upon special cause shewn to the satisfaction of the said Court, or by consent of His Majesty's Attorney or Solicitor General, conducting the prosecution thereof.

No traverse to be allowed in cases of misdemeanor, as of right.

IV. *And be it further enacted by the authority aforesaid,* That every Coroner, upon any inquisition before him taken, whereby any person shall be indicted for manslaughter or murder, or as an accessory to murder before the fact, shall in presence of the party accused, if he can be apprehended, put in writing the evidence given to the Jury before him, or so much thereof as shall be material, giving the party accused full opportunity of cross-examination; and shall have authority to bind by recognizance all such persons as prove or declare any thing material touching the said manslaughter or murder, or the offence of being accessory to murder, to appear at the next Court of Oyer and Terminer or General Gaol Delivery at which the trial is to be, then and there to give evidence against the party charged; and every such Coroner shall certify and subscribe the same evidence, and all such recognizances, and also the inquisition before him taken, and shall deliver the same to the Court at which the trial is to be, before or at the opening of the Court next ensuing the taking the same.

Duty of Coroners in taking inquests.

V. *And be it further enacted by the authority aforesaid,* That if any Justice or Coroner shall offend in any thing contrary to the true intent and meaning of these provisions, the Court of Oyer and Terminer or General Gaol Delivery, or Sessions of the Peace, respectively, holden within the District where any party accused shall be liable to be tried, shall, upon examination and proof of the offence, in a summary way, set such fine upon every such Justice or Coroner as the Court shall think meet.

Justices and Coroners neglecting their duty may be fined by the Court of Oyer and Terminer, Gaol Delivery or Sessions of the Peace.

VI. *And be it further enacted by the authority aforesaid,* That when and so often as any person shall be committed for trial by any Justice or Justices, or Coroner, as aforesaid, it shall and may be lawful for such prisoner, his counsel, attorney or agent, to notify the said committing Justice or Justices, or Coroner, that he will, so soon as counsel can be heard, move His Majesty's Court of King's Bench, or one of the Judges thereof, for an order to the Justices of the Peace, or Coroner, for the District where such prisoner shall be confined, to admit such prisoner to bail, whereupon it shall be the duty of such committing Justice or Justices, or Coroner, to transmit to the office of the Clerk of the Crown, close, under the hand and seal of one of them, a certified copy of all the informations, examinations and other evidences, touching the offence wherewith

Manner of procuring prisoners to be bailed by Justices, under the direction of the Court of King's Bench, or the Judges thereof.

such prisoner shall be charged, together with a copy of the warrant of commitment, and inquest, if any such there be, and that the packet containing the same shall be handed to the person applying therefor; in order to such transmission, and shall be certified on the outside thereof to contain the information touching the case in question.

Upon applications to King's Bench for the bailment of any prisoner under this Act, same order to be made as if prisoner were brought up on a writ of Habeas Corpus.

VII. *And be it further enacted by the authority aforesaid,* That upon any application to His Majesty's Court of King's Bench, or to any Judge thereof, the same order, touching the prisoner being bailed or continued in custody, shall be made as if the party were brought up upon a Habeas Corpus.

Prisoners confined in gaol or on the limits may be brought up to give evidence, by order of the Court requiring such attendance.

VIII. *And be it further enacted by the authority aforesaid,* That when and so often as the attendance of any person confined in any Gaol or Prison in this Province, or upon the limits thereof, shall be required in any Court of Assize and Nisi Prius, or Oyer and Terminer or General Gaol Delivery, it shall and may be lawful for the Court before whom such prisoners shall be required to attend; in its discretion, to make an order upon the Sheriff, Gaoler, or other person having the custody of such prisoner, to deliver such prisoner to the person named in such order to receive him, which person shall thereupon instantly convey such prisoner to the place where the Court issuing such order shall be sitting, there to receive and obey such further order as to the said Court shall seem meet; *Provided always,* that no prisoner confined for any debt or damages in any civil suit shall be thereby removed out of the District where he shall be confined.

Statute in Annual Statutes

CHAP. III.

AN ACT to reduce the number of cases in which Capital Punishment may be inflicted; to provide other punishment for offences which shall no longer be Capital after the passing of this Act; to abolish the privilege called benefit of clergy; and to make other alterations in certain criminal proceedings before and after conviction.

[Passed 13th February, 1833.]

Preamble.

(See Statutes of Canada, 4 & 5 Vic. Chs. 23, 25, 26 & 27, which contain provisions superseding many of the enactments of this Statute;)

(See also 7 Wm. IV. Chs. 4 & 6.)

WHEREAS it is fit that it should be plainly declared in the Statutes of this Province for what crimes offenders shall be liable to be punished with death; *And whereas* it does not seem to be indispensable, for the security and well being of society, that the punishment of death should be inflicted in any other cases than those hereinafter mentioned: *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 if a person do compass or imagine the death of our Lord the King, or if a person do levy war against our Lord the King, in this Province, or be adherent to the King's enemies in this Province, giving to them aid and comfort, in this Province or elsewhere, and thereof be provably attainted of open deed by people of his condition, such person so attainted shall be deemed guilty of treason, and shall suffer death.

What offences shall be capital:

High Treason.

II. *And be it further enacted by the authority aforesaid,* That every person convicted of murder, or of being an accessory before the fact to murder, shall suffer death as a felon.

Murder; (See 4 & 5 Vic. Chap. 27, Sec. 3.)

III. *And be it further enacted by the authority aforesaid,* That every offence which, before the passing of this Act, would have amounted to petit treason, shall be deemed to be murder only, and no greater or other offence; and all persons guilty in respect thereof, whether as principals or accessories, shall be dealt with, indicted, tried and punished, as principals and accessories in murder.

Petit Treason to be treated in all respects as murder; (See 4 & 5 Vic. Chap. 27, Sec. 2.)

IV. *And be it further enacted by the authority aforesaid,* That if any person or persons whatsoever shall by force set at liberty or rescue, or attempt to rescue or set at liberty, any person out of prison, who shall be committed for or found guilty of murder; or rescue, or attempt to rescue, any person convicted of murder going to execution, or during execution, every person so offending shall be deemed, taken and adjudged, to be guilty of felony, and shall suffer death.

Rescuing persons convicted of Murder or committed for Murder.

V. *And be it further enacted by the authority aforesaid,* That every person convicted of the crime of rape, shall suffer death as a felon.

Rape; (See 4 & 5 Vic. Chap. 27, Secs. 16, & 18.)

VI. *And be it further enacted by the authority aforesaid,* That if any person shall unlawfully carnally know and abuse any girl under the age of ten years, every such offender shall be guilty of felony, and being convicted thereof, shall suffer death as a felon.

Carnal knowledge of a girl under ten years of age; (See 4 & 5 Vic. Chap. 27, Sec. 17.)

VII. *And be it further enacted by the authority aforesaid,* That every person convicted of the abominable crime of buggery, committed either with mankind or with any animal, shall suffer death as a felon.

Sodomy.

VIII. *And be it further enacted by the authority aforesaid,* That if any person shall rob any other person of any chattel, money, or valuable security; or shall rob any person carrying or conveying, or having charge

Robbery; (See 4 & 5 Vic. Chap. 25, Secs. 6 & 7.)
Robbing the Mail;

Place of trial:

of His Majesty's mail, in any part of this Province, of any letter or letters, packet or packets, bag or mail of letters, every such offender, being convicted thereof, shall suffer death as a felon; and such offences shall and may be inquired of, tried and determined, either in the District in which the offence shall be committed, or in which the offender shall or may be apprehended.

Burglary;

(See 4 & 5 Vic. Chap. 25, Secs. 14, 15, 16)

IX. *And be it further enacted by the authority aforesaid.* That every person convicted of burglary, shall suffer death as a felon.

What shall be deemed to be part of the dwelling house.

X. *Provided always, and be it further enacted by the authority aforesaid.* That no building, although within the same curtilage with the dwelling house, and occupied therewith, shall be deemed to be part of such dwelling house, for the purpose of burglary, unless there shall be a communication between such building and dwelling house, either immediate, or by means of a covered and enclosed passage leading from the one to the other.

Arson.

(See 4 & 5 Vic. Chap. 26, Secs. 2, 3)

XI. *And be it further enacted by the authority aforesaid.* That if any person shall unlawfully and maliciously set fire to any church or chapel, or to any building commonly used for religious worship, or to any house, stable, coach-house, out-house, warehouse, office, shop, mill, malt-house, barn or granary, or to any building or erection used in carrying on any trade or manufacture, or any branch thereof, whether the same or any of them respectively, shall then be in the possession of the offender or in the possession of any other person, with intent thereby to injure or defraud any person, or any body corporate, or company of persons, every such offender shall be guilty of felony, and being convicted thereof, shall suffer death as a felon.

Accessories before the fact;

(See 4 & 5 Vic. Ch. 24, Secs. 37, 38, 39.)

XII. *And be it further enacted by the authority aforesaid.* That every person convicted of being an accessory before the fact to any of the offences made capital by this Act, shall suffer death as in cases of felony.

British Statute 1 Geo. 1, chap. 5, commonly called "the Riot Act," recited.

XIII. *And whereas* for the preventing and suppressing of riots and tumults, and for the more speedy and effectual punishing the offenders therein, an Act was passed in the Parliament of Great Britain, in the first year of the reign of King George the First, intituled, "*An Act for preventing tumults and riotous assemblies, and for the more speedy and effectual punishing the rioters,*" whereby it is among other things enacted, that "if any persons to the number of twelve or more, being unlawfully, riotously and tumultuously assembled together, to the disturbance of the public peace, at any time after the last day of July, in the year of our Lord one thousand seven hundred and fifteen, and being required or commanded by any one or more Justice or Justices of the Peace, or by the Sheriff of the County, or his Under Sheriff; or by the Mayor, Bailiff or Bailiffs, or other head officer, or Justice of the Peace of any city or town corporate, where such assembly shall be, by Proclamation, to be made in

the King's name, in the form in the said Act directed, to disperse themselves, and peaceably to depart to their habitations, or to their lawful business, shall, to the number of twelve or more, (notwithstanding such Proclamation made,) unlawfully, riotously and tumultuously, remain or continue together by the space of one hour after such command or request made by Proclamation, that then such continuing together to the number of twelve or more, after such command or request made by Proclamation, shall be adjudged felony without benefit of clergy, and the offenders therein shall be adjudged felons, and shall suffer death as in case of felony, without benefit of clergy." And it is in the said Act further enacted, that "the order and form of the Proclamation which shall be made by the authority of the said Act shall be as hereafter followeth, (that is to say:) That the Justice of the Peace, or other person authorised by the said Act to make the said Proclamation, shall, among the said rioters, or as near to them as he can safely come, with a loud voice command, or cause to be commanded, silence to be, while Proclamation is making; and after that, shall openly and with a loud voice make, or cause to be made, Proclamation in these words, or like in effect:

"Our Sovereign Lord the King chargeth and commandeth all persons being assembled immediately to disperse themselves, and peaceably to depart to their habitations or to their lawful business, upon the pains contained in the Act made in the first year of King George, for preventing tumults and riotous assemblies.—God save the King."

Proclamation for rioters to disperse.

"And every such Justice and Justices of the Peace, Sheriff, Under Sheriff, Mayor, Bailiff, and other Head Officer, aforesaid, within the limits of their respective jurisdictions, are by the said Act authorised, empowered and required, on notice or knowledge of any such unlawful, riotous and tumultuous assembly, to resort to the place where such unlawful, riotous and tumultuous assemblies shall be, of persons to the number of twelve or more, and there to make, or cause to be made, Proclamation in manner aforesaid." And it is in the said Act further enacted, that "if such persons so unlawfully, riotously and tumultuously assembled, or twelve or more of them, after Proclamation made in manner aforesaid, shall continue together, and not disperse themselves within one hour, that then it shall and may be lawful to and for every Justice of the Peace, Sheriff or Under Sheriff of the County where such assemblies shall be, and also to and for every High and Petty Constable, and other Peace Officer within such County, and also to and for every Mayor, Justice of the Peace, Sheriff, Bailiff, and other Head Officer, High or Petty Constable, and other Peace Officer, of any city or town corporate where such assembly shall be, and to and for such other person and persons as shall be commanded to be assisting unto any such Justice of the Peace, Sheriff or Under Sheriff, Mayor, Bailiff, or other Head Officer, aforesaid, (who are thereby authorised and empowered to command all His Majesty's subjects of age and ability to be assisting to them therein) to seize and

apprehend, and they are thereby required to seize and apprehend such persons so unlawfully, riotously and tumultuously continuing together, after Proclamation made, as aforesaid, and forthwith to carry the persons so apprehended before one or more of His Majesty's Justices of the Peace of the County or place where such persons shall be so apprehended, in order to their being proceeded against for such their offences according to law; and that if the persons so unlawfully, riotously and tumultuously assembled, or any of them, shall happen to be killed, maimed or hurt, in the dispersing, seizing or apprehending, or endeavouring to disperse, seize or apprehend them, by reason of their resisting the persons so dispersing, seizing or apprehending, or endeavouring to disperse, seize or apprehend them, that then every such Justice of the Peace, Sheriff, Under Sheriff, Mayor, Bailiff, Head Officer, High or Petty Constable, or other Peace Officer, and all and singular, persons being aiding and assisting to them, or any of them, shall be free, discharged and indemnified, as well against the King's Majesty, His Heirs and Successors, as against all and every other person and persons, of, for or concerning, the killing, maiming or hurting, of any such person or persons so unlawfully, riotously and tumultuously assembled, that shall happen to be so killed, maimed or hurt, as aforesaid." And it is in the said Act further enacted, that "if any persons unlawfully, riotously and tumultuously assembled together, to the disturbance of the public peace, shall unlawfully, and with force, demolish or pull down, or begin to demolish or pull down, any church, chapel, or any building for religious worship, certified and registered according to the Statute made in the first year of the reign of the late King William and Queen Mary, intituled, '*An Act for exempting their Majesty's Protestant subjects dissenting from the Church of England from the penalties of certain laws;*' or any dwelling house, barn, stable, or other out-house, that then every such demolishing or pulling down, or beginning to demolish or pull down, shall be adjudged felony, without benefit of clergy, and the offenders therein shall be adjudged felons, and shall suffer death as in case of felony, without benefit of clergy." And it is in the said Act further enacted, that "if any person or persons do, or shall with force and arms, wilfully and knowingly oppose, obstruct, or in any manner wilfully and knowingly let, hinder or hurt, any person or persons that shall begin to proclaim, or go to proclaim, according to the Proclamation thereby directed to be made, whereby such Proclamation shall not be made, that then every such opposing, obstructing, letting, hindering or hurting, such person or persons so beginning or going to make such Proclamation, as aforesaid, shall be adjudged felony, without benefit of clergy, and the offenders therein shall be adjudged felons, and shall suffer death as in case of felony, without benefit of clergy; and that also every such person or persons so being unlawfully, riotously and tumultuously assembled, to the number of twelve, as aforesaid, or more, to whom Proclamation should or ought to have been made, if the same had not been hindered, as aforesaid, shall likewise, in case they, or any of them to the number of twelve or more, shall continue together, and not disperse themselves within one hour after such let or hindrance so made, having

knowledge of such let or hindrance so made, shall be adjudged felons, and shall suffer death as in case of felony, without benefit of clergy." And it is in the said Act further enacted, that "no person or persons shall be prosecuted by virtue of the said Act, for any offence or offences committed contrary to the same, unless such prosecution be commenced within twelve months after the offence committed:" *Be it enacted by and with the authority aforesaid*, That nothing in this Act contained shall affect, or be construed to affect, or in any manner to repeal or vary any of the provisions in the said Act contained, but the same shall continue and remain as if this Act had not been passed. *Provided nevertheless, and it is hereby enacted by the authority aforesaid*, that the provisions in the fourth clause of the same Act shall apply and extend to all churches or chapels, or places for religious worship, in this Province, notwithstanding the same, or any of them, shall not be certified or registered, as provided in the said Act.

The provisions of 1 Geo. I. Chap. 5, (Riot Act) not to be repealed or affected by this Act;

Churches and places of worship to be within Riot Act, though not registered.

XIV. *And whereas* by a certain Act of the Parliament of Great Britain, passed in the twelfth year of the reign of King George the Third, intituled "*An Act for the better securing and preserving His Majesty's dock yards, magazines, ships, ammunition and stores*," it is enacted, that "if any person or persons shall within the Realm, or in any of the Islands, Countries, Forts or places thereunto belonging, wilfully and maliciously set on fire or burn, or otherwise destroy or cause to be set on fire or burnt, or otherwise destroyed, or aid, procure, abet or assist, in the setting on fire or burning, or otherwise destroying, of any of His Majesty's ships or vessels of war, whether the said ships or vessels of war be on float or building, or begun to be built, in any of His Majesty's dock yards, or building or repairing by contract in any private yard, for the use of His Majesty, or any of His Majesty's arsenals, magazines, dock yards, rope yards, victualling offices, or any of the buildings erected therein or belonging thereto, or any timber or materials there placed, for building, repairing or fitting out of ships or vessels, or any of His Majesty's military, naval, or victualling stores, or other ammunition of war, or any place or places where any such military, naval, or victualling stores, or other ammunition of war is, are, or shall be kept, placed or deposited, that then the person or persons guilty of any such offence, being thereof convicted in due form of Law, shall be adjudged guilty of felony, and shall suffer death, as in cases of felony, without benefit of clergy:" *And whereas also*, by a certain other Act of the Parliament of Great Britain, passed in the second and third years of the reign of Queen Anne, intituled, "*An Act for punishing mutiny, desertion, and false musters, and for better paying of the army and quarters, and for satisfying divers arrears, and for a further continuance of the powers of the five Commissioners for the examining and determining the accounts of the Army*," it is enacted, that "if any Officer or Soldier in Her Majesty's army, shall either upon land out of England, or upon the sea, hold correspondence with any rebel, or enemy of Her Majesty, or give them advice or intelligence, either by letters, messages, signs or tokens, or any manner of way whatsoever, or shall treat with

British Statute, 12 Geo. III. Chap. 24, respecting the burning His Majesty's ships, naval arsenals, &c. recited,

British Statute, 2 & 3 Anne, Chap. 20, making it high treason for 'an officer or soldier to correspond with the enemy beyond sea, recited;

such rebels or enemies, or enter into any condition with them without Her Majesty's licence, or licence of the General, Lieutenant-General or Chief Commander, then every such person so offending shall be deemed and adjudged to be guilty of high treason, and suffer such pains and penalties as in case of high treason." *Be it therefore enacted*, that nothing in this Act contained shall be construed or taken to affect in any manner the provisions of the above in part recited Acts, or either of them.

The above Acts of 12 Geo. III. Chap. 24, and 2 & 3 Anne, Chap. 20, not to be affected by this Act.

Statutes of Upper Canada, 35 Geo. III. Chap. 1; 35 Geo. III. Chap. 1; 40 Geo. III. Chap. 1, so far as they make any offence named in them capital, repealed;

And also so much of any Statute as makes it capital to forge any Government Debenture, or utter any forged Debenture, &c.

XV. *And be it further enacted by the authority aforesaid*, That so much of an Act of the Parliament of this Province, passed in the thirty-sixth year of the reign of King George the Third, intituled "*An Act for the better regulation of certain coins current in this Province*;" And of an Act passed in the Parliament of this Province, in the thirty-eighth Year of the reign of King George the Third, intituled "*An Act to establish on a permanent footing the boundary lines of the different Townships of this Province*." And of an Act passed in the Parliament of this Province, in the fortieth year of the reign of King George the Third, intituled "*An Act for the further introduction of the Criminal Law of England in this Province, and for the more effectual punishment of certain offenders*;" and of the several Acts of the Parliament of this Province, passed for authorising the issuing of Government Debentures, as provides that any offence in any of those Statutes respectively mentioned, shall be punishable with death, shall be and the same is hereby repealed; and that such offences shall continue to be of the degree of felony, and the persons convicted thereof shall be liable to the punishments, or any of them, which are by this Act provided in respect to felonies generally, which are not punishable with death.

Persons confessing, or outlawed, to be punished in the same manner as if convicted by verdict.

XVI. *And be it further enacted by the authority aforesaid*, That if any person shall be indicted for any offence made capital by this or any other Statute made or to be made, such person shall be liable to the same punishment, whether he, or she shall be convicted by verdict or confession, or shall be outlawed upon indictment; and this as well in the case of accessories as of principals.

Certain forms on arraignment dispensed with; (See 4 & 5 Vic. Ch. 24, Sec. 14.)

Standing mute.

XVII. *And be it further enacted by the authority aforesaid*, That if any person being arraigned upon any indictment for treason or felony, shall plead thereto a plea of "Not Guilty," he shall by such plea without any further form be deemed to have put himself upon the country for trial; and that if any person being arraigned upon any indictment for treason or felony, shall stand mute of malice, or will not answer directly to the indictment, in every such case it shall be lawful for the Court, if it shall so think fit, to order the proper officer to enter a plea of "Not Guilty," on behalf of such person, and the plea so entered, shall have the same force and effect, as if such person had actually pleaded the same.

Challenging peremptorily more of the Jury than the law allows;

XVIII. *And be it further enacted by the authority aforesaid*, That if any person indicted for any treason or felony, shall challenge peremptorily

a greater number of the men returned to be of the Jury than such person is entitled by Law so to challenge in any of the said cases, every peremptory challenge beyond the number allowed by Law in any of the said cases shall be entirely void; and the trial of such person shall proceed as if no such challenge had been made.

[See 4 & 5 Vic. Ch. 24, Sec. 16.]

Such challenge to be disregarded.

XIX. *And whereas* in certain cases of high treason, as the Law now stands, the sentence or judgment required by Law to be pronounced or awarded against any persons convicted or adjudged guilty of the said crime in such cases is, that they should be drawn on a hurdle to the place of execution, and there be hanged by the neck, but not until they are dead, but that they should be taken down again, and that when they are yet alive their bowels should be taken out, and burnt before their faces; and that afterwards their heads should be severed from their bodies, and their bodies divided into four quarters, and their heads and quarters to be at the King's disposal: *And whereas* it is expedient in the said cases of high treason to alter the sentence or judgment now required by Law: *Be it therefore enacted by the authority aforesaid*, That in all cases of high treason in which, as the Law now stands, the sentence or judgment ordained by Law is as aforesaid, the sentence or judgment to be pronounced or awarded from and after the passing of this Act against any person convicted or adjudged guilty shall be, that such person shall be drawn on a hurdle to the place of execution, and be there hanged by the neck until such person be dead; and that afterwards the body of such person shall be dissected and anatomized.

Sentence in certain cases of high treason mitigated.

XX. *And be it further enacted by the authority aforesaid*, That whenever any person shall be convicted of murder and executed therefor, the body of such murderer shall be delivered by the Sheriff, or his Deputy, and his officers, to a Surgeon, for the purpose of being dissected and anatomized.

Persons convicted of murder, [See 4 & 5 Vic. Ch. 27, Sec. 4, 5.]

To be dissected.

XXI. *And be it further enacted by the authority aforesaid*, That sentence shall be pronounced in open Court immediately after the conviction of such murderer, and before the Court shall proceed to any other business, unless the Court shall see reasonable cause for postponing the same; in which sentence shall be expressed, not only the usual judgment of death, but also the time appointed for the execution thereof, and the mark of infamy hereby directed for such offenders; in order to impress a just horror in the mind of the offender, and on the minds of such as shall be present, of the heinous crime of murder.

Sentence when to be passed; [See 4 & 5 Vic. Ch. 27, Sec. 4, 5.]

Terms of the sentence.

XXII. *Provided always, and be it enacted by the authority aforesaid*, That after such sentence pronounced, as aforesaid, in case there shall appear reasonable cause, it shall and may be lawful to and for such Judge or Justice, before whom such criminal shall have been so tried, to stay the execution of the sentence, at the discretion of such Judge or Justice,

Respite.

Judge may order the body to be dissected.

regard being always had to the true intent and purpose of this Act: *Provided also*, that it shall be in the power of any such Judge or Justice to appoint the body of any such criminal to be dissected and anatomized.

How persons sentenced to be executed for murder shall be kept after sentence;

[See 4 & 5 Vic. Chap. 27, Sec. 5.]

In case of respite, regulations may be relaxed;

XXIII. *And be it further enacted by the authority aforesaid*, That from and after such conviction, and judgment given thereupon, the Gaoler or Keeper to whom such criminal shall be delivered for safe custody, shall confine such prisoner to some cell or other proper and safe place within the prison, separate and apart from the other prisoners; and that no person or persons whatsoever, except the Gaoler or Keeper, or his Servants, shall have access to any such prisoner, without licence being first obtained for that purpose, under the hand of such Judge or Justice before whom such offender shall have been tried, or under the hand of the Sheriff, his Deputy or Under Sheriff; *Provided always*, that in case any such Judge or Justice shall see cause to respite the execution of such offender, so condemned as aforesaid, such Judge or Justice may relax or release any or all of the restraints; or regulations hereinbefore or hereinafter directed to be observed by the Gaoler or Keeper of the Prison where such prisoner shall be confined, by any licence in writing, signed by such Judge or Justice for that purpose, for and during the time of such stay of execution, any thing hereinbefore contained to the contrary thereof notwithstanding.

Further regulations;
Food of convict;

Attendance of Physician or Surgeon;

[See 4 & 5 Vic. Chap. 27, Sec. 5.]

Punishment of Gaoler for disregarding these regulations;

XXIV. *And be it further enacted by the authority aforesaid*, That after sentence passed, as aforesaid, and until the execution thereof, such offender shall be fed with bread and water only, except in case of any violent sickness, or wound, in which case some known Physician, Surgeon or Apothecary may be admitted by the Gaoler or Keeper of the said Prison, to administer necessaries, the christian and surname of such Physician, Surgeon or Apothecary, and his place of abode, being first entered in the books of such Prison or Gaol, there to remain; and in case such Gaoler or Prison Keeper shall offend against, or neglect to put in execution, any of the directions or regulations hereby enacted to be observed, such Gaoler or Prison Keeper shall for such offence forfeit his office, and be imprisoned for a time not exceeding three months, upon conviction thereof, by indictment.

Benefit of clergy abolished.

[See 4 & 5 Vic. Chap. 23, Secs. 19, 20.]

General provision for the punishment of offences not specified in this Act, which, before this Act, were punishable with death, either with or without benefit of clergy;

[See 4 & 5 Vic. Chaps. 24, 25, 26, 27.]

Banishment;

XXV. *And be it further enacted by the authority aforesaid*, That from and after the passing of this Act, benefit of clergy in this Province shall be abolished, and that the same need not in any case be prayed, and shall not in any case be allowed, any law, statute or usage, to the contrary notwithstanding; and that in all cases of crimes made punishable by this Act with death, the effect of such provision shall be the same as in the case of any offence which, before the passing of this Act, was made punishable with death without benefit of clergy; and that all persons who may hereafter be duly convicted of any offence not specified in this Act, and which before the passing thereof was punishable in this Province with death, with or without benefit of clergy, shall be liable to be banish-

ed, or to be transported beyond the seas for life, or for such term not less than seven years, as the Court before which such person shall be convicted shall adjudge, or shall be liable, in case such Court shall think fit, to be imprisoned only, or imprisoned and kept to hard labour, or in solitary confinement in the Common Gaol, or in any Penitentiary, or House of Correction that may be provided for such purposes, for any term not exceeding fourteen years, except persons convicted of returning from transportation or from banishment, with respect to whom the term of imprisonment, with or without hard labour, or by solitary confinement, may, if the Court shall think fit, be extended to the term of his or her natural life; and that in case of manslaughter, the offender shall be liable to be fined or imprisoned, or both in the discretion of the Court; *Provided* that such imprisonment shall not exceed twelve calendar months: *And provided*, that the offence of manslaughter shall be punishable by such fine and imprisonment only, and not by all or any of the other descriptions of punishment in this clause before mentioned.

Transportation;
Imprisonment;
Hard labour;
Solitary confinement;
Returning from transportation;
Manslaughter;
[See 4 & 5 Vic. Chap. 27, Sec. 7.]

XXVI. *And be it further enacted by the authority aforesaid*, That if any person shall be convicted after the passing of this Act of forgery, or of uttering any forged deed, will, instrument, note, bill or writing, or of falsely personating any person or persons, which forgery, or which uttering, or which false personating was before the passing of this Act punishable with death in this Province, the Court before which such person shall be convicted, may, if they shall think fit, adjudge such person (unless in case of a female) to be set in the pillory once or oftener, or to be once or oftener publicly or privately whipped, at such time or times, and at such place or places as they may direct; which punishment shall either be in addition to any other punishment which the Court according to Law may award, or otherwise as may to them appear proper.

For what felonies offenders may be whipped or set in the pillory.
[See 4 & 5 Vic. Chap. 24, Sec. 31.]

CHAP. IV.

AN ACT to take away corruption of blood, save in certain cases.

[Passed 13th February, 1833.]

WHEREAS it is expedient to mitigate the rigor of the law in respect to corruption of blood upon attainder for felony: *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,

Preamble.

No attainder except for high treason shall extend to the disinheriting of any heir.

and to make further provision for the Government of the said Province," and by the authority of the same, That no attainder for felony which shall take place from and after the passing of this Act, save and except in cases of the crime of high treason, or of abetting, procuring or counselling the same, shall extend to the disinheriting of any heir, nor to the prejudice of the right or title of any person or persons, other than the right or title of the offender or offenders during his, her or their natural lives only; and that it shall be lawful for every person or persons to whom the right or interest to or in any lands, tenements or hereditaments, after the death of any such offender or offenders should or might have appertained if no such attainder had been, to enter into the same.

CHAP. V.

AN ACT to revive and continue an Act passed in the fifty-fifth year of the reign of King George the Third, intituled, "An Act to repeal an Act passed in the fifty-fourth year of His Majesty's reign, intituled, 'An Act to supply, in certain cases, the want of County Courts in this Province, and to make further provision for proceeding to Outlawry, in certain cases therein mentioned.'"

[Passed 13th February, 1833.]

Preamble; 55 Geo. III. Chap. 2, continued. 2. For six years.

[MADE PERPETUAL BY 2 VIC. CHAP. 7.]

CHAP. VI.

AN ACT to provide for the apprehending of fugitive offenders from Foreign Countries, and delivering them up to Justice.

[Passed 13th February, 1833.]

Preamble.

[See 37 Geo. III. Chap. 15.]

WHEREAS it is expedient to provide by law for the apprehending and delivering up of felons and other malefactors, who, having committed crimes in foreign countries, have sought, or may hereafter seek, an asylum 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 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 Governor, Lieutenant-Governor, or Person Administering the Government of this Province, shall have power, and he is hereby authorised at his discretion, and by and with the advice of the Executive Council, on requisition being made by the Government of any country, or its Ministers or Officers authorised to make the same, within the jurisdiction of which country the crimes hereinafter mentioned shall be charged to have been committed, to deliver up to justice any person who may have fled to this Province, or who shall seek refuge therein, being charged with murder, forgery, larceny, or other crime, committed without the jurisdiction of this Province, which crimes if committed within this Province would by the laws thereof be punishable by death, corporeal punishment, by pillory or whipping, or by confinement at hard labour, to the end that such person may be transported out of this Province to the place where such crime shall have been charged to have been committed: *Provided always*, that this shall only be done upon such evidence of criminality as, according to the laws of this Province, would, in the opinion of the Governor, Lieutenant-Governor, or Person Administering the Government, and of the Executive Council, warrant the apprehension and commitment for trial of such fugitive from justice, or person so charged, if the offence had been committed within this Province.

Government authorised to deliver up to justice persons who may have fled from other countries into this Province, charged with heinous offences.

II. *And be it further enacted by the authority aforesaid*, That for preventing the escape of any person so charged, before any order for his apprehension can be obtained from the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, it shall be lawful for any Judge, or for any Justice of the Peace in this Province, acting within his jurisdiction, to issue his warrant for the apprehension, and for the commitment of any such person charged, as aforesaid, in order that he may be detained in secure custody until application can be made to the Governor, Lieutenant-Governor, or Person Administering the Government, under the provisions of this Act, and until an order can be made thereon; which warrant shall, nevertheless, only be granted upon such evidence on oath as shall satisfy such Judge or Justice that the person accused stands charged with some crime of the description hereinbefore specified, or that there is good ground to suspect him to have been guilty thereof.

Persons charged with offences committed in foreign countries may be committed until an application can be made to the Government for delivering up such offender.

III. *And be it further enacted by the authority aforesaid*, That nothing in this Act contained shall be construed to affect the provisions of a certain Act of the Parliament of this Province, passed in the thirty-seventh year of the reign of King George the Third, intituled, "An Act to authorise the apprehending of felons and others escaping from any of His Majesty's Provinces and Governments in North America, into this Province," or to make it incumbent upon the Governor and Council of this Province to

This Act not to affect the provisions of 37 Geo. III. Chap. 15, or to make it incumbent on the Government to deliver up persons charged as aforesaid, or to prevent their discharge on a Habeas Corpus, if too long detained in custody.

deliver up any person charged, if for any reason they shall deem it inexpedient so to do, or to prevent the discharge of any person upon Habeas Corpus who, having been committed under this Act, shall be detained in custody beyond the time that may be reasonably required, under the circumstances of the case, for carrying the provisions of this Act into effect.

CHAP. VII.

AN ACT to facilitate legal remedies against Corporations.

[Passed 13th February, 1833.]

Preamble.

WHEREAS it is expedient to facilitate legal proceedings against Corporations: *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 writs and process at law hereafter to be issued against any body or bodies corporate, in the commencement of any action, and all papers and proceedings, before final judgment in any such action, may be served on the President, Presiding Officer, Cashier, Secretary, or Treasurer thereof, in the same manner as upon any individual defendant in his natural capacity, or on such other person, or in such manner as the Court in which the action shall be brought may direct.

Process in suits instituted against corporations, how to be served.

Upon due service of process, plaintiff may enter an appearance for defendant, and proceed thereon as in the cases of natural persons.

II. *And be it further enacted by the authority aforesaid,* That when any writ or process against a body corporate, in the commencement of a suit, shall be returned duly served, and the service thereof duly proved as in other cases, the plaintiff may enter an appearance for the defendant of course; and that the plaintiff in any suit against a body corporate, in which an appearance shall be entered, as aforesaid, or to which the defendant shall appear, may after such appearance proceed in like manner as in cases of actions against natural persons, or in such other manner as the Court by general rule shall direct.

Continuation of this Act.

III. [Repealed by 7 William IV. Chap. 9, which makes this Act perpetual.]

CHHP. VIII.

AN ACT to make certain regulations relating to the office of Sheriff in this Province, and to require the several Sheriffs of this Province to give security for the due fulfilment of the duties of their office.

[Passed 13th February, 1833.]

WHEREAS from the tenure of the office of Sheriff in this Province, and the nature of the security exacted for the due performance of its duties, sufficient indemnity is not afforded against damages that may arise from the misprisions or defaults of Sheriffs: *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 Sheriff of each and every District of this Province shall, on or before the first day of August next after the passing of this Act, enter into a bond to His Majesty, His Heirs and Successors, in the penal sum of one thousand pounds, together with two sureties, to be approved of by the Inspector General of Public Accounts, in the sum of five hundred pounds each, with a condition that, he shall well and faithfully account for and pay over all such monies as he shall receive for His Majesty, His Heirs and Successors; which bond and condition shall be in the form given in the Schedule to this Act annexed, marked A, or in words to the like effect.

On or before first August, all Sheriffs to enter into bonds to the King, with two sureties, conditioned to account for all public monies received by them.

II. *And be it further enacted by the authority aforesaid*, That the Sheriff of each and every District of this Province, shall also, on or before the same first day of August, provide either two or four sufficient persons who, together with himself, shall enter into a covenant under their seals, joint and several, according to the form given in the Schedule to this Act annexed, marked B, or in words to the same effect; which covenant shall be available to, and may be sued upon by any person suffering damages by the default or wilful misconduct of any such Sheriffs, respectively.

Sheriffs to give security for the due performance of their duty in private suits, by entering into a covenant with sufficient sureties.

III. *And be it further enacted by the authority aforesaid*, That such sureties shall not be accepted as sufficient, unless a majority of the Justices of the Peace at a Court of General Quarter Sessions of the Peace for the District in which any such Sheriff is serving, shall ascertain and determine that they are good and sufficient, and unless a certificate shall be given in pursuance of such determination, under the hand and seal of the Chairman of such Quarter Sessions, declaring that the Court are satisfied

Sureties to be approved of by Justices in Sessions.

that the persons named in the certificate are responsible persons to the full amount to which they are required to become surety; which certificate shall be produced and filed at the time of the delivering and filing of the said covenant as hereinafter provided.

Bond to His Majesty to be deposited with Inspector General;

Covenants to be executed in duplicate, one part to be filed with the Secretary of the Province, and the other with the Clerk of the Peace;

Fee to Clerk of the Peace two shillings and six pence.

IV. *And be it further enacted by the authority aforesaid,* That the bond to His Majesty, required by this Act, shall be deposited with the Inspector General of Public Accounts in this Province; and that the covenant required by this Act shall be made in duplicate, each part of which shall be marked duplicate, but shall be considered and received as original, one of which parts shall be filed in the office of the Secretary of the Province, and the other part thereof shall be filed in the office of the Clerk of the Peace of the District for which such Sheriff shall be appointed; for which filing the said Clerk of the Peace shall be entitled to demand and receive from the Sheriff, the sum of two shillings and sixpence, and no more.

Any person may examine covenant, and require a copy, upon payment of one shilling and three pence for the search, and five shillings for the copy.

V. *And be it further enacted by the authority aforesaid,* That all and every person or persons shall be authorized to search and examine any such covenant, and shall and may demand and have from any Clerk of the Peace of any District of this Province a copy of such covenant as may be filed as aforesaid in pursuance of this Act; and it shall and may be lawful for such Clerk of the Peace to demand and receive for every such search and examination one shilling and three-pence, and for every such copy five shillings, and no more.

Bonds and covenants to be renewed every four years.

VI. *And be it further enacted by the authority aforesaid,* That the Sheriff of every District of this Province, now appointed or hereafter to be appointed, shall at or before the expiration of every period of four years from the date of the bond and covenant given by him and his sureties according to this Act, renew his bond and covenant in the same sums respectively, either with the same or with other sureties, whose sufficiency shall be certified in the manner hereinbefore provided; and all the provisions of this Act, in respect to the bond and the covenant first required to be given, shall apply to such renewed bond and covenant.

No Sheriff to be appointed until bonds and covenants have been regularly given and filed according to this Act.

VII. *And be it further enacted by the authority aforesaid,* That at any time, and at all times hereafter, when the office of Sheriff of any District of this Province shall become vacant, it shall not be lawful for the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, to appoint any person to the said office of Sheriff until such person shall have given and filed a covenant with sureties, and shall also have given a bond with sureties, in the same manner and to the same tenor and effect as are by this Act required from the several persons now holding commissions and executing the said office of Sheriff.

No person to be appointed Sheriff who shall not be possessed of real estate to the value of £750, ascertained by his own affidavit.

VIII. *And be it further enacted by the authority aforesaid,* That no person shall hereafter be appointed to the office of Sheriff in any District who shall not be possessed of real estate in this Province of the actual value

of seven hundred and fifty pounds, above incumbrances, and who shall not before he receives his commission file an affidavit to that effect in the office of the Secretary of this Province; which affidavit shall be sworn before the Chairman of the Quarter Sessions of the District, in open Sessions, who is hereby authorised and required to take the same.

IX. *And be it further enacted by the authority aforesaid,* That if any person who shall have become an obligor in any such bond, or surety in any such covenant, shall die, or shall become resident out of this Province, or shall become insolvent, the person holding such office of Sheriff, for whom the person so dying, leaving this Province, or becoming insolvent, shall have become such obligor or surety, shall, within four months after such death or departure, or after such insolvency shall be certified in the manner herein provided, give anew the like bond and security, and in the same manner as hereinbefore required. *Provided always,* that nothing herein contained shall extend, or be construed to extend, to discharge all or any of the parties to such former bond or covenant from their liability, on account of any matter or thing which shall have been done or omitted before the renewal of the security as herein directed.

In case of the death, absence or insolvency of any surety, new sureties to be given ;

New security being given not to avoid former liability.

X. *And be it further enacted by the authority aforesaid,* That if during the period for which any such covenant, as aforesaid, shall be given, the sureties executing the same, or any of them, shall apprehend that the Sheriff for whom such surety was given is insolvent, or has not property to the amount of seven hundred and fifty pounds, over and above all incumbrances and debts, and shall transmit to the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, an affidavit made by him or them to that effect, and sworn to before a Commissioner for taking affidavits in the Court of King's Bench, the Sheriff for whom the security was given shall be thereupon officially notified by the Secretary to His Excellency the Lieutenant-Governor, or Person Administering the Government of this Province, that he must forthwith furnish new security in the manner pointed out by this Act, or must on affidavit deny that he is insolvent, or that he is worth less than the sum of seven hundred and fifty pounds, over and above all incumbrances and debts, and that if such requisition is not complied with within one month after the sitting of the then ensuing Quarter Sessions of the District, he shall for that cause be removed from office.

Sureties apprehensive of the insolvency of their principal may notify the Government thereof, whereupon new sureties may be required.

XI. *And be it further enacted by the authority aforesaid,* That when any new surety or sureties shall be given, either at the expiration of any stated period, or by way of substitution for any other surety within the period, the former surety shall only be discharged as to defaults or misfeasances suffered or committed after the perfecting of such new security, and not as to any previous defaults or misfeasances.

New sureties being given not to discharge former defaults.

Actions brought on Sheriff's covenant not to discharge subsequent actions brought on the same covenant for other causes.

XII. *And be it further enacted by the authority aforesaid,* That after the covenant required to be entered into by this Act shall have been sued upon, by any person having or alleging a claim upon the parties to the same, by reason of the Default or misfeasance of the Sheriff, it shall notwithstanding be in the power of any person, or of the same person, to bring an action upon the same covenant for any other default or misfeasance, and such subsequent action shall not be barred by reason of any prior recovery, or of any judgment for the defendant rendered in a former action, or of any other action being depending upon the same covenant for any distinct cause of action.

Any surety having paid the full amount for which he became liable, shall be thereby discharged, whereupon Sheriff shall procure other surety instead of the one so discharged.

XIII. *And be it further enacted by the authority aforesaid,* That if any person or persons who shall or may have become such surety, shall have paid, or shall be liable to pay any sum or sums equal to the sum for which he or they shall have become security, the said bond or covenant shall as to such person or persons be taken and deemed to be discharged and satisfied, as to any claim or demand thereon beyond the amount of such payment or liability; and such Sheriff shall, within four months after such person or persons shall have become so discharged, give anew such securities as are required by the provisions of this Act.

If damages recovered against any surety, and paid, shall not be equal to the amount for which he shall have become surety, such amount, so paid, shall be deducted from the covenant, and the Judge, in any subsequent action thereon, restrained to the residue.

XIV. *And be it further enacted by the authority aforesaid,* That if the amount of any damages so recovered, which such security has been obliged to pay, is not equal to the amount for which he shall have become security, as aforesaid, then the Court shall, after deducting such sums therefrom, render judgment against such security, for any amount not exceeding the residue of the sum for which such security shall have become responsible as aforesaid.

If covenant shall have become discharged, or sureties insolvent, Quarter Sessions may notify Sheriffs to furnish new sureties in lieu thereof.

XV. *And be it further enacted by the authority aforesaid,* That if it shall be made appear by affidavit, or other sufficient proof, to the General Quarter Sessions of the Peace of any District, that any such covenant has been or may be discharged as aforesaid, or that the securities therein mentioned, or any or either of them, have become insolvent, it shall and may be lawful for the said Quarter Sessions to give notice thereof to the Sheriff of such District, and such Sheriff shall, and he is hereby required, to give anew the like covenant as hereinbefore required by the provisions of this Act, within four months after such notice.

Executions against Sheriffs and their sureties, to be levied first on Sheriffs.

XVI. *And be it further enacted by the authority aforesaid,* That upon the issuing of any writ of execution upon any judgment recovered on such covenant, the plaintiff in such suit, or his attorney, shall, by an indorsement on such writ, direct the Coroner to levy the amount thereof upon the goods and chattels of the Sheriff in the first place, and in default of goods and chattels of such Sheriff to satisfy the amount, then that the same, or the residue thereof, shall be made of the goods and chattels of the other defendants in such suit, and so in like manner with any writ

which shall issue against the lands and tenements in any judgment upon such covenant as is required by this Act.

XVII. *And be it further enacted by the authority aforesaid,* That upon application for or granting of by any of the Courts of this Province any rule or rules upon any Sheriff for the return of any writ or writs, or for the performance of any other duty or matter relating to the said office of Sheriff, such Sheriff shall be liable to and pay to the party making such application or obtaining such rule or rules all taxable costs thereon, unless the Court shall otherwise order: *Provided always,* that if such application shall be made, or any such rule granted previous to the day next after which such return should have been made, or such duty or matter performed, the Sheriff against whom such application shall be made or such rule granted, shall not be liable for any costs or charges which may arise or occur upon the same: *And provided also,* that if upon such application for a rule or rules it shall appear to the said Judge or Judges of the said Courts, respectively, that the same is frivolous or vexatious, the said Judge or Judges of the said Courts, respectively, may, upon discharging such application, order that all taxable costs and expenses for opposing the same be paid to the said Sheriff.

Sheriffs liable to pay the costs of all rules upon them, unless the Court shall otherwise order.

In vexatious applications, costs may be awarded to the Sheriffs.

XVIII. *And be it further enacted by the authority aforesaid,* That no Sheriff shall be entitled to any fees on any writ placed in his hands fifteen days before the return day mentioned therein, if he does not return the same to the attorney from whom he received it within four days after the return thereof, or enclose the same by post within that time to the attorney, unless delayed by an order in writing from the party, his attorney or agent, placing the same in his hands.

Where Sheriffs not entitled to fees on writs placed in their hands fifteen days before the return.

XIX. *And be it further enacted by the authority aforesaid,* That if any Sheriff now appointed, or hereafter to be appointed, shall neglect or omit to give and perfect such security as this Act requires, within the period limited by this Act, in any case, then upon such neglect or omission being officially notified in writing to the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, either by the Inspector General, the Secretary of the Province, or the Chairman of the Quarter Sessions of the Peace in the District in which such Sheriff shall be serving, and they are hereby severally required officially to notify the same, such Sheriff shall for that cause be removed from his office, and a new commission shall issue, with as little delay as possible, for supplying the vacancy; *Provided always,* that nothing herein contained shall extend, or be construed to extend, to prevent the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, from re-appointing any person to the said office, upon his duly fulfilling the provisions of this Act.

Sheriffs neglecting to give security shall be removed from office;

Inspector-General, Secretary of the Province, or Chairman of Quarter Sessions, to report such neglect;

Sheriffs may be re-appointed.

XX. *And be it further enacted by the authority aforesaid,* That the covenant to be entered into with the Sheriffs of the several Districts,

Sums to be specified in the different covenants for the several Districts.

respectively, shall specify the following sums as the extent to which the several parties thereto shall be considered as covenanting to afford indemnity, that is to say: The Sheriff of the Home District, one thousand pounds; two sureties five hundred pounds each, or four sureties two hundred and fifty pounds each. The Sheriff of the District of Niagara, one thousand pounds; two sureties five hundred pounds each, or four sureties two hundred and fifty pounds each. The Sheriff of the District of Gore, one thousand pounds; two sureties five hundred pounds each, or four sureties two hundred and fifty pounds each. The Sheriff of the District of London, one thousand pounds; two sureties five hundred pounds each, or four sureties two hundred and fifty pounds each. The Sheriff of the Western District, five hundred pounds; two sureties two hundred and fifty pounds each, or four sureties one hundred and twenty-five pounds each. The Sheriff of the District of Newcastle, one thousand pounds; two sureties, five hundred pounds each, or four sureties two hundred and fifty pounds each. The Sheriff of the Midland District, one thousand pounds; two sureties five hundred pounds each, or four sureties two hundred and fifty pounds each. The Sheriff of the District of Johnstown, one thousand pounds; two sureties five hundred pounds each, or four sureties two hundred and fifty pounds each. The Sheriff of the District of Bathurst, five hundred pounds; two sureties two hundred and fifty pounds each, or four sureties one hundred and twenty-five pounds each. The Sheriff of the District of Ottawa, five hundred pounds; two sureties two hundred and fifty pounds each, or four sureties one hundred and twenty-five pounds each. The Sheriff of the Eastern District, one thousand pounds; two sureties five hundred pounds each, or four sureties two hundred and fifty pounds each. And that the Sheriff of any new District hereafter to be formed shall give such security, himself in one thousand pounds, two sureties five hundred pounds each, or four sureties two hundred and fifty pounds each.

Nature of the liability of sureties.

XXI. And be it further enacted by the authority aforesaid, That the persons entering into any such covenant as sureties, shall be held liable to indemnify against any omission or default of the Sheriff in not paying over monies received by him, and against damages sustained by the parties to any legal proceeding, in consequence of his wilful or negligent misconduct in his office; and that the Sheriff shall be joined in any action to be brought on the covenant against all or any of the sureties.

Notwithstanding any forfeiture of office, Sheriffs to continue in office until successor appointed.

XXII. And be it further enacted by the authority aforesaid, That notwithstanding the Sheriff of any District may forfeit his office and become liable to be removed therefrom, by reason of his failing to comply with the provisions of this Act, he shall nevertheless be continued in his office to all intents and purposes, and the liability of himself and of his securities shall remain until a new Sheriff shall be appointed and sworn in his stead.

XXIII. And be it further enacted by the authority aforesaid, That when any Sheriff in this Province shall die, the Under Sheriff or Deputy

Sheriff by him appointed shall nevertheless continue in his office, and shall execute the same, and all things belonging thereunto, in the name of such deceased Sheriff, until another Sheriff be appointed for the same District and sworn into office; and the said Under Sheriff or Deputy Sheriff shall be answerable for the execution of the said office, in all things, and to all respects, intents and purposes whatsoever, during such interval, as the Sheriff so deceased would by law have been if he had been living; and the security given to the Sheriff so deceased by the said Under Sheriff, and his pledges, shall stand, remain, and be a security to the King, His Heirs and Successors, and to all persons whatsoever, for such Under Sheriff's due performance of his office during such interval.

Upon the death of any Sheriff, his Deputy shall continue to execute the office in his name, until the appointment of a successor;

Deputy Sheriff and his sureties to be responsible for the execution of the office in the interval.

SCHEDULE A.

Know all men by these presents, that we, A. B., Sheriff of the District of ———, C. D. of ———, in the District of ———, Esquire, and E. F. of ———, in the District of ———, are held and firmly bound to our Sovereign Lord the King, His Heirs and Successors, in the several sums following, that is to say: The said A. B. in the sum of one thousand pounds; the said C. D. in the sum of five hundred pounds; and the said E. F. in the sum of five hundred pounds: to be paid to our Sovereign Lord the King, His Heirs and Successors; for which payments to be well and truly made, we bind ourselves severally and respectively, and each of us, his heirs, executors and administrators, firmly by these presents, sealed with our seals, and dated this ——— day of ———, in the year of our Lord ———.

Form of bond to the King.

The condition of this obligation is such, that if the above bounden A. B., his executors or administrators, shall well and faithfully account for and pay over to His Majesty's Receiver-General of this Province, or to such person as may be authorised to receive the same, all such sum and sums of money as he shall receive as such Sheriff, as aforesaid, for our said Lord the King, His Heirs or Successors, from the date of this obligation until the ——— day of ———, in the year of our Lord ———, (four years,) then this obligation to be void, otherwise to remain in full force and virtue.

[L. S.]

[L. S.]

[L. S.]

Signed and delivered }
in presence of }

SCHEDULE B.

Know all men by these presents, that we, A. B., Sheriff of the District of ———, C. D. of ———, in the District of ———, and E. F. of ———, in the District of ———, (when four sureties are given, the names of the other two to be inserted in like manner,) do hereby jointly and severally,

Form of covenant.

for ourselves, and for each of our heirs, executors and administrators, covenant and promise, that A. B., as Sheriff of the said District, shall well and duly pay over to the person or persons entitled to the same, all such monies as he shall receive by virtue of his said office of Sheriff, from the date of this covenant to the expiration of four years thence next ensuing, and that neither he nor his Deputy shall, within that period, wilfully misconduct himself in his said office, to the damage of any person being a party in any legal proceeding; nevertheless, it is hereby declared, that no greater sum shall be recovered under this covenant, against the several parties thereto, than as follows, that is to say:

Against the said A. B., in the whole ———.

Against the said C. D. ———.

Against the said E. F. ———.

(If other sureties, add them in like manner.)

In witness whereof, we have to these presents set our hands and seals, this ——— day of ———, in the year of our Lord ———.

[L. S.]
[L. S.]
[L. S.]
[L. S.]

Signed, sealed and delivered, }
in the presence of }

CHAP. IX.

AN ACT to afford greater facility in barring the right of Dower.

[Passed 13th February, 1833.]

Preamble.

(See 2 Vic. Chap. 7, Secs. 3 & 4, which dispenses with certificates and examinations as to future conveyances.)

WHEREAS it is expedient to afford greater facilities to married women to bar their claim to dower of and in any lands, tenements or hereditaments which their husbands may be about to depart with: *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 any person or persons resident within this Province, entitled to dower of and in any lands, tenements or hereditaments, to appear before any two of His Majesty's Justices of the Peace

Dower may be barred before two Justices.

of the District wherein such person or persons may be resident, and acknowledge her consent to be barred of her right of Dower of, in and to, any lands, tenements or hereditaments, within this Province; which two Justices shall have power and authority to grant a certificate to the following effect:

We, A. B. and C. D., of the District of _____, in the Province of _____, Form of certificate.
Upper Canada, Esquires, two of His Majesty's Justices of the Peace in and for the said District, do certify that E. F., wife of G. F., personally appeared before us, and being duly examined by us touching her consent to be barred of her right of Dower, of and in the lands in the within deed mentioned, it did appear to us that the said E. F. did give her consent thereto freely and voluntarily, without coercion, or fear of coercion, on the part of her husband, or any other person whomsoever.

Dated at _____.

A. B. C. D., J. P.

Which certificate shall have the same force and be as valid as if the same had been made and certified under the provisions of an Act passed in the thirty-seventh year of the reign of His late Majesty King George the Third, intituled, "An Act for the more easy barring of Dower."

II. *And be it further enacted by the authority aforesaid,* That the said Justices shall be entitled to receive the sum of two shillings and six pence Justices fee, two shillings and six pence. for granting the certificate authorised by this Act.

CHAP. X.

AN ACT to revive and continue a certain Act passed in the fourth year of His late Majesty's reign, intituled, "An Act to repeal an Act passed in the forty-fifth year of His late Majesty's reign, intituled, 'An Act to regulate the trial of Controverted Elections, or Returns of Members to serve in the House of Assembly,' and to make more effectual provision for such trials;" and also, a certain other Act passed in the eighth year of His late Majesty's reign, intituled, "An Act to continue and amend the law now in force for the trial of Controverted Elections."

[Passed 13th February, 1833.]

Preamble; 4 Geo. IV, Chap. 4, and 8 Geo. IV, Chap. 5, continued for four years.

[See 2 Vic. Chap. 8; Act of Union, Sec. 27.]

of which Poll Book the Returning Officer shall keep a correct copy, and shall transmit the original, with the Writ of Election and Return, to the Clerk of the Crown in Chancery within ten days after the closing of the Election for which the same shall be taken; and the Returning Officer shall attach the following oath to such Poll Book at the time of transmitting of the same:

Poll book to be returned with writ of election.

“I, A. B., Returning Officer for the ——— (Riding, County or Town,) of ———, do solemnly swear, that the Poll Book hereto annexed was truly and correctly taken under my direction, to the best of my knowledge and belief, and that the same contains a true and correct statement of the votes taken at the Election for the (Riding, County or Town,) of ———.”

Which oath may be administered by any of His Majesty's Justices of the Peace, or by a Commissioner of the Court of King's Bench.

IV. *And be it further enacted by the authority aforesaid, That any Returning Officer who shall wilfully and corruptly forswear himself in taking the said oath, shall be subject to the penalties of wilful and corrupt perjury: and that such Poll Book proved, as aforesaid, shall be received and taken as prima facie evidence on the trial of any contested Election.*

Returning Officer wilfully forswearing himself, subject to the penalties of perjury;

Poll book to be received in evidence.

CHAP. XII.

AN ACT to dispense with the necessity of taking certain Oaths, and making certain Declarations, in the cases therein mentioned; and also to render it unnecessary to receive the Sacrament of the Lord's Supper as a qualification for offices, or for other temporal purposes.

[Passed 13th February, 1833.]

WHEREAS it is inexpedient to impose upon persons admitted to offices in this Province, or persons called to the Bar, or admitted as Attornies, or becoming officers or members of any Corporation, the necessity of taking certain oaths, and making certain declarations, which have been heretofore usually required in such cases: *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

Preamble.

Persons appointed to office not required to take or subscribe any other oath or declaration than that hereinafter set forth.

the said Province," and by the authority of the same, That from and after the passing of this Act it shall not be necessary for any person appointed, or to be appointed, to any office in this Province, civil or military, or who is or may be a Mayor, or other officer or member of any Corporation therein, or for any person admitted, called or received; or hereafter to be admitted, called or received, as a Barrister or Attorney, to make any declaration or subscription, or to take or subscribe any other oath than the oath following, that is to say:

Form of oath.

"I, A. B., do sincerely promise and swear, that I will be faithful and bear true allegiance to His Majesty King William, (or the reigning Sovereign for the time being,) as lawful Sovereign of the United Kingdom of Great Britain and Ireland, and of this Province dependant on and belonging to the said Kingdom; and that I will defend Him to the utmost of my power against all traitorous conspiracies or attempts whatsoever which shall be made against His Person, Crown or Dignity; and that I will do my utmost endeavour to disclose and make known to His Majesty, His Heirs or Successors, all treasons or traitorous conspiracies and attempts which I shall know to be against Him or any of them; and all this I do swear without any equivocation, mental evasion or secret reservation, and renouncing all pardons and dispensations from any person or power whatsoever to the contrary. So help me God."

And also, such oath for the faithful performance of the duties of his office, or for the due exercise of his profession or calling, as hath been heretofore required, or shall be hereafter required in any Act to be passed in that behalf.

II. *And be it further enacted by the authority aforesaid*, That the oath of allegiance herein prescribed and set forth, shall, in case of a Queen succeeding to the Crown of the United Kingdom of Great Britain and Ireland, be taken in the following words, that is to say:

Form of oath when a Queen shall succeed to the Throne.

"I, A. B., do sincerely promise and swear, that I will be faithful and bear true allegiance to Her Majesty Queen ———, (the Queen who shall be then reigning,) as lawful Sovereign of the United Kingdom of Great Britain and Ireland, and of this Province dependant on and belonging to the said Kingdom; and that I will defend Her to the utmost of my power against all traitorous conspiracies or attempts whatsoever which shall be made against Her Person, Crown and Dignity; and that I will do my utmost endeavour to disclose and make known to Her Majesty, Her Heirs and Successors, all treasons and traitorous conspiracies and attempts which I shall know to be against Her or any of them; and all this I do swear without any equivocation, mental evasion or secret reservation, and renouncing all pardons and dispensations from any person or power whatsoever to the contrary. So help me God."

Period within which oath required to be taken.

III. *And be it further enacted by the authority aforesaid*, That the oath of allegiance herein prescribed and set forth, together with the oath

of office, or oath for the due exercise of any profession or calling, respectively, shall be and is hereby required to be taken within the same period, and in the same manner, and subject to the like disabilities and penalties for the omission thereof, as is now by law provided with respect to the oaths heretofore required to be taken in any case, respectively.

IV. *And whereas* it is expedient to dispense with the necessity of taking the Sacrament of the Lord's Supper, according to the rites or usage of the Church of England, for the purpose of qualifying any person to hold office in this Province, or for any other temporal purpose, privilege or advantage whatsoever: *Be it therefore further enacted by the authority aforesaid,* That notwithstanding any thing contained in any law or statute to the contrary, it shall not be necessary, from and after the passing of this Act, for any person within this Province, for any such purpose, as aforesaid, to take or receive the Sacrament of the Lord's Supper according to the rites or usage of the Church of England, or to deliver a certificate, or make proof of his having received the said Sacrament in manner aforesaid; and that no person shall hereafter, within this Province, be subject to any penalty, forfeiture, incapacity or disability whatsoever, for or by reason of any neglect or omission to take or receive the said Sacrament.

No person to be required to take the sacrament for the purpose of qualifying such person for any office.

CHAP. XIII.

AN ACT to continue an Act passed in the eleventh year of the reign of His late Majesty King George the Fourth, intituled, "An Act to revive and continue, with certain modifications, an Act passed in the fifty-ninth year of His late Majesty's reign, intituled, 'An Act to alter the laws now in force for granting Licenses to Inn-Keepers, and to give to Justices of the Peace in General Quarter Sessions assembled for their respective Districts, authority to regulate the duties hereafter to be paid on such Licenses.'"

[Passed 13th February, 1833.]

Preamble; 11 Geo. IV. Chap. 9, continued for four years.

CHAP. XIV.

AN ACT to make further provision for carrying into effect an Act passed in the fifty-sixth year of the reign of King George the Third, intituled, "An Act to afford relief to persons holding or possessing lands, tenements or hereditaments, in the District of Niagara."

[Passed 13th February, 1833.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XV.

AN ACT to alter the manner of holding the Elections for Members to represent the Counties of York and Lincoln in the House of Assembly; more equally to divide the County of York into Ridings, and to increase the representation of the said County of York.

[Passed 13th February, 1833.]

Preamble

See Act of Union, Secs. 15, 16.

1 Geo. III. Chap. 5, Secs. 21 & 22;

26 Geo. III. Chap. 19, Sec. 2.

And also part of 2 Geo. IV. Chap. 3, Sec. 7, repealed;

County of York divided into four Ridings.

WHEREAS it is expedient to alter the manner of holding the Elections for members to represent the Counties of York and Lincoln in the House of Assembly in this Province, and also to make a new division of the County of York, in order that the same may be more equally represented in the said Assembly, and that Elections for that purpose may be more conveniently held: *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 twenty-first and twenty-second clauses of an Act of the Parliament of this Province, passed in the thirty-eighth year of the reign of His late Majesty King George the Third, intituled, "An Act for the better division of this Province;" and also the second clause of an Act passed in the fifty-sixth year of the reign of King George the Third, intituled, "An Act to erect and form a new District out of certain parts of the Home and Niagara Districts, to be called the District of Gore;" and also so much of the seventh clause of an Act passed in the second year of His late Majesty King George the Fourth, intituled, "An Act to repeal part of an Act passed in the thirty-eighth year of His late Majesty's reign, intituled, 'An Act for the better division of this Province, and to make further provision for the division of the same into Counties and Districts,'" as relates to the East and West Ridings of the County of York, be and the same are hereby repealed; and that from and after the passing of this Act, the County of York shall be divided into four Ridings, to be called the First, Second, Third and Fourth Ridings, respectively; and that the Townships of York, including its Peninsula, Etobicoke, Vaughan and King, do form the First Riding; the Townships of Caledon, Chinguacousy, Toronto, Gore of Toronto and Albion, the Second Riding; the Townships of Scarborough, Markham, Pickering and Whitby, the Third Riding; and the Townships of East Gwillimbury, North Gwillimbury, Scott, Georgina, Brock, Reach, Whitchurch and Uxbridge, the Fourth Riding of the said County.

II. *And be it further enacted by the authority aforesaid, That the Election for members to represent each of the said Counties of York and Lincoln in the Assembly of this Province shall be by Ridings, and shall be held at such place in each of the said Ridings as shall be appointed for that purpose.*

Elections in York and Lincoln to be by Ridings.

III. *And be it further enacted by the authority aforesaid, That each of the said Ridings in the County of Lincoln shall, after the present Parliament, be represented in the House of Assembly by one member; and that each of the said Ridings in the County of York shall be represented in the House of Assembly by one member.*

Each Riding to be represented by one member.

CHAP. XVI.

AN ACT to define the limits of the Town of Hamilton, in the District of Gore, and to establish a Police and Public Market therein.

[Passed 13th February, 1833.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XVII.

AN ACT granting to His Majesty a sum of money, to be raised by debenture, for the improvement of the navigation of the River Saint Lawrence.

[Passed 18th February, 1833.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XVIII.

AN ACT to incorporate a Company under the style and title of the British America Fire and Life Assurance Company.

[Passed 13th February, 1833.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XIX.

AN ACT to incorporate certain persons under the name and title of the Saint Lawrence Inland Marine Assurance Company.

[Passed 13th February, 1833.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XX.

AN ACT to incorporate a Joint Stock Company for the manufacture of Salt, at Saint Catharines, in the Niagara District.

[Passed 13th February, 1833.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXI.

AN ACT to repeal part of and amend an Act passed in the second year of His present Majesty's reign, intituled, "An Act to incorporate a Joint Stock Company to improve the navigation of the Grand River."

[Passed 13th February, 1833.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXII.

AN ACT to incorporate a Joint Stock Company for the construction of a Harbour at the mouth of the Twenty-Mile Creek, on Lake Ontario.

[Passed 13th February, 1833.]

[See Local and Private Acts, in 2nd Volume.]

CHAP.

CHAP. XXIII.

AN ACT to explain and repeal part of an Act passed in the first year of His present Majesty's reign, intituled, "An Act to erect the County of Prince Edward into a separate District."

[Passed 13th February, 1833.]

Preamble; £600 to be received by the Midland District in lieu of all claims on Prince Edward. 2.
1. William IV. Chap. 7, Sec. 7, repealed.

[SEE 1 WM. IV. CH. 7.]

CHAP. XXIV.

AN ACT to authorise the Magistrates of the Eastern District to borrow a further sum of money for the completion of the Gaol and Court House in the said District, and for inclosing the same; and also to empower the said Magistrates to continue the assessments already imposed for building the said Gaol and Court House, until the money so borrowed shall be re-paid, with the interest thereon.

[Passed 13th February, 1833.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXV.

AN ACT to repeal certain parts of an Act passed in the eleventh year of the reign of His late Majesty, intituled, "An Act for the relief of the sufferers who sustained loss during the late war with the United States of America," and also of a certain other Act passed in the same year, intituled, "An Act to authorise the Receiver-General of the Province to raise by Debentures, on the credit of certain Duties therein mentioned, a sum of money for the relief of the sufferers during the late war with the United States," and for affording further relief to the said sufferers.

[Passed 13th February, 1833.]

Preamble. Part of 11 Geo. IV. Chaps. 21 & 22, repealed. 2. £55000 to be raised by debenture for payment of War Losses. 3. Receiver General to issue debentures for any sum not exceeding £55000. Redeemable in twenty years. 4. Certain provisions in 7 Geo. IV. Chap. 20, extended to this Act. 5. Monies how paid and accounted for.

CHAP. XXVI.

AN ACT to afford further relief to the sufferers who sustained loss during the late war with the United States of America.

[Passed 13th February, 1833.]

Preamble. Further sum not exceeding £3291 13s. 4d. to be raised, and applied towards payment of War Losses. 2. Rate of interest at which money to be borrowed. 3. Receiver General to issue debentures. 4. Interest when and how to be paid. 5. Certain provisions of 7 Geo. IV. Chap. 20, extended to this Act. 6. Money how to be paid and accounted for.

CHAP. XXVII.

AN ACT to repeal part of and amend an Act passed in the fifty-seventh year of the reign of His late Majesty King George the Third, intituled, "An Act to establish a Police in the Towns of York, Sandwich and Amherstburgh."

[Passed 13th February, 1833.]

[REPEALED BY 4 Wm. IV. CHAP. 23.]

CHAP. XXVIII.

AN ACT to prevent the felling of Timber in the River Thames.

[Passed 13th February, 1833.]

Preamble.
(See 2 Vic. Chap. 16.)

WHEREAS much injury has arisen and may continue to arise from the felling of timber into the River Thames in this Province, by endangering the mill dams and bridges, and impeding the navigation 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 first day of August next, every person or persons cutting and felling any trees into the said River Thames, or upon such parts of the banks thereof as are usually overflowed in the autumn or

Penalty for felling timber into the Thames, and not cutting the trunks and branches of trees into short lengths.

spring of the year, by means of the rising of the waters of the said River, who shall not top off the branches of such trees, and cut up the trunk thereof into lengths of not more than eighteen feet, before they are or shall be allowed to be floated or cast into the said River, shall for every such offence forfeit and pay the sum of twenty shillings.

II. *And be it further enacted by the authority aforesaid,* That any person or persons who shall, after the said first day of August next, cut down or fell any trees, as aforesaid, contrary to the provisions of this Act, shall, upon conviction before any two Justices of the Peace in the District in which such person or persons may reside, or have committed such offence, pay such fine as to the said Justices the case may seem to require, not exceeding the sum of twenty shillings, to be levied by distress out of the goods and chattels of the said person or persons so convicted; and in case no such distress can be found wherefrom to levy such fine, or that the said person or persons so convicted do not otherwise pay the said fines, then and in such case the said Justices may confine the said person or persons in the Common Gaol of the District where such person or persons shall be convicted, for the term and space of ten days.

Method of levying penalty.

III. *And be it further enacted by the authority aforesaid,* That all fines and forfeitures to be levied by virtue of this Act shall be paid into the hands of the Treasurer of the District where the same shall be levied, and shall be applied to the improvement of the roads within the same.

Appropriation of penalties.

CHAP. XXIX.

AN ACT to protect the White-Fish Fisheries in the Straits or Rivers Niagara, Detroit and Saint Clair, in this Province.

[Passed 13th February, 1833.]

WHEREAS it is necessary to protect the White-Fish Fisheries 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 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 use or employ, or cause to be used or employed, any seine or other

Preamble.
(See 3 Vic. Ch. 24.)

Penalty of £125 imposed on persons using seines in certain rivers.

nets for the taking of White-Fish in the Straits or Rivers Detroit, Saint Clair and Niagara, within the Province of Upper Canada, of a greater length than fifty fathoms, he or they, for every such offence, shall forfeit the sum of one hundred and twenty-five pounds.

Penalty for fishing on Sunday.

II. *And be it further enacted by the authority aforesaid,* That any person or persons who shall be found fishing for White-Fish in either the said Straits or Rivers within this Province, with seines, gill-nets, or other nets, on the first day of the week, called Sunday, shall forfeit for every such offence the sum of fifty pounds.

Penalty for diverting the progress of the fish from their accustomed channel, £125.

III. *And be it further enacted by the authority aforesaid,* That if any person or persons shall attempt to divert the natural progress or running of the White-Fish within this Province, by shingling or other device, he or they shall forfeit for every such offence the sum of one hundred and twenty-five pounds, or be imprisoned, not exceeding three months, at the discretion of the Court.

Persons not to fish fronting lands of individuals under a penalty of £50.

IV. *And be it further enacted by the authority aforesaid,* That if any person or persons shall fish in the said Straits or Rivers fronting the farm or land of any person or persons, except in the channel of said Straits or Rivers, after notice given to desist by the owner or occupant of such farm or land, he or they shall forfeit for every such offence the sum of fifty pounds.

Penalty how to be recovered and applied.

V. *And be it further enacted by the authority aforesaid,* That all forfeitures which shall be incurred under the provisions of this Act shall be recovered by action of debt, with costs of suit, before any Court having competent jurisdiction; one moiety thereof to the person or persons who may sue for the same, and the other moiety to be paid into the hands of the Receiver-General, to and for the uses 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 Lords Commissioners of His Treasury, for the time being, in such manner and form as it shall please His Majesty to direct.

CHAP. XXX.

AN ACT granting a sum of money to defray the expense of erecting a Bridge over the Grand River, at Brantford, and for other purposes therein mentioned.

[Passed 13th February, 1833.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXI.

AN ACT granting a sum of money for the construction of works to improve and preserve the Harbour of York, and for other purposes therein mentioned.

[Passed 13th February, 1833.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXII.

AN ACT to provide for the improvement of certain inland waters in the District of Newcastle.

[Passed 13th February, 1833.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXIII.

AN ACT to provide for the erection of a Bridge across the River Trent, and for other purposes therein mentioned.

[Passed 13th February, 1833.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXIV.

AN ACT to provide for the maintenance of four Light-Houses now erected in this Province.

[Passed 13th February, 1833.]

MOST GRACIOUS SOVEREIGN :

WHEREAS it is expedient to make provision for the maintenance of Light-Houses in 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

Preamble.

(See 7 Wm. IV. Chap. 96;
2 Vic. Chaps. 22 & 59)

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 now raised, levied and collected, or hereafter to be raised, levied and collected, and remaining unappropriated in the hands of His Majesty's Receiver-General, there be granted unto His Majesty the sum of six hundred pounds, annually; which said sum, or so much thereof as shall be found necessary for that purpose, shall be applied towards the payment of a salary, not exceeding sixty-two pounds ten shillings per annum, to the Light-House Keeper having charge of each of the four Light-Houses now erected in this Province, on Gibraltar Point, the False Ducks Island, Long Point, in the County of Prince Edward, and Long Point, in Lake Erie, and of the other contingent expenses incident to keeping the same in use.

£600 granted to His Majesty for the support of four Light-Houses.

[Sec 7 Wm. IV. Chap. 96, Sec. 3]

Governor to appoint Light-House keepers.

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 appoint proper Light-House Keepers, and from time to time to remove them, or any of them, and appoint others in their stead.

Light-House keepers to be under the superintendance of the Inspector General;

III. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Inspector-General of this Province, for the time being, to make the necessary arrangement for causing the said Light-Houses to be kept properly lighted during the continuance of the navigation in each year; and that no Light-House Keeper shall be entitled to receive any portion of his salary during any half year in which he shall have neglected to keep the lamps under his charge lighted throughout any night during the period in which the said Inspector-General shall direct the same to be lighted.

Salary of keeper forfeited if light not kept up.

(Sec 7 Wm. IV. Ch. 96.)

Monies how paid and accounted for.

IV. *And be it further enacted by the authority aforesaid,* That the monies authorised to be expended under 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 or Successors, may please to direct.

CHAP. XXXV.

AN ACT granting a sum of money to defray the expense of erecting a Light-House on Nine Mile Point, at the entrance of the Harbour of Kingston.

[Passed 13th February, 1833.]

Preamble; £750 granted to His Majesty for the erection of a Light-House on Nine Mile Point. 2. Commissioners appointed to superintend the erection of the Light-House. 3. Money how paid and accounted for.

CHAP. XXXVI.

AN ACT to defray the expenses of keeping a Light at the Burlington Canal, and for other purposes therein mentioned.

[Passed 13th February, 1833.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXVII.

AN ACT to raise a sum of money to improve certain Roads in the vicinity of the Town of York, and for other purposes therein mentioned.

[Passed 13th February, 1833.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXVIII.

AN ACT to establish the Side Lines between certain Lots in the Township of North Gwillimbury, in the Home District.

[Passed 13th February, 1833.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXIX.

AN ACT to provide for the erection of a Light-House on Point Pele Island, in Lake Erie.

[Passed 13th February, 1833.]

Preamble; Light-House to be erected on Point Pele Island. 2. Commissioners appointed. 3. £750 granted to carry into effect the objects of this Act. 4. Commissioners to make a report before January, 1834, to be laid before the Legislature. 5. Contracts not to exceed £750, and to be let by public tender; Superintendant not to receive more than three per cent. for his trouble on the sum expended.

CHAP. XL.

AN ACT to establish a Market in the Town of Brockville.

[Passed 13th February, 1833.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLI.

AN ACT to authorise the erection of Mill Dams upon the River Thames, in the London District.

[Passed 13th February, 1833.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLII.

AN ACT to alter and amend the provisions of an Act passed in the last Session of the Provincial Parliament, intituled, "An Act to incorporate certain persons under the style and title of the President, Directors and Company, of the Commercial Bank of the Midland District."

[Passed 13th February, 1833.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLIII.

AN ACT granting to His Majesty a sum of money to defray the expense of erecting a Penitentiary in this Province, and for other purposes therein mentioned.

[Passed 13th February, 1833.]

Preamble; £12,500 granted to His Majesty for the erection of a Penitentiary. 2. Commissioners appointed.

[SEE 4 Wm. IV. CHAP. 38; 5 Wm. IV. CHAP. 42.]

III. *And be it further enacted by the authority aforesaid, That the said Penitentiary, and all grounds and appurtenances obtained for and appropriated to the use thereof, be and the same shall be vested in His Majesty, His Heirs and Successors.* Penitentiary to be vested in His Majesty.

4. £12,500 hereby granted to be paid by warrant, and accounted for through the Lords of the Treasury.

CHAP. XLIV.

AN ACT to continue the Duty upon Licences to Hawkers and Pedlers.

[Passed 13th February, 1833.]

Preamble; 56 Geo. III. continued four years.

[SEE 2 Vic. CHAP. 23.]

CHAP. XLV.

AN ACT to continue an Act passed in the eleventh year of His late Majesty's reign, intituled, "An Act to authorise the Quarter Sessions of the Home District to provide for the relief of insane destitute persons in that District," and to extend the provisions of the same to the other Districts of this Province.

[Passed 13th February, 1833.]

Preamble; 11 Geo. IV. Chap. 20, continued by 7 Wm. IV. Chap. 29; 2 Vic. Chap. 11; 4 & 5 Vic. Chap. 23.

II. *And be it further enacted by the authority aforesaid, That the provisions of the said Act shall be extended to the several Districts of this Province.* And extended to the several Districts of the Province.

C H A P. X L V I.

AN ACT to repeal certain parts of an Act passed in the seventh year of His late Majesty's reign, intituled, "An Act to provide for the improvement of the Light-House on Gibraltar Point, and for imposing Duties for defraying the charge of the same, and for erecting other Houses in this Province."

[Passed 13th February, 1833.]

Preamble.

(See 7 Geo. IV. Chap. 9.)

WHEREAS by an Act passed in the seventh year of His late Majesty's reign, intituled, "An Act to provide for the improvement of the Light-House on Gibraltar Point, and for imposing duties for defraying the charge of the same, and for erecting other Houses in this Province," certain duties are imposed upon vessels entering the Port of York, to provide a fund for the support of the said Light-House; *And whereas* by an Act of the Congress of the United States of America, passed in the month of March, 1831, it is enacted, that from and after the first day of April then next, the same and no higher tonnage duties and Custom House charges of any kind shall be levied and collected on any British Colonial raft, flat boat or vessel, entering otherwise than by Sea at any Port of the United States, on Lakes and Rivers on the Northern, North-Eastern and North-Western frontiers thereof, than may be levied and collected on any raft, flat boat or vessel, entering otherwise than by Sea into any Ports of the British Possessions on the Northern, North-Eastern and North-Western frontiers of the said United States; *And whereas* the levying of the said Light-House duty at the Port of York upon all American vessels entering the said Port, hath rendered it necessary for all the Collectors of Customs at the Ports of the United States bordering on the frontiers of Canada to make the like charge upon all British vessels entering each and every of the said Ports which is charged upon American vessels entering the Port of York only: *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 second, third and fourth clauses of the said Act, passed in the seventh year of His late Majesty's reign, intituled, "An Act to provide for the improvement of the Light-House on Gibraltar Point, and for imposing duties for defraying the charge of the same, and for erecting other Houses in this Province," be and the same are hereby repealed.

7 Geo. IV. Chap. 9,
Secs. 3 & 4, repealed.

CHAP. XLVII.

AN ACT to establish Boards of Health, and to guard against the introduction of malignant, contagious and infectious diseases, in this Province.

[Passed 13th February, 1833.]

[EXPIRED.]

CHAP. XLVIII.

AN ACT for granting to His Majesty a sum of money towards defraying the expense of the Civil Administration of the Government of this Province.

[Passed 13th February, 1833.]

Preamble; £12,446 granted to His Majesty to defray certain charges of the Civil Administration of the Government for the years 1832 and 1833; Distribution of the sum granted. 2 Allowances to the Attorney and Solicitor General. 3. Sums how paid and accounted for.

CHAP. XLIX.

AN ACT to make good certain monies advanced for the payment of the contingent expenses of the Legislature of this Province during its last Session.

[Passed 13th February, 1833.]

Preamble; £5,457 2 2½ granted to make good the like sum advanced in pursuance of an Address of the Assembly. 2. Sum how accounted for.

CHAP. L.

AN ACT granting a further sum of money for the completion of the Parliament Buildings.

[Passed 13th February, 1833.]

Preamble; £3,500 granted to His Majesty for completing the Parliament Buildings. 2. Commissioners appointed. 3. Monies how paid and accounted for.

CHAP. LI.

AN ACT granting a sum of money for the relief of sick and destitute Emigrants at Prescott.

[Passed 13th February, 1833.]

Preamble; £250 granted to His Majesty, to be applied to the relief of destitute Emigrants arriving at Prescott. 2. Money how paid and accounted for. 3. Trustees appointed.

CHAP. LII.

AN ACT granting to His Majesty a sum of money in aid of the York Hospital and Dispensary.

[Passed 13th February, 1833.]

Preamble; £500 granted in aid of the funds of the York Hospital. 2. Money how paid and accounted for.

CHAP. LIII.

AN ACT to provide for the re-payment of certain sums of money advanced by His Excellency the Lieutenant-Governor in the year one thousand eight hundred and thirty-two, during the prevalence of the Asiatic Cholera.

[Passed 13th February, 1833.]

Preamble; £4158 0 7½ granted to His Majesty, to make good certain monies advanced by the Lieutenant-Governor during the prevalence of the Cholera. 2. Grant how to be paid and accounted for.

CHAP. LIV.

AN ACT for affording further aid towards the completion of the Welland Canal, and for other purposes therein mentioned.

[Passed 13th February, 1833.]

Preamble; £7,500 may be raised by loan to be paid to Commissioners. 2. Application by the Commissioners of the sum granted. 3. Commissioners appointed; Duty of Commissioners. 4. Receiver-General to subscribe Stock in the Welland Canal to the amount of the said loan granted. 5. Commissioners to act as Arbitrators in conjunction with those heretofore appointed for settling certain claims.

[SEE 5 WM. IV. CHAP. 24, SEC. 7.]

CHAP. LV.

AN ACT for granting to His Majesty a certain sum of money in aid of the funds already granted for the support of Common Schools in this Province.

[Passed 13th February, 1833.]

Preamble; £5,650 granted in aid of Common Schools, for each of the years 1833 and 1834; Distribution. 2. Grant how to be paid and accounted for. 3. Teachers of Common Schools when entitled to allowance hereby provided. 4. Clerks to Boards of Education to receive an additional allowance of £5.

CHAP. LVI.

AN ACT granting to His Majesty a certain sum of money to enable His Majesty to defray certain charges incurred during the prevalence of the Cholera during the last Summer.

[Passed 13th February, 1833.]

Preamble; £567 12 4 granted to His Majesty, to make good certain monies advanced during the prevalence of the Cholera. 2. How paid and accounted for.

CHAP. LVII.

AN ACT granting to His Majesty a sum of money to remunerate the Honourable John Henry Dunn, for certain services therein mentioned.

[Passed 13th February, 1833.]

Preamble; £600 granted to His Majesty to remunerate the Receiver-General for certain services. 2. How paid and accounted for.

CHAP. LVIII.

AN ACT to authorise the Receiver-General to borrow a sum of money for the purposes therein mentioned.

[Passed 13th February, 1833.]

WHEREAS the provisions of an Act passed in the eleventh year of His late Majesty's reign, intituled, "An Act to borrow a sum of money in England at a reduced rate of interest, to cancel the public debt of this Province," have not enabled His Majesty's Receiver-General to

Preamble.
(See 4 Wm. IV. Ch. 53;
5 Wm. IV. Ch. 31;
1 Vic. Chaps. 51, 52;
2 Vic. Ch. 73.)

contract for a loan of money on the terms stipulated in that Act; *And whereas* it is important to the public interests of the Province that the Debentures now outstanding and payable, as well as those which may hereafter become due, and which are bearing an annual interest of six per cent., should be redeemed: *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 His Majesty's Receiver-General of this Province to contract with any person or persons, bodies corporate or politic, whether in England or elsewhere, for a loan or loans of such sum or sums of money as may be necessary to redeem the Debentures now due or which may become payable, and which are chargeable with the rate of interest aforesaid: *Provided*, that such loan or loans can be effected at an annual rate of interest not exceeding five pounds per cent. payable in this Province, or four and a half per cent. payable in London.

Receiver-General may contract for a loan to redeem outstanding Debentures:

Rate of interest on new loan.

Receiver-General may issue Debentures for new loan.

Interest on new loan, when and how to be paid;

Monies raised how to be accounted for.

II. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the Receiver-General to issue Debentures in such manner and form as he may think proper, for the payment of such loan or loans, as aforesaid; which Debentures, together with the interest accruing thereon, shall be issued on the credit of the Province, and payable at such periods as may be found convenient, not exceeding fifteen years.

III. *And be it further enacted by the authority aforesaid*, That the interest accruing on the Debentures authorised to be issued under the authority of this Act shall be paid half yearly, upon such warrant or warrants as shall from time to time be issued upon the Receiver-General by the Governor, Lieutenant-Governor, or Person Administering the Government of this Province; and together with all monies raised and collected under and by virtue 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 be pleased to direct.

CHAP. LIX.

AN ACT granting to His Majesty a sum of money for the improvement of Roads and Bridges in the several Districts of this Province.

[Passed 13th February, 1833.]

Preamble; £20,000 may be raised by loan to be applied towards the improvement of roads and bridges. 2. Receiver-General to issue Debentures. 3. Receiver-General to make a report of Debentures issued, to be laid before the Legislature. 4. Interest when and how to be paid. 5. Warrants to be issued for the payment of Debentures. 6. Punishment for forging Debentures. 7. Debentures charged upon the public revenues of the Province. 8. Interest on Debentures when to cease.

CHAP. LX.

AN ACT to extend to certain persons the civil and political rights of natural born Subjects.

[The Royal Assent to this Bill promulgated by Proclamation, bearing date the twenty-seventh day of October, one thousand eight hundred and thirty-five.]

[See Local and Private Acts, in 2nd Volume.]

STATUTES OF UPPER CANADA,

PASSED IN THE

FOURTH SESSION OF THE ELEVENTH PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT YORK, ON THE NINETEENTH DAY OF NOVEMBER, IN THE FOURTH YEAR OF THE
REIGN OF OUR SOVEREIGN LORD WILLIAM THE FOURTH, AND PROROGUED ON
THE SIXTH DAY OF MARCH FOLLOWING.

SIR JOHN COLBORNE, K. C. B.
LIEUTENANT GOVERNOR.

ANNO DOMINI 1834.

CHAP. I.

AN ACT to amend the Law respecting Real Property, and to render the proceedings for recovering possession thereof in certain cases, less difficult and expensive.

[Passed 6th March, 1834.]

Preamble.

WHEREAS it is expedient to amend the law relating to real estates, by making certain alterations in the law of inheritance, and respecting the conveyance of real property by devise and by deed, and in regard to dower, and the limitation of actions and suits relating to real property, and for simplifying the remedies for trying the rights thereto; *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 every case descent shall be traced from the purchaser; and to the intent that the pedigree may never be carried farther back than the circumstances of the case and the nature of the title shall require, the person last entitled to the land shall for the purposes of this Act be considered to have been the purchaser thereof, unless it shall be proved that he inherited the same, in which case, the person from whom he inherited the same shall be considered to have been the purchaser, unless it shall be proved that he inherited the same;

Descent shall always be traced from the purchaser, but the last owner shall be considered to be the purchaser, unless the contrary be proved.

and in like manner, the last person from whom the land shall be proved to have been inherited, shall in every case be considered to have been the purchaser, unless it shall be proved that he inherited the same.

II. *And be it further enacted by the authority aforesaid,* That when any land shall have been devised by any testator, who shall die after the first day of July, one thousand eight hundred and thirty-four, to the heir or to the person who shall be the heir of such testator, such heir shall be considered to have acquired the land as a devisee and not by descent; and when any land shall have been limited by any assurance, executed after the said first day of July, one thousand eight hundred and thirty-four, to the person, or to the heirs of the person who shall thereby have conveyed the same land, such person shall be considered to have acquired the same as a purchaser, by virtue of such assurance, and shall not be considered to be entitled thereto, as of his former estate or part thereof.

Heir entitled under a will shall take as devisee, and a limitation to the grantor or his heirs shall create an estate by purchase.

III. *And be it further enacted by the authority aforesaid,* That when any person shall have acquired any land by purchase, under a limitation to the heirs, or to the heirs of the body of any of his ancestors, contained in an assurance executed after the said first day of July, one thousand eight hundred and thirty-four, or under a limitation to the heirs, or to the heirs of the body of any of his ancestors, or under any limitation having the same effect, contained in a will of any testator who shall depart this life after the said first day of July, one thousand eight hundred and thirty-four, then and in any of such cases, such land shall descend, and the descent thereof shall be traced as if the ancestor named in such limitation had been the purchaser of such land.

When heirs take by purchase under limitations to the heirs of their ancestor, the land shall descend as if the ancestor had been the purchaser.

IV. *And be it further enacted by the authority aforesaid,* That no brother or sister shall be considered to inherit immediately from his or her brother or sister, but every descent from a brother or sister shall be traced through the parent.

Brothers and sisters shall trace descent through their parent.

V. *And be it further enacted by the authority aforesaid,* That every lineal ancestor shall be capable of being heir to any of his issue, and in every case where there shall be no issue of the purchaser, his nearest lineal ancestor shall be his heir in preference to any person who would have been entitled to inherit, either by tracing his descent through such lineal ancestor, or in consequence of there being no descendant of such lineal ancestor, so that the father shall be preferred to a brother or sister, and a more remote lineal ancestor to any of his issue, other than a nearer lineal ancestor or his issue.

Lineal ancestor may be heir in preference to collateral persons claiming through him.

VI. *And be it further enacted and declared by the authority aforesaid,* That none of the maternal ancestors of the person from whom the descent is to be traced, nor any of their descendants, shall be capable of inheriting until all his paternal ancestors and their descendants shall have failed; and also that no female paternal ancestor of such person, nor any

The male line to be preferred.

of her descendants shall be capable of inheriting, until all his male paternal ancestors and their descendants shall have failed, and that no female maternal ancestor of such person, nor any of her descendants shall be capable of inheriting, until all his male maternal ancestors and their descendants shall have failed.

The mother of the more remote male ancestor to be preferred to the mother of the less remote male ancestor.

VII. *And be it further enacted and declared,* That where there shall be a failure of male paternal ancestors of the person from whom the descent is to be traced, and their descendants, the mother of his more remote male paternal ancestor, or her descendants, shall be the heir or heirs of such person, in preference to the mother of a less remote male paternal ancestor, or her descendants; and when there shall be a failure of male paternal ancestors of such person, and their descendants, the mother of his more remote male maternal ancestor, and her descendants, shall be the heir or heirs of such person, in preference to the mother of a less remote male maternal ancestor and her descendants.

Half-blood, if on the part of a male ancestor, to inherit after the whole blood of the same degree; if on the part of a female ancestor, after her.

VIII. *And be it further enacted by the authority aforesaid,* That any person related to the person from whom the descent is to be traced by the half blood, shall be capable of being his heir; and the place in which any such relation by the half blood shall stand in the order of inheritance, so as to be entitled to inherit, shall be next after any relation in the same degree of the whole blood and his issue, where the common ancestor shall be a male, and next after the common ancestor when such common ancestor shall be a female, so that the brother of the half blood on the part of the father, shall inherit next after the sisters of the whole blood on the part of the father and their issue, and the brother of the half blood on the part of the mother, shall inherit next after the mother.

After the death of a person attainted his descendants may inherit.

IX. *And be it further enacted by the authority aforesaid,* That when the person from whom the descent of any land is to be traced shall have had any relation who having been attainted, shall have died before such descent shall have taken place, then such attainder shall not prevent any person from inheriting such land who would have been capable of inheriting the same by tracing his descent through such relation if he had not been attainted, unless such land shall have escheated in consequence of such attainder before the first day of July, one thousand eight hundred and thirty-four.

Entry by the heir shall not be necessary to complete a title by descent.

X. *And be it further enacted by the authority aforesaid,* That after the passing of this Act proof of entry by the heir after the death of the ancestor shall in no case be necessary in order to prove title in such heir, or in any person claiming by or through him.

This Act not to extend to any descent before first July. 1834.

XI. *And be it further enacted by the authority aforesaid,* That this Act shall not extend to any descent which shall take place on the death of any person who shall die before the first day of July, one thousand eight hundred and thirty-four.

XII. *And be it further enacted by the authority aforesaid,* That where any assurance executed before the said first day of July, one thousand eight hundred and thirty-four, or the will of any person who shall die before that day, shall contain any limitation or gift to the heir or heirs of any person under which the person or persons answering the description of heir shall be entitled to an estate by purchase, then the person or persons who would have answered such description of heir if this Act had not been made, shall become entitled by virtue of such limitation or gift, whether the person named as ancestor shall or shall not be living on or after the said first day of July, one thousand eight hundred and thirty-four.

Limitations made before first July, 1834, to the heirs of a person then living, shall take effect as if this Act had not been made.

XIII. *And be it further enacted by the authority aforesaid,* That where a husband shall die beneficially entitled to any land for an interest which shall not entitle his widow to dower out of the same at law, and such interest, whether wholly equitable or partly legal and partly equitable, shall be an estate of inheritance in possession, or equal to an estate of inheritance in possession, (other than an estate in joint tenancy,) then his widow shall be entitled in equity to dower out of the same land.

Widows to be entitled to dower out of equitable estates.

XIV. *And be it further enacted by the authority aforesaid,* That when a husband shall have been entitled to a right of entry or action in any land, and his widow would be entitled to dower out of the same if he had recovered possession thereof, she shall be entitled to dower out of the same although her husband shall not have recovered possession thereof; *Provided* that such dower be sued for or obtained within the period during which such right of entry or action might be enforced.

Seisin shall not be necessary to give title to dower.

XV. *And be it further enacted by the authority aforesaid,* That no widow shall hereafter be entitled to dower ad ostium ecclesie, or dower ex assensu patris.

Certain descriptions of dower abolished.

XVI. *And be it further enacted by the authority aforesaid,* That after the first day of July, one thousand eight hundred and thirty-four, no person shall make an entry or distress, or bring an action to recover any land or rent, but within twenty years next after the time at which the right to make such entry or distress, or to bring such action, shall have first accrued to some person through whom he claims; or if such right shall not have accrued to any person through whom he claims, then within twenty years next after the time at which the right to make such entry or distress, or to bring such action, shall have first accrued to the person making or bringing the same.

No land or rent to be recovered but within twenty years after the right of action accrued to the claimant, or some person whose estate he claims.

XVII. *And be it further enacted by the authority aforesaid,* That in the construction of this Act, the right to make an entry or distress, or bring an action to recover any land or rent, shall be deemed to have first accrued at such time as hereinafter is mentioned, that is to say: when the

When the right shall be deemed to have accrued—

In the case of an estate in possession;

person claiming such land or rent, or some person through whom he claims, shall, in respect of the estate or interest claimed, have been in possession or in the receipt of the profits of such land, or in receipt of such rent, and shall, while entitled thereto, have been dispossessed, or have discontinued such possession or receipt, then such right shall be deemed to have first accrued at the time of such dispossession or discontinuance of possession, or at the last time at which any such profits or rent were or was so received; and when the person claiming such land or rent shall claim the estate or interest of some deceased person who shall have continued in such possession or receipt, in respect of the same estate or interest, until the time of his death, and shall have been the last person entitled to such estate or interest who shall have been in such possession or receipt, then such right shall be deemed to have first accrued at the time of such death; and when the person claiming such land or rent shall claim in respect of an estate or interest in possession, granted, appointed, or otherwise assured by any instrument other than a will, to him or some person through whom he claims, by a person being, in respect of the same estate or interest, in the possession or receipt of the profits of the land, or in receipt of the rent, and no person entitled under such instrument shall have been in possession or receipt, then such right shall be deemed to have first accrued at the time at which the person claiming, as aforesaid, or the person through whom he claims, became entitled to such possession or receipt by virtue of such instrument; and when the estate or interest claimed shall have been an estate or interest in reversion or remainder, or other future estate or interest, and no person shall have obtained the possession or receipt of the profits of such land, or the receipt of such rent, in respect of such estate or interest, then such right shall be deemed to have first accrued at the time at which such estate or interest became an estate or interest in possession; and when the person claiming such land or rent, or the person through whom he claims, shall have become entitled, by reason of any forfeiture or breach of condition, then such right shall be deemed to have first accrued when such forfeiture was incurred or such condition broken: *Provided always*, that until the person deriving title to land in this Province as the grantee of the Crown, or his heirs or assigns, or some or one of them, by themselves, their servants or agents, shall have taken actual possession of the land granted, by residing thereupon or by cultivating some portion thereof, the lapse of twenty years shall not bar the right of such grantee, or any person claiming by, under or through him, to bring an action for the recovery of such lands, unless it can be shown that such grantee, or person claiming by, under or through him, while entitled to the land, had knowledge of the same being in the actual possession of some other person not claiming to hold by, from or under the grantee of the Crown, (such possession having been taken while the said lot was in a state of nature,) in which case, the right to bring such action shall be deemed to have accrued from the time that such knowledge was obtained: *Provided also*, that when any right to make an entry or distress, or to bring an action to recover any land or rent, by reason of any forfeiture or breach of con-

On dispossession;

On abatement or death;

On alienation;

In case of future estates;

In case of forfeiture or breach of condition;

In case of lands granted by the Crown, and not yet cultivated or improved;

Where advantage of forfeiture is not taken by remainder man, he shall have a new right when his estate comes into possession;

dition, shall have first accrued in respect of any estate or interest in reversion or remainder, and the land or rent shall not have been recovered by virtue of such right, the right to make an entry or distress, or bring an action to recover such land or rent, shall be deemed to have first accrued in respect of such estate or interest at the time when the same shall have become an estate or interest in possession, as if no such forfeiture or breach of condition had happened: *Provided also*, that a right to make an entry or distress, or to bring an action to recover any land or rent, shall be deemed to have first accrued in respect of an estate or interest in reversion, at the time at which the same shall have become an estate or interest in possession, by the determination of any estate or estates in respect of which such land shall have been held or the profits thereof, or such rent shall have been received, notwithstanding the person claiming such land, or some person through whom he claims, shall, at any time previously to the creation of the estate or estates which shall have determined, have been in possession or receipt of the profits of such land, or in receipt of such rent.

Reversioner to have a new right.

XVIII. *And be it further enacted by the authority aforesaid*, That for the purposes of this Act, an administrator claiming the estate or interest of the deceased person of whose chattels he shall be appointed administrator, shall be deemed to claim as if there had been no interval of time between the death of such deceased person and the grant of the letters of administration.

An administrator to claim as if he obtained the estate without interval after death of deceased.

XIX. *And be it further enacted by the authority aforesaid*, That when any person shall be in possession or in receipt of the profits of any land, or in receipt of any rent, as tenant at will, the right of the person entitled subject thereto, or of the person through whom he claims, to make an entry or distress, or bring an action to recover such land or rent, shall be deemed to have first accrued either at the determination of such tenancy, or at the expiration of one year next after the commencement of such tenancy, at which time such tenancy shall be deemed to have determined: *Provided always*, that no mortgagor or cestui que trust shall be deemed to be a tenant at will within the meaning of this clause to his mortgagee or trustee.

In the case of a tenant at will, the right shall be deemed to have accrued at the end of one year;

Case of mortgagor or cestui que trust.

XX. *And be it further enacted by the authority aforesaid*, That when any person shall be in possession or in receipt of the profits of any land, or in receipt of any rent as tenant from year to year or other period, without any lease in writing, the right of the person entitled subject thereto, or of the person through whom he claims, to make an entry or distress, or to bring an action to recover such land or rent, shall be deemed to have first accrued at the determination of the first of such years or other periods, or at the last time when any rent payable in respect of such tenancy shall have been received, (which shall last happen.)

No person after a tenancy from year to year to have any right but from the end of the first year or last payment of rent.

Where rent amounting to twenty shillings reserved by a lease in writing shall have been wrongfully received, no right to accrue on the determination of the lease, but at the time the rent was wrongfully received.

XXI. *And be it further enacted by the authority aforesaid,* That when any person shall be in possession or in receipt of the profits of any land, or in receipt of any rent by virtue of a lease in writing, by which a rent amounting to the yearly sum of twenty shillings or upwards shall be reserved, and the rent reserved by such lease shall have been received by some person wrongfully claiming to be entitled to such land or rent in reversion, immediately expectant on the determination of such lease, and no payment in respect of the rent reserved by such lease shall afterwards have been made to the person rightfully entitled thereto, the right of the person entitled to such land or rent, subject to such lease, or of the person through whom he claims to make an entry or distress, or to bring an action after the determination of such lease, shall be deemed to have first accrued at the time at which the rent reserved by such lease was first so received by the person wrongfully claiming, as aforesaid, and no such right shall be deemed to have first accrued upon the determination of such lease to the person rightfully entitled.

A mere entry not to be deemed possession.

XXII. *And be it further enacted by the authority aforesaid,* That no person shall be deemed to have been in possession of any land within the meaning of this Act, merely by reason of having made an entry thereon.

No right to be preserved by continual claim.

XXIII. *And be it further enacted by the authority aforesaid,* That no continual or other claim upon or near any land shall preserve any right of making an entry or distress, or of bringing an action.

Possession of one coparcener, &c. not to be the possession of the others.

XXIV. *And be it further enacted by the authority aforesaid,* That when any one or more of several persons entitled to any land or rent as coparceners, joint tenants, or tenants in common, shall have been in possession or receipt of the entirety, or more than his or their undivided share or shares of such land, or of the profits thereof, or of such rent, for his or their own benefit, or for the benefit of any person or persons other than the person or persons entitled to the other share or shares of the same land or rent, such possession or receipt shall not be deemed to have been the possession or receipt of or by such last mentioned person or persons, or any of them.

Possession of a younger brother, &c. not to be the possession of the heir.

XXV. *And be it further enacted by the authority aforesaid,* That when a younger brother or other relation of the person entitled, as heir to the possession, or receipt of the profits of any land, or to the receipt of any rent, shall enter into the possession or receipt thereof, such possession or receipt shall not be deemed to be the possession or receipt of or by the person entitled as heir.

Acknowledgment in writing given to the person entitled, or his agent, to be equivalent to possession or receipt of rent.

XXVI. *Provided always, and be it further enacted by the authority aforesaid,* That when any acknowledgment of the title of the person entitled to any land or rent shall have been given to him or his agent in writing signed by the person in possession or in receipt of the profits of such land, or in receipt of such rent, then such possession or receipt of or by the

person by whom such acknowledgment shall have been given, shall be deemed, according to the meaning of this Act, to have been the possession or receipt of or by the person to whom or to whose agent such acknowledgment shall have been given at the time of giving the same, and the right of such last mentioned person, or any person claiming through him, to make an entry or distress, or bring an action to recover such land or rent, shall be deemed to have first accrued at and not before the time at which such acknowledgment, or the last of such acknowledgments, if more than one, was given.

XXVII. Provided also, and be it further enacted by the authority aforesaid, That when no such acknowledgment, as aforesaid, shall have been given before the passing of this Act, and the possession or receipt of the profits of the land, or the receipt of the rent, shall not at the time of the passing of this Act have been adverse to the right or title of the person claiming to be entitled thereto, then such person, or the person claiming through him, may, notwithstanding the period of twenty years hereinbefore limited shall have expired, make an entry or distress, or bring an action to recover such land or interest, at any time within five years next after the passing of this Act.

Where possession is not adverse at the time of passing this Act, the right shall not be barred until the end of five years afterwards.

XXVIII. Provided always, and be it further enacted by the authority aforesaid, That if at the time at which the right of any person to make an entry or distress, or bring an action to recover any land or rent, shall have first accrued, as aforesaid, such person shall have been under any of the disabilities hereinafter mentioned, that is to say: infancy, coverture, idiotcy, lunacy, unsoundness of mind, or absence from this Province, then such person, or the person claiming through him, may, notwithstanding the period of twenty years hereinbefore limited shall have expired, make an entry or distress, or bring an action to recover such land or rent, at any time within ten years next after the time at which the person to whom such right shall have first accrued, as aforesaid, shall have ceased to be under any such disability, or shall have died, (which shall have first happened.)

Persons under disability of infancy, lunacy, coverture, or absence from the Province, and their representatives, to be allowed ten years from the termination of their disability or death.

XXIX. Provided nevertheless, and be it further enacted by the authority aforesaid, That no entry, distress or action, shall be made or brought by any person who, at the time at which his right to make an entry or distress, or to bring an action to recover any land or rent, shall have first accrued, shall be under any of the disabilities hereinbefore mentioned, or by any person claiming through him, but within forty years next after the time at which such right shall have first accrued, although the person under disability at such time may have remained under one or more of such disabilities during the whole of such forty years, or although the term of ten years from the time at which he shall have ceased to be under any such disability, or have died, shall not have expired.

But no action, &c. shall be brought beyond forty years after the right of action accrued.

No further time to be allowed for a succession of disabilities.

XXX. *Provided always, and be it further enacted by the authority aforesaid,* That when any person shall be under any of the disabilities hereinbefore mentioned, at the time at which his right to make an entry or distress, or to bring an action to recover any land or rent, shall have first accrued, and shall depart this life without having ceased to be under any such disability, no time to make an entry or distress, or to bring an action to recover such land or rent beyond the said period of twenty years next after the right of such person to make an entry or distress, or to bring an action to recover such land or rent, shall have first accrued, or the said period of ten years next after the time at which such person shall have died, shall be allowed by reason of any disability of any other person.

When the right to an estate in possession is barred, the right of the same person to future estates shall also be barred.

XXXI. *And be it further enacted by the authority aforesaid,* That when the right of any person to make an entry or distress, or bring an action to recover any land or rent to which he may have been entitled for an estate or interest in possession, shall have been barred by the determination of the period hereinbefore limited, which shall be applicable in such case, and such person shall, at any time during the said period, have been entitled to any other estate, interest, right or possibility, in reversion, remainder or otherwise, in or to the same land or rent, no entry, distress or action, shall be made or brought by such person, or any person claiming through him, to recover such land or rent in respect of such other estate, interest, right or possibility, unless in the mean time such land or rent shall have been recovered by some person entitled to an estate, interest or right, which shall have been limited or taken effect after or in defeasance of such estate or interest in possession.

No suit in equity to be brought after the time when the plaintiff, if entitled at law, might have brought an action.

XXXII. *And be it further enacted by the authority aforesaid,* That after the said first day of July, one thousand eight hundred and thirty-four, no person claiming any land or rent in equity shall bring any suit to recover the same but within the period during which by virtue of the provisions hereinbefore contained he might have made an entry or distress, or brought an action to recover the same, respectively, if he had been entitled at law to such estate, interest or right, in or to the same as he shall claim therein in equity.

In cases of express trust, the right shall not be deemed to have accrued until a conveyance to a purchaser.

XXXIII. *Provided always, and be it further enacted by the authority aforesaid,* That when any land or rent shall be vested in a trustee upon any express trust, the right of the Cestui que trust, or any person claiming through him, to bring a suit against the trustee, or any person claiming through him, to recover such land or rent, shall be deemed to have first accrued, according to the meaning of this Act at, and not before, the time at which such land or rent shall have been conveyed to a purchaser for a valuable consideration, and shall then be deemed to have accrued only as against such purchaser and any person claiming through him.

XXXIV. *And be it further enacted by the authority aforesaid,* That in every case of a concealed fraud, the right of any person to bring a suit

in equity for the recovery of any land or rent of which he, or any person through whom he claims, may have been deprived by such fraud, shall be deemed to have first accrued at, and not before the time at which such fraud shall, or with reasonable diligence might have been first known or discovered: *Provided*, that nothing in this clause contained shall enable any owner of lands or rents to have a suit in equity for the recovery of such lands or rents, or for setting aside any conveyance of such lands or rents, on account of fraud against any bonâ fide purchaser for valuable consideration, who has not assisted in the commission of such fraud, and who, at the time that he made the purchase did not know, and had no reason to believe that any such fraud had been committed.

In cases of fraud no time shall run whilst the fraud remains concealed.

XXXV. *Provided always, and be it further enacted by the authority aforesaid*, That nothing in this Act contained shall be deemed to interfere with any rule or jurisdiction of Courts of Equity in refusing relief on the ground of acquiescence, or otherwise, to any person whose right to bring a suit may not be barred by virtue of this Act.

Saving the jurisdiction of equity on the ground of acquiescence or otherwise.

XXXVI. *And be it further enacted by the authority aforesaid*, That when a mortgagee shall have obtained the possession or receipt of the profits of any land, or the receipt of any rent comprised in his mortgage, the mortgagor, or any person claiming through him, shall not bring a suit to redeem the mortgage but within twenty years next after the time at which the mortgagee obtained such possession or receipt, unless in the mean time an acknowledgment of the title of the mortgagor, or of his right of redemption, shall have been given to the mortgagor or some person claiming his estate, or to the agent of such mortgagor or person, in writing, signed by the mortgagee or the person claiming through him; and in such case no such suit shall be brought but within twenty years next after the time at which such acknowledgment, or the last of such acknowledgments, if more than one, was given; and when there shall be more than one mortgagor, or more than one person claiming through the mortgagor or mortgagors, such acknowledgment, if given to any of such mortgagors or persons, or his or their agent, shall be as effectual as if the same had been given to all such mortgagors or persons; but when there shall be more than one mortgagee, or more than one person claiming the estate or interest of the mortgagee or mortgagees, such acknowledgment, signed by one or more of such mortgagees or persons, shall be effectual only as against the party or parties signing as aforesaid, and the person or persons claiming any part of the mortgage money, or land or rent, by, from or under, him or them, and any person or persons entitled to any estate or estates, interest or interests, to take effect after or in defeasance of his or their estate or estates, interest or interests, and shall not operate to give to the mortgagor or mortgagors a right to redeem the mortgage as against the person or persons entitled to any other undivided or divided part of the money, or land or rent; and when such of the mortgagees or persons aforesaid as shall have given such acknowledgment shall be entitled to a divided part of the land or rent comprised in the mort-

Mortgagor to be barred at the end of twenty years from the time when the mortgagee took possession, or from the last written acknowledgment.

gage, or some estate or interest therein, and not to any ascertained part of the mortgage money, the mortgagor or mortgagors shall be entitled to redeem the same divided part of the land or rent, on payment with interest, of the part of the mortgage money which shall bear the same proportion to the whole of the mortgage money as the value of such divided part of the land or rent shall bear to the value of the whole of the land or rent comprised in the mortgage.

At the end of the period of limitation, the right of the party out of possession to be extinguished.

XXXVII. *And be it further enacted by the authority aforesaid,* That at the determination of the period limited by this Act to any person for making an entry or distress, or bringing any action or suit, the right and title of such person to the land or rent, for the recovery whereof such entry, distress, action or suit, respectively, might have been made or brought within such period, shall be extinguished.

Receipt of rent to be deemed receipt of profits.

XXXVIII. *And be it further enacted by the authority aforesaid,* That the receipt of the rent payable by any tenant from year to year, or other lessee, shall, as against such lessee or any person claiming under him, but subject to the lease, be deemed to be the receipt of the profits of the land for the purposes of this Act.

Real and mixed actions abolished after the 1st July, 1835;

XXXIX. *And be it further enacted by the authority aforesaid,* That no writ of right patent, writ of right quia dominus remisit curiam, writ of right close, writ of right de rationabili parte, writ of right upon disclaimer, writ of right of ward, writ of cessavit, quod permittat, formedon in descender, remainder, or in reverter, writ of Assize of novel disseisin, nuisance, or mort d'ancestor, writ of entry sur disseisin in the quibus, in the per, in the per and cui, or in the post, writ of entry sur intrusion, writ of entry sur alienation, dum fuit non compos mentis, dum fuit infra etatem, dum fuit in prisona, ad communem legem, in casu proviso, in consimili casu, cui in vita, sur cui in vita, cui ante divortium, or sur cui ante divortium, writ of entry sur abatement, writ of entry quare ejecit infra terminum, or ad terminum qui præterit, or causa matrimonii prælocuti, writ of aiel, besaiel, tresaiel, cosinage, or nuper obiit, writ of waste, writ of partition, except such as is or shall be authorised by any Statute of this Province; writ of disceit, writ of quod ei deforceat, writ of covenant real, writ of warrantia chartæ, writ of curia claudenda, and no other action, real or mixed, except a writ of dower, or writ of dower unde nihil habet, or an ejectment; and no plaint in the nature of any such writ or action, except a plaint for dower, shall be brought after the first day of July, one thousand eight hundred and thirty-five.

Except for dower and ejectment.

Real actions may be brought until the 1st January, 1836.

XL. *Provided always, and be it further enacted by the authority aforesaid,* That when on the said first day of July, one thousand eight hundred and thirty-five, any person who shall not have a right of entry to any land shall be entitled to maintain any such writ or action, as aforesaid, in respect of such land, such writ or action may be brought at any time before the first day of January, one thousand eight hundred and thirty-six, in

case the same might have been brought if this Act had not been made, notwithstanding the period of twenty years hereinbefore limited shall have expired.

XLII. *Provided also, and be it further enacted by the authority aforesaid,* That when on the said first day of January, one thousand eight hundred and thirty-six, any person whose right of entry to any land shall have been taken away, by any descent, cast, discontinuance or warranty, might maintain any such writ or action, as aforesaid, in respect of such land, such writ or action may be brought after the said first day of January, one thousand eight hundred and thirty-six, but only within the period during which, by virtue of the provisions of this Act, an entry might have been made upon the same land by the person bringing such writ or action, if his right of entry had not been so taken away.

Saving the rights of persons entitled to real actions only at the commencement of the Act, &c.

XLIII. *And be it further enacted by the authority aforesaid,* That no descent, cast, discontinuance or warranty, which may happen or be made after the said first day of July, one thousand eight hundred and thirty-four, shall toll or defeat any right of entry or action for the recovery of land.

No descent, warranty, &c. to bar a right of entry.

XLIV. *And be it further enacted by the authority aforesaid,* That after the said first day of July, one thousand eight hundred and thirty-four, no action or suit or other proceeding shall be brought to recover any sum of money secured by any mortgage, judgment or lien, or otherwise charged upon or payable out of any land or rent at law or in equity, or any legacy, but within twenty years next after a present right to receive the same shall have accrued to some person capable of giving a discharge for or release of the same, unless in the mean time some part of the principal money or some interest thereon shall have been paid, or some acknowledgment of the right thereto shall have been given in writing, signed by the person by whom the same shall be payable, or his agent, to the person entitled thereto, or his agent; and in such case no such action or suit or proceeding shall be brought, but within twenty years after such payment or acknowledgment, or the last of such payments or acknowledgments, if more than one was given: *Provided always,* that in respect to persons now entitled to an equity of redemption or to any legacy, the right to bring an action, or to pursue a remedy for the same, shall not be deemed to be extinguished or barred by lapse of time, until the expiration of five years from the time that an equitable jurisdiction shall be established in this Province, and in the exercise of its powers: *Provided* that shall happen within ten years from the passing of this Act.

Money charged upon land and legacies to be deemed satisfied at the end of twenty years, if there shall be no interest paid or acknowledgment in writing in the mean time.

XLV. *And be it further enacted by the authority aforesaid,* That after the said first day of July, one thousand eight hundred and thirty-four, no arrears of dower, nor any damages on account of such arrears, shall be

No arrears of dower to be recovered for more than six years.

recovered or obtained by any action or suit for a longer period than six years next before the commencement of such action or suit.

No arrears of rent or interest to be recovered for more than six years.

XLV. And be it further enacted by the authority aforesaid, That after the said first day of July, one thousand eight hundred and thirty-four, no arrears of rent, or of interest in respect of any sum of money charged upon or payable out of any land or rent, or in respect of any legacy, or any damages in respect of such arrears of rent or interest, shall be recovered by any distress, action or suit, but within six years next after the same respectively shall have become due, or next after an acknowledgment of the same in writing shall have been given to the person entitled thereto, or his agent, signed by the person by whom the same was payable, or his agent: Provided nevertheless, that where any prior mortgagee or other incumbrancer shall have been in possession of any land, or in the receipt of the profits thereof, within one year next before an action or suit shall be brought by any person entitled to a subsequent mortgage or other incumbrance on the same land, the person entitled to such subsequent mortgage or incumbrance may recover in such action or suit the arrears of interest which shall have become due during the whole time that such prior mortgagee or incumbrancer was in such possession or receipt, as aforesaid, although such time may have exceeded the said term of six years.

Corporations aggregate may convey by bargain and sale.

XLVI. And be it further enacted by the authority aforesaid, That any Corporation aggregate in this Province, capable of taking and conveying land, shall be deemed to have been and shall be deemed to be capable of taking and conveying land by deed of bargain and sale, in like manner as any person in his natural capacity, subject nevertheless to any general limitations or restrictions as to holding or conveying real estate which may be applicable to such Corporation.

Deed of bargain and sale shall not require enrolment to render it a valid conveyance:

XLVII. And be it further enacted by the authority aforesaid, That after the passing of this Act, a deed of bargain and sale of land in this Province shall not be held to require enrolment or to require registration to supply the place of enrolment for the mere purpose of rendering such bargain and sale a valid and effectual conveyance for passing the land thereby intended to be bargained and sold: Provided always nevertheless, that the necessity of registering such deed of bargain and sale in the Register of the County in which the land is situated, in order to guard against a subsequent purchaser of the same lands obtaining title by prior registry, shall continue as before the passing of this Act.

But the necessity for registering, to prevent a subsequent purchaser from gaining priority, shall continue as before.

Grantees, devisees, &c. shall not take as joint tenants, unless such intention be expressed.

XLVIII. And be it further enacted by the authority aforesaid, That whenever by any letters patent, assurance or will, made and executed after the first day of July, one thousand eight hundred and thirty-four, land shall be granted, conveyed or devised, to two or more persons, other than executors or trustees, in fee simple, or for any less estate, it shall be considered that such persons take as tenants in common, and not as joint

tenants, unless an intention sufficiently appears on the face of such letters patent, assurance or will, that they shall take as joint tenants.

XLIX. *And be it further enacted by the authority aforesaid,* That when the will of any person who shall die after the passing of this Act shall contain a devise in any form of words, of all such real estate as the testator shall die seized or possessed of, or of any part or proportion thereof, such will shall be valid and effectual to pass any land that may have been or may be acquired by the deviser after the making of such will, in the same manner as if the title thereto had been acquired before the making thereof.

Estates acquired after the making of a will, may pass by the will where such intention is expressed.

L. *And be it further enacted by the authority aforesaid,* That whenever land is or shall be devised in a will made by any person who shall die after the passing of this Act, it shall be considered that the deviser intended to devise all such estate as he was seized of in the same land, whether fee simple or otherwise, unless it shall appear upon the face of such will that he intended to devise only an estate for life, or other estate less than he was seized of at the time of making the will containing such devise.

A devise of land shall be taken to carry as large an estate as the testator had in the land, unless a contrary intention be expressed.

LI. *And whereas* by the adoption in this Province of the law of England, it is made necessary that a will of real estate shall be executed in the presence of three witnesses, which provision there is reason to believe operates in many instances injuriously in this Province, by reason that lands are held in small portions by persons of all conditions and degrees of intelligence, many of whom, not aware of this positive provision of the law, are only careful to provide two witnesses, as is customary with respect to sealed instruments in general, and in all such cases the intentions of the testator fail of their effect, frequently to the great injury of families: *Whereas,* on the other hand, it is doubtful whether any intended fraud is in fact prevented by requiring an attestation by three witnesses: *Be it therefore enacted by the authority aforesaid,* That any will affecting land executed after the passing of this Act, in the presence of and attested by two or more witnesses, shall have the same validity and effect as if executed in the presence of and attested by three witnesses, any former law to the contrary notwithstanding; and that it shall be sufficient if such witnesses subscribe their names in presence of each other, although their names may not be subscribed in presence of the testator.

Not more than two witnesses shall be necessary to a will;

And they need not subscribe in the presence of the testator.

LII. *And whereas* plaintiffs in actions of ejectment brought against persons who are merely intruders, are subject to be defeated in the recovery of land to which they have just claim, as purchasers or heirs, on account of some want of technical form in their title, or some imperfection not affecting the merits of their case, and of which it is desirable that mere strangers to the title, having no claim, or colour of legal claim, to the possession, should not be encouraged or permitted to take advantage: *Be it therefore enacted by the authority aforesaid,* That it shall and

Defendants in ejectment setting up no title, shall not be allowed to take formal exceptions to the title of the lessor of the plaintiff, against the merits of the case;

may be lawful for the lessor of the plaintiff, or his attorney, in any action of ejectment hereafter to be brought, to serve a notice upon the defendant in such ejectment in these words :

Defendant may be called upon to show what title he has to the possession;

“ Take notice, that I claim the premises for which this action is brought as the bonâ fide purchaser thereof, from A. B. —, or as heir-at-law of A. B., of —, (or otherwise as the case may be,) and that you will be required to show upon the trial of this cause what legal right you have to the possession of the premises,”

or a notice in any other form of words to the same effect; and that if upon the trial of such ejectment to be afterwards had, the evidence of title given by the lessor of the plaintiff shall shew to the satisfaction of the Court and Jury that he is entitled in justice to be regarded as the proprietor of the land, or is entitled to the immediate possession thereof for any term of years, but that he cannot shew a perfect legal title by reason of some want of legal form in any instrument produced, or by reason of the defective registration of any will or instrument produced, or from any cause not within the power of the lessor of the plaintiff to remedy by using due diligence, it shall be competent to the Jury, under the direction of the Court, to find a verdict for the plaintiff, unless the defendant, or his counsel, upon being required by the other party so to do, shall give such evidence of title as shall shew that he is the person legally entitled, or does bonâ fide claim to be the person legally entitled to the land, by reason of the defect in the title of the lessor of the plaintiff, or that he holds, or does bonâ fide claim to hold, under the person so entitled: *Provided always nevertheless*, that when a verdict shall be rendered under the authority of this provision, it shall be endorsed as given under this Act, and it shall be stated in the postea and entry of the judgment to have been so given; and in any action which may thereafter be brought for the mesne profits, such judgment in ejectment shall not be evidence to entitle the plaintiff to recover.

Provision respecting action for mesne profits.

More easy remedy against tenants who wrongfully hold over;

Application to the Court of King's Bench, or a Judge in vacation;

Affidavit;

LIII. *And whereas* the wrong committed by tenants in holding over vexatiously and without colour of right, after their term has expired, requires a more speedy and less expensive remedy than is now provided by law: *Be it therefore further enacted by the authority aforesaid*, That it shall and may be lawful for any landlord, or the agent of any landlord, whose tenant shall, after the expiration of his term, (whether the same was created by writing or parol,) wrongfully refuse, upon demand made in writing, to go out of possession of the land demised to him, to apply to the Court of King's Bench in term, or to a Judge thereof in vacation, setting forth, on affidavit, the terms of the demise, if by parol, and annexing a copy of the instrument containing such demise, if the same were in writing, and also a copy of the demand made for the delivering up possession, and stating also the refusal of the tenant to go out of possession, and the reason given for such refusal, (if any were given,) adding such explanation in regard to the ground of refusal as the truth of the case may

require; and if upon such affidavit it shall appear to the the Court or Judge that such tenant does wrongfully hold over, without colour of right, it shall be lawful for such Court or Judge to order a writ to issue in the name of the King, and tested in the name of the Chief Justice or Senior Puisne Judge of such Court on the day that the same shall actually issue, directed to such person as the Court or Judge shall appoint, and commanding him to issue his precept to the Sheriff of the District in which the land is situated, for the summoning of a Jury of twelve men, to come before the Commissioner at a day and place by such Commissioner to be named, to inquire and say upon their oaths whether such person complained of was tenant to the complainant for a term which has expired, and whether he does wrongfully refuse to go out of possession, having no right, or colour of right, to continue in possession, or how otherwise, which writ shall be made returnable whensoever the same shall be duly executed, before any one of the Judges of the said Court; and that notice in writing of the time and place of holding such inquisition shall be served upon the tenant, or left at his place of abode, at least three days before the day appointed, to which notice shall be annexed a copy of the affidavit on which the writ was obtained, and of the papers attached thereto; and that the Commissioner shall have power to administer an oath to the persons summoned on such Jury, well and truly to try, and a true verdict to give, upon the matters and things in the said writ contained, according to the evidence; and shall also have power to administer an oath to the witnesses produced by either party; and that the Jurors shall, under their hands, either with or without their seals, endorse their finding upon the back of the writ, or return the same upon a paper attached thereto by such Commissioner; and if it shall appear to the Court, or any Judge thereof, upon the return of the said writ made by the said Commissioner, and upon a consideration of all the evidence, which shall also be certified and returned by such Commissioner, to be filed with such commission and the proceedings thereupon in the office of the Clerk of the Crown and Pleas, that the case is clearly one coming within the true intent and meaning of this Act, then it shall be lawful for such Court or Judge to issue a precept to the Sheriff, in the King's name, commanding him forthwith to place the landlord in possession of the premises in question.

Writ to issue;

Notice of holding Inquisition;

Jury to be sworn;

Witnesses;

Verdict;

Evidence to be returned with Commission;

Landlord to be placed in possession.

LIV. *And be it further enacted by the authority aforesaid,* That when such precept shall have been made by a Judge, the Court shall have power, on motion before the end of the second term after such precept shall have been issued, to examine into the proceedings, and, if they shall find cause, to set aside the same, and to issue their precept to the Sheriff, if it be necessary, commanding him to restore the tenant to his possession, in order that the question of right, if any appear, may be tried as heretofore by ejectment.

Court of King's Bench may revise the proceeding;

And if proper, order tenant to be restored to possession.

LV. *And be it further enacted by the authority aforesaid,* That the Judges of the Court of King's Bench, in term time or in vacation, shall have power to devise, and from time to time to alter and amend the form

The Judges of the King's Bench may devise forms of proceedings, and make orders respecting costs, and enforce their payment.

of the writ, inquisition and return, and of the precepts to be issued under the authority of this Act, and to make such orders respecting costs as to them may seem just, and to issue a writ to the Sheriff, commanding him to levy such costs of the goods and chattels, or to issue an attachment for the non-payment thereof, against the landlord or tenant, or person described as landlord or tenant, as to them shall seem just.

Commissioners to be sworn.

LVI. *And be it further enacted by the authority aforesaid,* That before any Commissioner shall hold an inquisition under this Act, he shall take the following oath, before some one of the Justices of the Peace in and for the District in which the inquisition shall be holden, which oath shall be indorsed on the said writ, that is to say :

“I, A. B., do solemnly swear, that I will impartially, and to the best of my judgment, discharge my duty as Commissioner under this writ. So help me God.”

Witnesses swearing falsely may be convicted of perjury;

Punishment of witnesses for not attending.

LVII. *And be it further enacted by the authority aforesaid,* That if any witness sworn and examined before a Commissioner holding an inquisition under this Act shall wilfully swear falsely, he shall on conviction thereof be liable to the penalties of wilful and corrupt perjury; and that if any person upon being required by notice from such Commissioner to attend as a witness upon the inquisition, shall refuse or wilfully omit to attend, he shall be liable to be committed upon the warrant of such Commissioner to the Common Gaol of the District for a time not exceeding one calendar month.

This Act not to take away any other remedy which landlords have by law.

LVIII. *And be it further enacted by the authority aforesaid,* That the remedy afforded under this Act shall not be construed to take away or interfere with any other remedy, action, or right of action, which a landlord might have or bring under the laws in force before the passing of this Act.

Meaning of words in this Act:

“Land,”

“The purchaser,”

LIX. *And be it further enacted by the authority aforesaid,* That the words and expressions in this Act mentioned, which in their ordinary signification have a more confined or a different meaning, shall in this Act, except where the nature of the provision or the context of the Act shall exclude such construction, be interpreted as follows, that is to say: the word “land” shall extend to messuages, and all other hereditaments, whether corporeal or incorporeal, and to money to be laid out in the purchase of land, (and to chattels and other personal property transmissible to heirs,) and also to any share of the same hereditaments and properties, or any of them, and to any estate of inheritance, or estate for any life or lives, or other estate transmissible to heirs, and to any possibility, right or title of entry or action, and any other interest capable of being inherited, and whether the same estates, possibilities, rights, titles and interests, or any of them, shall be in possession, reversion, remainder or contingency; and the words “the purchaser” shall mean the person who last acquired

the land otherwise than by descent or than by any partition, by the effect of which the land shall have become part of or descendible, in the same manner as other land acquired by descent; and the word "descent" shall mean the title to inherit land by reason of consanguinity, as well where the heir shall be an ancestor or collateral relation, as where he shall be a child or other issue; and the expression "descendants of any ancestor," shall extend to all persons who must trace their descent through such ancestor; and the expression "the person last entitled to land" shall extend to the last person who had a right thereto, whether he did or did not obtain the possession or the receipt of the rents and profits thereof; and the word "assurance" shall mean any deed or instrument (other than a will) by which any land shall be conveyed or transferred at law or in equity; and the word "rent" shall extend to all annuities and periodical sums of money charged upon or payable out of any land; and the "person through whom another person is said to claim," shall mean any person by, through or under, or by the act of whom the person so claiming became entitled to the estate or interest claimed, as heir, issue, in tail, tenant by the courtesy of England, tenant in dower, successor, special or general occupant, executor, administrator, legatee, husband, assignee, appointee, devisee or otherwise; and every word importing the singular number only, shall extend and be applied to several persons or things, as well as one person or thing; and every word importing the masculine gender only, shall extend and be applied to a female, as well as a male.

"Descent,"

"Descendants,"

"Person last entitled,"

"Assurance,"

"Rent,"

"Person through whom another claims,"

Number and gender.

LX. *And be it further enacted by the authority aforesaid,* That this Act shall not have operation retrospectively, so as by force of any of its provisions to render any title valid, which in regard to any particular estate has been adjudged, or may in any suit now depending be adjudged invalid, on account of any defect, imperfection, matter or thing, which is by this Act altered, supplied or remedied; but that in every such case the law in regard to any such defect, imperfection, matter or thing, shall, as applied to such title, be deemed and taken to be as if this Act had not been passed.

This Act not to operate retrospectively in certain cases.

CHAP. II.

AN ACT to render the Judges of the Court of King's Bench in this Province independent of the Crown.

[Passed 6th March, 1834.]

WHEREAS it is expedient to render the Judges of the Court of King's Bench in this Province independent of the Crown: *Be it therefore enacted* by the King's most Excellent Majesty, by and with the advice and

Preamble.

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 Judges of His Majesty's Court of King's Bench for this Province shall hold their offices during their good behaviour, notwithstanding the Commissions which have been heretofore granted to them, or either of them, may specify that the office is to be held during the pleasure of His Majesty; and that from and after the passing of this Act, the Commissions to the Judges of the said Court shall be made to them respectively to hold during their good behaviour; and that the Commissions of Judges of the said Court, for the time being, shall be, continue and remain, in full force during their good behaviour, notwithstanding the demise of His Majesty, or any of His Heirs and Successors, any law, usage or practice, to the contrary thereof in any wise notwithstanding: *Provided always*, that it may be lawful for the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, to remove any Judge or Judges of the said Court, upon the address of the Legislative Council and Assembly; and in case any Judge so removed shall think himself aggrieved thereby, it shall and may be lawful for him, within six months, to appeal to His Majesty in His Privy Council, and such amotion shall not be final until determined by His Majesty in His Privy Council.

Judges to hold their offices during good behaviour;

May be removed on address of Council and Assembly;

When removed may appeal to King in Council.

Appointments by Governor, &c until the King's pleasure be known how superseded.

II. *And be it further enacted by the authority aforesaid*, That when any Judge of the said Court shall die, or shall resign his office, or be removed in the manner authorised by this Act, it shall and may be lawful for the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, notwithstanding any thing hereinbefore contained, to appoint by Commission, under the Great Seal of the Province, some fit and proper person to hold the said office, until His Majesty's pleasure shall be made known, and that such appointment shall be held to be superseded by the issuing of a Commission under the Great Seal of this Province, in the terms first directed by this Act, to the same person, or to such other person as His Majesty shall appoint in the place of any Judge who has died, or resigned, or been removed in the manner authorised by this Act, or by the signification within the Province of the decision of His Majesty in His Privy Council, restoring to his office any Judge who may have been so removed.

CHAP. III.

AN ACT to afford relief to persons confined on Mesne Process.

[Passed 6th March, 1834.]

WHEREAS in many cases arrests are made upon mesne process, of persons not having the power of procuring bail, who are thereby kept in close confinement, and being destitute of the means of support, it is expedient to afford relief: *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 any person or persons arrested on mesne process issued from His Majesty's Court of King's Bench, or from any of the District Courts of this Province, being in actual and close custody, to make an affidavit before any person having authority to administer the same, that he, she or they, is or are in close custody, is or are unable to procure bail, and is or are not worth the sum of five pounds; and upon the production of such affidavit to the Court from whence the writ issued, in term time, or to any Judge thereof in vacation, it shall and may be lawful for such Court, or Judge of such Court, to make an order upon the plaintiff or plaintiffs in any such suit or action, to pay to the defendant the weekly allowance in the same manner as if the defendant were in custody upon final process; and upon due service of a copy of such order upon the plaintiff, or his attorney, and in the default of the payment of such weekly allowance, such Court, respectively, in term time, or any Judge thereof in vacation, shall issue an order to the Sheriff of the District in which such defendant shall be in custody, to discharge such defendant upon filing common bail.

Preamble.

Persons arrested not worth five pounds, and unable to procure bail, entitled to weekly allowance;

On default of payment by plaintiff, defendant to be discharged on filing common bail.

II. *Provided always, and be it further enacted by the authority aforesaid,* That nothing in this Act contained shall extend to prevent any such plaintiff or plaintiffs from proceeding to final judgment and execution, in the same manner as if the party had entered special bail, and as if this Act had not been passed; *And provided also,* that the plaintiff shall be at liberty to tender interrogatories to the defendant in like manner as if he were charged in execution, and such defendant shall not be discharged for want of the payment of the weekly allowance unless he shall answer such interrogatories to the satisfaction of the said Court, or to any Judge thereof in vacation.

Course of proceeding to judgment and execution not interrupted by this Act;

Plaintiff may tender interrogatories.

Amount of allowance paid to form part of plaintiff's costs.

III. *And be it further enacted by the authority aforesaid, That any sum or sums of money paid by the plaintiff or plaintiffs in any suit or action towards the weekly allowance directed to be paid under the provisions of this Act, shall be taxed as part of the costs of the suit, and be allowed to the plaintiff in his bill, to be taxed by the proper officer.*

No allowance payable during delay occasioned by defendant;

IV. *And be it further enacted by the authority aforesaid, That the defendant shall not be entitled to a weekly allowance under this Act for any time during which the plaintiff shall be delayed in his proceeding in consequence of any indulgence granted to the defendant by rule of Court or order of a Judge; nor shall any order be made for such weekly allowance unless the defendant shall make an affidavit, to be filed among the papers in the cause, that he does not believe the demand of the plaintiff to be just, and that for that cause, and no other, he resists payment of the same, and refuses to confess judgment for the sum sworn to.*

Or without affidavit that plaintiff's demand is resisted bona fide.

Persons in custody for debts not exceeding ten pounds, on certain conditions may be discharged on filing common bail.
[See 5 Wm. IV. Chap. 3, Sec. 2.]

V. *And whereas it is expedient to afford further relief in respect to destitute persons arrested for small sums: Be it therefore further enacted by the authority aforesaid, That when the sum sworn to shall not exceed ten pounds, it shall and may be lawful for the defendant, at the expiration of thirty days after having been committed to prison, to apply to the Court from whence the process issued, in term time, or a Judge thereof in vacation, setting forth on affidavit that he is not worth the sum for which he has been arrested, and that he hath not directly or indirectly sold or otherwise disposed of any goods, debts, monies, or other personal estates, in order to defraud his creditors, or any of them; and that if upon the return of a summons, or of a rule to shew cause, which may be thereupon issued, and upon answers to any interrogatories which the plaintiff shall be at liberty to file, no good cause shall appear to the contrary, the Court or Judge shall discharge such defendant from imprisonment upon his filing common appearance, and the plaintiff may proceed in his action as in non-bailable actions where the defendant has appeared.*

CHAP. IV.

AN ACT to provide for the summary punishment of Petty Trespasses, and other offences.

[Passed 6th March, 1834.]

Preamble.

(See 2 Vic. Ch. 4.)
(See also Statutes of Canada, 4 & 5 Vic. Chaps. 25, 26, 27, the provisions of which, where they apply, supersede those contained in this Act.)

WHEREAS it is expedient that a summary power of punishing persons for common assaults and batteries, petty trespasses, and other offences mentioned in this Act, should be provided under the limitations hereinafter expressed: *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 if any person shall assault or beat any other person, it shall be lawful for any Justice of the Peace, upon complaint of the party aggrieved, to hear and determine such offence, and the offender, upon conviction thereof before him, shall forfeit and pay such sum of money, not exceeding five pounds, as to such Justice shall seem meet.

One Justice may hear and determine any case of assault, and inflict fine not exceeding five pounds.

II. *Provided always, and be it further enacted by the authority aforesaid,* That in case the Justice shall find the assault or battery complained of to have been accompanied by any attempt to commit felony, or shall be of opinion that the same is, from any other circumstance, a fit subject for a prosecution by indictment, he shall abstain from adjudicating thereupon, and shall deal with the case in all respects in the same manner as such Justice would have done if this Act had not been passed.

Certain cases of assault to be dealt with as before.

III. *And be it further enacted by the authority aforesaid,* That if any person shall wilfully or maliciously commit any damage, injury or spoil, to or upon any real or personal property whatsoever, either of a public or private nature, the committing of which damage, injury or spoil, is not made felony by any law in force in this Province, nor made punishable either as a felony or otherwise by the provisions of any Act of the Parliament of this Province in relation to such particular offence, every such person, being convicted thereof before a Justice of the Peace, shall forfeit and pay such sum of money as shall appear to the Justice to be a reasonable compensation for the damage, injury or spoil, so committed, not exceeding the sum of five pounds; which sum of money shall, in case of private property, be paid to the party aggrieved, except when such party shall have been examined in proof of the offence, and in such case, and in all other cases of convictions under the provisions of this Act, the penalties imposed shall be applied in the manner hereinafter specified: *Provided always,* that nothing herein contained shall extend to any case where the party trespassing acted under a fair and reasonable supposition that he had a right to do the Act complained of.

Persons wilfully injuring property shall forfeit not exceeding five pounds;

Except where there is a fair claim of right.

IV. *And be it further enacted by the authority aforesaid,* That every punishment and forfeiture by this Act imposed on any person maliciously committing any trespass, shall equally apply and be enforced whether the trespass shall be committed from malice conceived against the owner of the property in respect of which it shall be committed, or otherwise.

Actual malice need not be shown.

V. *And be it further enacted by the authority aforesaid,* That for the more effectual apprehension of all offenders against this Act, any person found committing any such trespass, as aforesaid, may be apprehended

Offenders may be apprehended without warrant.

without a warrant, by any peace officer, or the owner of the property injured, or the servant, or any person authorised by him, and forthwith taken to the nearest Justice of the Peace, to be dealt with according to law.

Penalty for disturbing religious worship, not exceeding five pounds.

VI. *And be it further enacted by the authority aforesaid,* That if any person shall wilfully disturb, interrupt or disquiet, any assemblage of people met for religious worship, by profane discourse, by rude and indecent behaviour, or by making a noise, either within the place of worship or so near it as to disturb the order and solemnity of the meeting, such person shall, upon conviction thereof before any Justice of the Peace, on the oath of one or more credible witness or witnesses, forfeit and pay such a sum of money, not exceeding the sum of five pounds, as the said Justice shall think fit.

Penalty and costs may be levied by distress;

If no distress found, offender may be committed for one month.

VII. *And be it further enacted by the authority aforesaid,* That in default of payment of any fine imposed under the authority of this Act, together with the costs attending the same, within the period specified for the payment thereof at the time of conviction by the Justice of the Peace before whom such conviction may have taken place, it shall and may be lawful for such Justice of the Peace to issue his warrant, directed to any Constable, to levy the amount of such fine and costs within a certain time to be in the said warrant expressed; and in case no distress sufficient to satisfy the amount shall be found, it shall and may be lawful for him to commit the offender to the Common Gaol of the District wherein the offence was committed, for any term not exceeding one month, unless the fine and costs shall be sooner paid.

Prosecutions under this Act to be within three months

(See 2 Vic. Chap. 4, Sec. 7)

VIII. *And be it further enacted by the authority aforesaid,* That the prosecution for every offence punishable under this Act shall be commenced within three calendar months after the commission of the offence, and not otherwise; and the evidence of the party aggrieved shall be admitted in proof of the offence, and also the evidence of any inhabitant of the County, District, Riding or Division, in which the offence shall have been committed, notwithstanding any forfeiture or penalty incurred by the offence may be payable to the general rate of such County, District, Riding or Division.

Party accused to be summoned

In case of non-appearance Justice may proceed ex parte

IX. *And for the more effectual prosecution of all offences punishable under this Act, Be it further enacted by the authority aforesaid,* That when any person shall be charged, on the oath of one or more credible witness or witnesses, before any Justice of the Peace, with any offence against this Act, the Justice may summon the person charged to appear at a time and place to be named in such summons; and if he shall not appear accordingly, then (upon proof of the due service of the summons upon such person, by delivering the same to him personally,) the Justice may either proceed to hear and determine the case *ex parte*, or issue his warrant for apprehending such person, and bringing him before himself

or some other Justice of the Peace; or the Justice before whom the charge shall be made may, if he shall so think fit, without any previous summons, issue such warrant, and the Justice before whom the person charged shall appear or be brought, shall proceed to hear and determine the case.

X. *And be it further enacted by the authority aforesaid, That if any* Justice, upon hearing any complaint for offences against this Act, shall deem such alleged offence not to be proved, or shall find the act complained of to have been justified, or to be of so trifling a nature as not to deserve punishment, and shall accordingly dismiss the complaint, such Justice shall, at the request of the party against whom the same shall be preferred, make out and deliver to him a certificate under his hand, stating the fact of such dismissal; and in such case, the Justice shall order the party preferring such complaint to pay the costs of the party against whom the same shall have been preferred; and if such costs shall not be paid immediately upon dismissal, or within such period as such Justice shall at the time of such dismissal appoint, it shall be lawful for him to issue his warrant to levy the amount of such costs within a certain time to be in the said warrant expressed; and in case no distress sufficient to satisfy the amount of such warrant shall be found, to commit the party by whom such costs shall be so ordered to be paid, as aforesaid, to the Common Gaol of the County, District, Riding or Division, where such offence shall be alleged to have been committed, there to be imprisoned for any term not exceeding ten days, unless such costs shall be sooner paid.

Person preferring frivolous charge to pay the costs, the Justice certifying;

To be levied by distress;

If no distress, subject to ten days commitment.

XI. *And be it further enacted by the authority aforesaid, That the* Justice by whom such certificate, as aforesaid, shall be given, shall draw up the same in the following form, or in words to the like effect, videlicet:

"BE IT REMEMBERED, that on the _____ day of _____, in the year of our Lord _____, at _____, in the County of _____, [or District, Riding or Division, as the case may be.] A. B., of _____, was brought before me, C. D., one of His Majesty's Justices of the Peace for the said County, [or District, Riding or Division, as the case may be,] upon a charge preferred against him by E. F., of _____, [specify the offence, and the time and place when and where the same is alleged to have been committed,] and upon investigating such charge I have dismissed the same; and I order and adjudge the said E. F. to pay the sum of _____, for costs, and in default of payment thereof immediately, that there be levied of the goods and chattels of the said E. F. the said sum of _____, within _____ days from the date hereof; and in case there shall be no goods or chattels found of the said E. F. whereof the amount can be made at the time aforesaid, then that the said E. F. be [or on or before the _____ day of _____ next,] imprisoned in the Common Gaol of the said County of _____, [or District, Riding or Division, as the case may be,] for the space of _____ days, unless the same shall be sooner paid.

Justice's certificate.

"Given under my hand the day and year first above mentioned."

Persons convicted under this Act released from further prosecution for same offence.

XII. And be it further enacted by the authority aforesaid, That if any person against whom any complaint shall have been preferred for any offence against this Act, shall have obtained such certificate, as aforesaid, or having been convicted, shall have paid the whole amount adjudged to be paid under such conviction, or shall have suffered the imprisonment awarded for the non-payment thereof, in every such case such person shall be released from all further or other proceedings, civil or criminal, for the same offence: *Provided always nevertheless,* that nothing herein contained shall be construed to prevent any action for damages, wherein the party shall not have proceeded under the provisions of this Act.

Aiders and abettors punishable as principals.

XIII. And be it further enacted by the authority aforesaid, That if any person shall aid, abet, counsel or procure the commission of any offence punishable under this Act, such person shall, on being convicted before a Justice of the Peace, on the oath of one or more credible witness or witnesses, of having so aided, abetted, counselled or procured, the commission of any such offence, as aforesaid, be liable to the same forfeiture and punishment to which the principal offender is by this Act liable.

Discharge in case of making satisfaction to party aggrieved.

XIV. And be it further enacted by the authority aforesaid, That when any person shall be summarily convicted before a Justice of the Peace of any offence against this Act, it shall be lawful for the Justice, if he shall so think fit, to discharge the offender from his conviction, upon his making such satisfaction to the party aggrieved for damages and costs, or either of them, as shall be ascertained by the Justice.

XV. And be it further enacted by the authority aforesaid, That the Justice before whom any person shall be convicted of any offence against this Act, may cause the conviction to be drawn up in the following form of words, or in any other form of words to the same effect, as the case shall require, videlicet :

Form of conviction.

“BE IT REMEMBERED, That on the ——— day of ———, in the year of our Lord ——— at ———, in the County of ———, [or District, Riding or Division, as the case may be,] A. B. of ———, is convicted before me C. D., one of His Majesty’s Justices of the Peace for the said County, [or District, Riding or Division, as the case may be,] for that he the said A. B. did, [specify the offence, and the time and place when and where the same was committed, as the case may be,] and I the said C. D. adjudged the said A. B. for his offence, to forfeit and pay immediately, or on or before the ——— day ——— of ———, [here state the penalty actually imposed, or the amount of the injury done, as the case may be,] and also pay the sum of ——— for costs, and in default of payment of the said sums, to be imprisoned in the County Gaol of the said County, [or District, Riding or Division, as the case may be,] for the space of ———, unless the said sums shall be sooner paid, or, [I order that the said sums shall be paid by the said A. B. on or before the ——— day of ———,] and I direct that the said sum of ———,

[the penalty,] shall be paid to _____ of _____ [Treasurer of the County, District, Riding or Division, as the case may be] aforesaid, in which the said offence was committed, to be by him applied according to the provisions of this Act; or, I order that the sum of _____ [the sum for the amount of any injury done] shall be paid to E. F., the party aggrieved, unless he is unknown or has been examined in proof of the offence, [in which case state the fact, and dispose of the whole like the penalty as before,] and I order that the said sum of _____ for costs, shall be paid to _____, the complainant.

“Given under my hand and seal, the day and year first above mentioned.”

XVI. *And be it further enacted by the authority aforesaid, That* nothing in this Act contained shall authorise, or be construed to authorise, any Justice of the Peace to hear and determine any case of trespass under this Act, in which the title to any lands, tenements or hereditaments, or any interest therein or accruing thereupon, shall be called in question or affected in any manner howsoever; but every such case of trespass shall be dealt with according to law, in the same manner in all respects as if this Act had not been passed.

No jurisdiction under this Act when title in question.

XVII. *And be it further enacted by the authority aforesaid, That* any person who shall think himself aggrieved by any conviction or decision under this Act, may appeal to the next Court of General Quarter Sessions, which shall be holden not less than twelve days after the day of such conviction or decision, for the District wherein the cause of complaint shall have arisen: *Provided*, that such person shall give to the other party a notice in writing of such appeal, and of the cause and matter thereof, within three days after such conviction or decision, and seven days at the least before such Sessions; and shall also either remain in custody until the Sessions, or enter into a recognizance with two sufficient sureties before a Justice of the Peace, conditioned personally to appear at the said Sessions and to try such appeal, and to abide the judgment of the Court thereupon, and to pay such costs as shall be by the Court awarded; and upon such notice being given, and such recognizance being entered into, the Justice before whom the same shall be entered into, shall liberate such person if in custody; and the Court at such Sessions shall hear and determine the matter of the appeal, and shall make such order therein, with or without cost to either party, as to the Court shall seem meet; and in case of the dismissal of the appeal, or the affirmance of the conviction, shall order and adjudge the offender to be punished according to the conviction, and to pay such costs as shall be awarded, and shall if necessary issue process for enforcing such judgment.

Appeal to Quarter Sessions;

Notice of appeal;

Recognizance to abide judgment of Court;

Sessions to hear and determine with or without costs.

XVIII. *And be it further enacted by the authority aforesaid, That* whenever an appeal shall be made from the decision of any Justice of the Peace under this Act, the Court of Quarter Sessions shall have

Appeals to be tried by Jury;

power to empanel a Jury to try the matter on which such decision may have been made, and to administer to such Jury the following oath:—

Juror's oath.

“ You, ——, do solemnly swear, that you will well and truly try the matter of the complaint of C. D. against E. F., and a true verdict give, according to the evidence.—So help you God.”

Court to give judgment;

Not exceeding five pounds and costs, or one month's imprisonment;

Application of fines.

and the Court on the finding of such Jury, shall thereupon give such judgment as the circumstances of the case may require; *Provided always*, that such Court shall not in any case adjudge the payment of a fine exceeding five pounds, in addition to the costs, or to order the imprisonment of the person so convicted for any period exceeding one month; and all fines imposed and recovered by the judgment of such Court shall be applied and disposed of in the same manner as other fines recovered under the provisions of this Act.

Justices to transmit convictions to next Quarter Sessions

XIX. *And be it further enacted by the authority aforesaid*, That every Justice of the Peace before whom any person shall be convicted of any offence against this Act, shall transmit the conviction to the next Court of General Quarter Sessions which shall be holden for the District wherein the offence shall have been committed, there to be kept by the proper officer among the records of the Court; and upon any indictment or information against any person for a subsequent offence, a copy of such conviction, certified by the proper officer of the Court, or proved to be a true copy, shall be sufficient evidence to prove a conviction for the former offence, and the conviction shall be presumed to have been unappealed against until the contrary be shewn.

Convictions not to be washed for want of form.

XX. *And be it further enacted by the authority aforesaid*, That no conviction under this Act shall be quashed for want of form, and no warrant of commitment shall be held void by reason of any defect therein, provided it be alleged that the party has been convicted, and there be a good and valid conviction to sustain the same.

Limitations of actions.

XXI. *And for the protection of persons acting in the execution of this Act—Be it further enacted by the authority aforesaid*, That all actions and prosecutions to be commenced against any person for any thing done in pursuance of this Act, shall be laid and tried in the District where the fact was committed, and shall be commenced within six calendar months after the fact committed, and not otherwise; and notice in writing of such action, and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action; and in any such action the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in such action, if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought by or on behalf of the defendant; and if a verdict shall pass for the defendant,

or the plaintiff shall become non-suit, or discontinue any such action after issue joined, or if upon demurrer or otherwise judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases; and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge before whom the trial shall be had shall certify his approbation of the action, and of the verdict obtained thereupon.

XXII. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the King's Majesty to extend His Royal mercy to any person imprisoned by virtue of this Act, although he shall be imprisoned for non-payment of money to some party other than the Crown. Royal pardon,

XXIII. *And be it further enacted by the authority aforesaid,* That all sums of money, fines, forfeitures and penalties, to be awarded and imposed by virtue of this Act, shall be paid to the Path-master or Street Surveyor of the Division within which the offence shall have been committed or the fine levied, in aid of any commutation money to be expended for roads, or in aid of any Statute labour to be performed within such Division, except when such sums of money, fines, forfeitures and penalties, are by this Act directed to be otherwise applied. Penalties to be paid to Path Master or Street Surveyor.

XXIV. *And be it further enacted by the authority aforesaid,* That this Act shall continue and be in force for four years, and from thence to the end of the then next ensuing Parliament, and no longer: Act to continue in force four years. (Made perpetual by 2 Vic. Chap. 4.)

CHAP. V.

AN ACT to grant further relief to Bail in certain cases, and to regulate the manner of putting in and perfecting Bail in vacation.

[Passed 6th March, 1834.]

WHEREAS it is necessary to afford further relief to Bail in certain cases; *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 special Bail in any action now pending, or which may be hereafter brought in any of the Courts of this Province, may surrender their Preamble. Bail may surrender their principal and be discharged;

principal to the Sheriff of any of the respective Districts in which he may be resident or found, and upon the production of the copy of the Bail-piece, certified by the Clerk of the Court in which the Bail shall have been entered, the Sheriff of any such District shall receive the defendant into custody, and shall give a certificate under his seal of office of his being so surrendered into his custody, upon which certificate being produced an exoneretur shall be entered upon the Bail-piece in the same manner as is now authorised by law in other cases, and upon notice of such surrender to the plaintiff or to his attorney, and upon such exoneretur being so entered, the Bail in such case shall be discharged: *Provided always*, that nothing in this Act contained shall be taken to compel the plaintiffs in any such action or suit to change the venue or to conduct his suit in any manner different from that in which he would have been compelled had the render been made in the District in which the defendant had been arrested.

Sheriff to give certificate of surrender;

Plaintiff not prejudiced in conduct of his suit.

Bail may justify before a Judge in vacation;

Commencement of Act, so far as relates to this provision.

Judges to frame rules of practice with regard to justifying.

II. *And be it further enacted by the authority aforesaid*, That notwithstanding any thing contained in any law to the contrary, it shall and may be lawful after the passing of this Act, for Bail to justify in vacation before a Judge of His Majesty's Court of King's Bench, whether the defendant be or be not in actual custody, and such Judge may make his rule or order for the allowance of such Bail: *Provided always nevertheless*, that this provision shall not take effect until after the end of the Term of sitting of the Court of King's Bench which shall commence next after the passing of this Act; and that it shall be competent for the Court of King's Bench in the said Term, and in any Term afterwards, to make such orders or rules as to them may seem fit, respecting the manner of justifying and perfecting Bail, as aforesaid, and respecting the notices to be given previous thereto, the attendance of Bail before a Commissioner or before a Judge, and the affidavits or examinations to be required, or any other matter or thing which may to them appear expedient for carrying this proviso the most justly and conveniently into effect.

When defendant surrendered in District other than that wherein action brought;

Transcript of judgment roll may be filed in the Court of such District;

And defendant charged in execution therein;

Law regarding Certiorari not affected by this provision.

III. *And be it further enacted by the authority aforesaid*, That in case any defendant or defendants in any action now pending, or which may be hereafter brought in any of the District Courts in this Province, shall be surrendered by his Bail into the custody of the Sheriff of any District other than that in which such action shall have been instituted, it shall and may be lawful for the plaintiff or plaintiffs in any and every such action, after obtaining and entering up judgment, to procure a transcript of the judgment roll and proceedings, certified under the hand of the Judge of the Court wherein the same shall be obtained; and upon filing such transcript, so certified as aforesaid, in the office of the Clerk of the District Court of the District wherein such defendant or defendants shall be so surrendered into custody, to charge the said defendant or defendants in execution, and take all other necessary proceedings in like manner as if the suit had been originally instituted in such District Court: *Provided always*, that nothing in this Act contained shall be held to interfere or do away with the provision of any existing law for

the removal of causes from inferior to superior Courts by writ of Certiorari, or otherwise.

CHAP. VI.

AN ACT to revive and extend the provisions of an Act passed in the tenth year of His late Majesty's reign, intituled, "An Act to authorise the detention of Debtors in certain cases."

[Passed 6th March, 1834.]

I. [Expired.]

Preamble.

Act 10, Geo. IV. Chap. 2, revived and continued for four years.

II. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful, and the Clerks of the several District Courts in this Province are hereby required, upon application by any Commissioner of His Majesty's Court of King's Bench, and upon payment of the usual fees by law established for the same, to furnish such Commissioner with such number of writs of *capias ad respondendum* as such Commissioner may so require.

Clerks of District Courts to supply Commissioners of the King's Bench with writs of *capias ad respondendum*.

III. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for such Commissioner to issue a writ of *capias ad respondendum*, in the same manner and with the like effect as the same may now be issued in His Majesty's Court of King's Bench by virtue of the ninth section of an Act passed in the second year of His late Majesty's reign, intituled, "An Act to repeal part of and amend the laws now in force respecting the practice of His Majesty's Court of King's Bench in this Province."

Commissioners may issue *capias ad respondendum*.

IV. *And be it further enacted by the authority aforesaid,* That no Commissioner shall issue any writ of *capias ad respondendum* in any case in which he shall be employed as attorney for the person suing out such writ.

Commissioner not to act as such if attorney in the cause.

CHAP. VII.

AN ACT to facilitate the remedy by *Replevin*.

[Passed 6th March, 1834.]

WHEREAS it is expedient to facilitate the remedy of *replevin*: *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

Preamble!

Remedy by replevin same as by the law of England.

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 any person complaining of a wrongful distress in a case in which by the law of England replevin might be made, may, on filing a præcipe, obtain from the office of the Clerk of the Crown and Pleas in this Province, or from the office of any of his Deputies, a writ of replevin, which may be in the form given in the Schedule to this Act marked A.

Proceedings by Sheriff on writ of replevin.

II. *And be it further enacted by the authority aforesaid,* That before the Sheriff shall proceed to replevy upon any such writ, he shall take pledges from the plaintiff according to the law of England in that behalf, and the bond to be entered into for that purpose may be in the form given in the Schedule to this Act annexed marked B; and the assignment thereof to be made to the defendant may be according to the form given in the same Schedule.

Writ of capias in withernam shall issue.

III. *And be it further enacted by the authority aforesaid,* That upon the Sheriff making such return of the goods distrained having been eloigned, as would warrant the issuing of a capias in withernam by the law of England, a writ of capias in withernam shall issue, upon the filing of such return, from the office of the Clerk of the Crown and Pleas in this Province, or from the office of any of his Deputies, which writ may be in the form given in the Schedule to this Act annexed marked C; and that before executing such writ the Sheriff shall take pledges according to the law of England in that behalf.

By whom, and how writs to be executed.

IV. *And be it further enacted by the authority aforesaid,* That the Sheriff may make his warrant to any Bailiff or Bailiffs, jointly and severally, to execute either of the writs aforesaid to him directed, according to the law and custom of England in that behalf.

Proceeding after appearance.

V. *And be it further enacted by the authority aforesaid,* That upon the appearance of the defendant being entered in the office from whence any writ of replevin or capias in withernam shall issue, the plaintiff may declare, and may proceed in his action of replevin according to the law of England in that behalf.

Notice in case of non-appearance by defendant.

VI. *And be it further enacted by the authority aforesaid,* That if the defendant shall not appear at the return of the writ, or within eight days thereafter, the plaintiff shall cause a notice to be put upon the door of the Court House of the District in which such writ shall have issued, according to the form in the Schedule to this Act annexed marked D; and that if at the expiration of twenty-one days after the said notice shall have been put up, as aforesaid, the defendant shall not have appeared, it shall

be lawful for the plaintiff, upon filing an affidavit of the due publication of such notice, in manner aforesaid, to enter appearance for the defendant, and to proceed thereupon as if the defendant had appeared.

VII. *And be it further enacted by the authority aforesaid,* That when the value of the goods distrained shall not exceed the sum of fifteen pounds, and where the title to lands shall not come in question, the writ of replevin may issue from the District Court of any District in this Province within which the distress shall have been made, and such proceedings may be thereon had as shall be agreeable to the practice of the Court of King's Bench in this Province in actions of replevin.

When distress not exceeding fifteen pounds, writ may issue from District Court.

VIII. *And be it further enacted by the authority aforesaid,* That the Court of King's Bench may by rule or rules from time to time make such provision for rendering the remedy of replevin easy and effectual as such Court may deem conducive to the ends of justice, as well by regulating the practice to be observed in actions of replevin, as by prescribing or changing the forms of writs and proceedings to be used in such actions, or for advancing the remedy by replevin; and that to that end the forms given to the several Schedules annexed to this Act, or any of them, may by rule of the said Court be modified and altered.

Rules of practice and forms to be framed by Court of King's Bench.

IX. *Provided always, and be it further enacted by the authority aforesaid,* That in the absence of any provision in this Act, or in any rule of the Court of King's Bench to the contrary, the practice in England in cases of replevin shall be pursued, so far as the same can be applied to the jurisdiction having cognizance of the case, and to the circumstances of this Province.

How far practice of Court of King's Bench in England to prevail.

SCHEDULE A.

— District, }
to wit: } William the Fourth, by the Grace of God, &c.

To the Sheriff of ———, Greeting:

We command you, that without delay you cause to be replevied to A. B. his cattle, goods and chattels, which C. D. hath taken and unjustly detains, as it is said, in order that the said A. B. may have his just remedy in that behalf; and that you summon the said C. D. to appear before us, in our Court of King's Bench, at York, on the ——— day of ——— term, to answer to the said A. B. in a plea of taking and unjustly detaining his cattle, goods and chattels; and what you shall do in the premises make appear to us in our Court of King's Bench, at York, on the day and at the place aforesaid, and have there then this writ.

Writ of replevin.

Witness the Honourable ———, Chief Justice of our said Province, this ——— day of ———, &c.

SCHEDULE B.

Replevin bond.

Know all men by these presents, that we, A. B., of ———, W. G., of ———, and J. S., of ———, are jointly and severally held and firmly bound to W. P., Esquire, Sheriff of the District of ———, in the sum of ———, of lawful money of Upper Canada, to be paid to the said Sheriff, or his certain attorney, executors, administrators or assigns, for which payment to be well and truly made we bind ourselves, and each and every of us in the whole, our and each and every of our heirs, executors and administrators, firmly by these presents, sealed with our seals.

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

Conditions.

The condition of this obligation is such, that if the above bounden A. B. do prosecute his suit with effect and without delay against C. D. for the taking and unjustly detaining of his cattle, goods and chattels, to wit: (here set forth the cattle or goods distrained,) and do make a return of the said cattle, goods and chattels, if a return thereof shall be adjudged, that then this present obligation shall be void and of none effect, or else to be and remain in full force and virtue.

Sealed and delivered }
in the presence of }

Assignment by Sheriff.

Know all men by these presents, that I, W. P., Esquire, Sheriff of the District of ———, have at the request of the within named C. D., the avowant (or person making cognizance) in this cause, assigned over this replevin bond unto him the said C. D., pursuant to the Statute in such case made and provided.

In witness whereof I have hereunto set my hand and seal of office, this — day of —, one thousand eight hundred and —.

Sealed and delivered }
in the presence of }

SCHEDULE C.

——— District, }
to wit: } William the Fourth, by the Grace of God, &c.

To the Sheriff of ———, Greeting :

Writ of capias in wither-
ham.

Whereas we lately commanded you, that without delay you should cause to be replevied to A. B. his cattle, goods and chattels, to wit, &c. (setting out the cattle and goods,) which C. D. had taken and unjustly detained, as it is said, according to our writ to you afore directed, and that you should make appear to us in our Court of King's Bench, at York, on the — day of — term, what you should do in the premises; and you at that day returned to us that the cattle, goods and chattels, aforesaid, were eloigned by the said C. D. out of your bailiwick to places to you unknown, so that you could in no wise replevy the same to the said A. B.

Therefore, we command you, that you take in withernam the cattle, goods and chattels, of the said C. D. in your bailiwick, to the value of the cattle, goods and chattels, by him the said C. D. before taken, and deliver them to the said A. B., to be kept by him until the said C. D. will deliver the aforesaid cattle, goods and chattels, to the said A. B.; and in what manner you shall have executed this our writ make appear to us, on the ——— day of ———, term, in our Court of King's Bench, that we may cause to be further done thereupon what of right and according to the laws of our Province of Upper Canada we shall see meet to be done. We also command you, that if the said A. B. shall make you secure of prosecuting his claims, and of returning the cattle, goods and chattels, aforesaid, if a return thereof shall be adjudged, then that you put by gages and safe pledges the said C. D. that he be before us, at the time last aforesaid, to answer to the said A. B. of the taking and unjustly detaining of his cattle, goods and chattels, aforesaid, and have then there this writ.

Witness ———.

SCHEDULE D.

Take notice, that unless A. B. who has distrained the cattle, goods and chattels, of C. D., shall enter his appearance in an action brought against him on account of the said distress, the said A. B. will on or after the ——— day of ———, being twenty-one days exclusive after this notice was put up, enter appearance for him to the said action, and proceed therein as if the said C. D. had appeared. Form of notice.

Dated ———, A. B. in person, (or by his attorney) E. F.

CHAP. VIII.

AN ACT to repeal part of an Act passed in the second year of His Majesty's reign, intituled, "An Act respecting the time and place of sitting of the Court of King's Bench."

[Passed 6th March, 1834.]

WHEREAS it is expedient to make perpetual an Act of the Parliament of this Province, passed in the second year of His Majesty's reign, intituled, "An Act respecting the time and place of sitting of 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

Preamble.
(See Act of Union, Sec. 44.)

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 fifth section of the said first recited Act be and the same is hereby repealed.

2 William IV. Chap. 5,
made perpetual.

CHAP. IX.

AN ACT to amend an Act passed in the second year of the reign of His late Majesty King George the Fourth, intituled, "An Act to repeal part of and amend an Act passed in the thirty-seventh year of His late Majesty's reign, intituled, 'An Act for the better regulating the practice of the law,' and to extend the provisions of the same."

[Passed 6th March, 1834.]

Preamble.

(See 2 Geo. IV. Stat. 2,
Chap. 5.)

WHEREAS by a Statute passed in the second year of His late Majesty's reign, intituled, "An Act to repeal part of and amend an Act passed in the thirty-seventh year of His late Majesty's reign, intituled, 'An Act for the better regulating the practice of the law,' and to extend the provisions of the same," it is among other things enacted, that no person shall be admitted by the Court of King's Bench to practice as an attorney in this Province unless upon an actual service under articles for five years with some practicing attorney in this Province: *And whereas* such law may operate to the prejudice of His Majesty's service if applied to His Majesty's Attorney or Solicitor General, who previous to their appointment may not have served under such articles 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 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 nothing in the third clause of the said Act, passed in the second year of the reign of His late Majesty King George the Fourth, shall apply to any person appointed or to be appointed by His Majesty, to be His Attorney or Solicitor-General for this Province, but that such Attorney-General or Solicitor-General shall be and is hereby declared to be entitled, upon his application, to be admitted and sworn an Attorney of His Majesty's Court of King's Bench in this Province, in the same manner as if he had served the period required by law with some practicing Attorney of the said Court.

Attorney or Solicitor
General admissible as
attorneys without having
served with an attorney
of this Province.

CHAP. X.

AN ACT to extend the limits assigned to the respective Gaols in this Province, and to afford to plaintiffs the means in some cases of more effectually compelling the payment of debts due to them by defendants in execution.

[Passed 6th March, 1834.]

WHEREAS it is expedient to extend the limits of the several Gaols throughout 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 the limits to the respective District Gaols situate in any Town in this Province shall be co-extensive with the limits of the several Towns in which such Gaols respectively are situate, any law to the contrary thereof in any wise notwithstanding.

Preamble.
[See 11 Geo. IV. Ch. 3.]
Limits of District Gaols co-extensive with limits of the Towns in which situate.

II. *And be it further enacted by the authority aforesaid*, That the limits to those District Gaols which are not situate in any Town shall and may be extended by the Magistrates of the District, in Quarter Sessions assembled, to the distance of half a mile on each side of the several Gaols so situated.

When Gaol not erected in Towns.

III. *And be it further enacted by the authority aforesaid*, That such extension of Gaol limit shereby established or authorised to be made, shall not in any manner affect or make void any of the securities already given for the enjoyment of the present Gaol limits, but the same shall continue in force and extend to the said newly assigned limits.

Existing securities for enjoyment of limits not affected by this Act.

IV. *And whereas* it is expedient to afford to plaintiffs more effectual means of compelling defendants to a just application of their effects in satisfaction of their debts than are now provided by law; *be it therefore further enacted by the authority aforesaid*, That whenever the plaintiff in any action shall have reason to believe that the defendant, being a debtor in execution and admitted to the limits before or after the passing of this Act, hath the means at his disposal or within his control of satisfying the debt for which he is in execution, or a considerable portion thereof, it shall be competent to him to apply to the Court of King's Bench in Term, or to a Judge thereof in vacation, or to the District Court, or a Judge

Debtors in execution enjoying the limits, and having means of satisfying the debt, may be committed to close custody.

thereof, in like manner, when such execution shall have issued from a District Court, shewing his grounds for such belief upon affidavit; and if upon the return of any summons or rule to shew cause that may thereupon issue, which summons or rule shall be served personally upon the debtor, it shall appear to the satisfaction of the Court or Judge that the debtor has the means at his disposal or within his control of satisfying the debt, or a considerable portion thereof, or that he had such means at the time of the service upon him of any notice by the plaintiff of an intended application under this Act, it shall be competent to such Court or Judge, upon a view of the facts disclosed, and upon a consideration of any other matters which such Court or Judge thereof may require to have stated upon affidavit in relation to such application, either by way of answers by either party to such interrogatories as the other party may desire, or the Court may direct to be filed or otherwise, to make an order or rule upon the Sheriff directing him to apprehend the defendant and keep him in custody within the walls of the Gaol of his District, and such defendant shall, when committed upon such order, remain imprisoned in execution in the same manner as if he had not before obtained the benefit of the limits.

Privilege of applying for benefit of the limits revives to defendant after having made reasonable satisfaction.

V. *Provided always nevertheless, and be it further enacted by the authority aforesaid*, That it shall nevertheless be competent to the defendant, after he shall have been so imprisoned in close custody under this Act, to apply to the Court from which the execution issued, or to a Judge thereof in vacation, for a rule or summons upon the plaintiff to shew cause why he should not be allowed the benefit of the limits upon giving the security required by law, which application shall be supported by affidavit shewing that such defendant has made or tendered just and reasonable satisfaction to the plaintiff in respect to the grounds upon which he was taken from the limits and committed to close custody; and that the Court or Judge upon the return of such rule or order served on the plaintiff or his attorney, or otherwise, as under the circumstances such Court or Judge shall direct or shall deem sufficient, may make a rule or order allowing to the defendant the benefit of the limits, upon his giving the security required by law, if it shall appear reasonable and just so to do under all the circumstances of the case.

Liability of defendant applying for re-admission to benefit of the limits.

VI. *Provided always, and be it further enacted by the authority aforesaid*, That upon the occasion of such an application as last herein mentioned, the Court or Judge may require information upon affidavit, or by way of answers to interrogatories, in the same manner as herein directed in respect to any application to be made for depriving a defendant of the benefit of the limits; *And provided also*, that after such second admission, or any future admission of a defendant to the limits under the authority of this Act, similar proceedings may be adopted by reason of any new facts discovered for again depriving the defendant of the benefit of the limits, or for again admitting him to the limits as the case may require.

VII. *And be it further enacted by the authority aforesaid,* That when a defendant in execution, and upon the limits, shall refuse or neglect, upon demand made by the plaintiff or his attorney either verbally or in writing, to deliver to him, within such time as shall appear reasonable under the circumstances to the Court or Judge to whom application shall be made under this Act, an account or schedule in writing under the hand of such defendant, and verified by his oath, of all his real and personal estate, debts and effects of every description, such refusal or neglect, if not accounted for to the satisfaction of the Court or Judge, may, in their or his discretion, be taken as sufficient ground for making a rule or order as in this Act mentioned for committing such defendant to close custody within the Gaol as aforesaid.

Defendant on the limits withholding account of his effects may be committed to close custody.

CHAP. XI.

AN ACT to repeal part of and amend the laws now in force in this Province respecting the appointment and duties of certain Township Officers.

[Passed 6th March, 1834.]

[REPEALED BY 5 WM. IV. CHAP. 3.]

CHAP. XII.

AN ACT to regulate Line Fences and Water Courses, and to repeal so much of an Act passed in the thirty-third year of the reign of His late Majesty King George the Third, intituled, "An Act to provide for the nomination and appointment of Parish and Town Officers within this Province," as relates to the office of Fence Viewers being discharged by Overseers of Highways and Roads.

[Passed 6th March, 1834.]

WHEREAS much difficulty and inconvenience are experienced, and many disputes arise from the want of some Provincial enactment, by which each party interested in the making or repairing any division or line fence may be compelled to make or repair, or pay for making or repairing a fair and just proportion of such fence: *Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of*

Preamble.

[See 33 Geo. III. Ch. 3;
1 Vic. Ch. 21;
2 Vic. Ch. 18.]

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 inhabitant householders of each and every Township in this Province, at their annual Town Meeting for the election of Township officers, to choose from among the inhabitants of the said Township, in the same manner as by law other Township officers are chosen, not less than three or more than eighteen fit and discreet persons to serve the office of Fence Viewers, who shall perform the duties hereinafter prescribed to Fence Viewers, and who shall take the same oath of office, and in the same manner which persons chosen to other Township offices are or may be by law required to do, and be liable to the same penalties for neglect or refusal to take said oath of office, to which persons chosen to other Township offices, and neglecting or refusing to take the oath of office, are or may be by law liable.

Annual Township meetings for election of three or more fence viewers.

Each party to repair a just proportion of the division or line fence ;

Disputes to be submitted to determination and award of three fence viewers,

who are to attend upon notice from either party, and examine premises ;

Award of two of such fence viewers binding as to repairs of such division line,

and occupier shall repair the part assigned in such award ;

Award to be in writing, and signed by majority of fence viewers, and filed with Town Clerk ;

Proviso upon any material change of circumstances in respect to improvement, &c. of adjacent land ;

II. *And be it further enacted by the authority aforesaid,* That each of the parties occupying adjoining tracts of land shall keep up, make and repair, a fair and just proportion of the division or line fence between their several tracts of land ; and that where there shall be a dispute between the parties, as to the commencement or extent of the part of the said division or line fence which either party may claim or refuse to make or repair, it shall and may be lawful for either party to submit the same to the determination and award of three Fence Viewers ; which Fence Viewers are hereby authorised and required, upon being duly notified by either party in such case, to attend at the time and place stated in such notice, and after being satisfied that the other party or parties in the case have been duly notified to appear at the time and place, to proceed to examine the premises ; and such Fence Viewers, or any two of them, shall determine any and every dispute in the matter aforesaid, between the said parties ; and the award and determination of such Fence Viewers, or any two of them, on the matters aforesaid, shall be binding on the parties as far as concerns the making or repairing of such division or line fence ; and from thenceforth the occupier or occupiers of the said tracts or parcels of land shall respectively make and repair, and keep in repair, that part of such division or line fence which shall have been assigned in such award or determination to the occupier or occupiers of such tract or parcel of land ; which determination and award shall be made in writing, and signed by such Fence Viewers, or a majority of them, and filed in the Town Clerk's office, and a copy of the same made out and given to each of the parties. *Provided always nevertheless,* that when by reason of any material change of circumstances in respect to the improvement and occupation of adjacent lots or parcels of land, an award which has been

made under this Act shall cease, in the opinion of either of the parties, to be equitable between them, it shall be in the power of either to obtain another award of Fence Viewers, by the same mode of proceeding as is hereinbefore directed; and that if the Fence Viewers who shall have been called upon to make such subsequent award shall find no reason for making an alteration, the whole cost of such reference shall be borne by the party at whose instance it shall have been made.

Cost of subsequent award.

III. *And be it further enacted by the authority aforesaid,* That if any person or persons who may be in the occupation of any tract or parcel of land, shall neglect or refuse to make or repair (as the case may be) an equal or just proportion of the division or line fence between such tract or parcel of land and the adjoining tract or parcel of land, for a period of thirty days after being required by a demand in writing by the person or persons occupying such adjoining tract or parcel of land, or after the award of the Fence Viewers, as aforesaid, to make or repair such equal or just proportion of the division or line fence, or if the party making such demand shall for such period neglect or refuse to make or repair an equal or just proportion of the division or line fence, it shall and may be lawful for either of the said parties, after first completing his own proportion of such fence, to make or repair in a substantial manner, and of good sound materials, the whole or any part of the said division or line fence which ought to have been by the other party made or repaired, and to recover in the manner hereinafter mentioned of the person or persons who may have neglected or refused, in manner aforesaid, to make or repair such proportion of the division or line fence, the just and full value of such proportion, not exceeding the sum of two shillings and six pence per rod, to be ascertained and determined in the manner hereinafter provided: *Provided always,* that any fence coming within the meaning and intent of the resolution, resolving what shall be considered to be a lawful fence for that year, entered into by the inhabitant householders at their annual Township meeting, shall be considered by all Fence Viewers to be a lawful fence; and when the householders, as aforesaid, shall neglect or refuse to decide by such resolution what shall be a lawful fence, then and in that case it shall be lawful for such Fence Viewers, when called upon, to exercise their own judgment, and decide what they consider to be a lawful fence.

Party refusing to make or repair his proportion of division line thirty days after notice, complainant, after completing his own part, may make or repair remainder,

and recover the amount from party so refusing,

not exceeding two shillings and six pence per rod;

Township meetings to determine what shall be a lawful fence,

and in default thereof, the fence viewers to exercise their own judgment.

IV. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for any Commissioner of the Court of Requests for the division in which such fence may be situated, and he is hereby required, upon the demand of any person or persons, to issue a summons under his hand and seal, directed to three Fence Viewers (by their proper names) of the Township in which such fence is situated, requiring them to attend on the day and at the hour therein mentioned, and at a place therein mentioned, to view such fence, and to appraise the same; also, to issue his summons to the person or persons so having neglected or refused to make or repair such proportion of the division or line fence,

Commissioner of Court of Requests may issue summons to three fence viewers,

requiring their attendance, &c.;

Also to summon the party neglecting to repair to shew cause why plaintiff should not recover.

who shall thenceforth be considered as the defendant or defendants in the case, requiring him or them to appear at the same time and place, to shew cause why the person or persons claiming payment, as aforesaid, who shall thenceforth be considered as the plaintiff or plaintiffs in the case, should not recover the same.

Fence viewers duly served eight days previous, and having examined fence and received evidence,

Or any two of them, to determine whether plaintiff shall recover;

When commencement and extent of fence which such party should repair has not been previously settled, fence viewers to determine the same;

Their determination final;

Report to Commissioner of Court of Requests;

Stating extent which defendant should have made or repaired.

Fence viewers to give copy of determination before making their report.

Witnesses may be summoned;

Evidence on oath;

V. *And be it further enacted by the authority aforesaid,* That such Fence Viewers, upon being personally served at least eight days previously with such summons, at the time and place therein mentioned, and after having duly examined the fence and received evidence, which, if required by either party, or if the said Fence Viewers shall think it expedient, shall be given under oath, they, or any two of them, shall determine whether the said plaintiff is entitled to recover any, and if any, what sum, from the said defendant or defendants, under the provisions of this Act; and in all cases where the commencement or extent of the part of such division or line fence which each party should make or repair, has not been determined by the award of Fence Viewers, as aforesaid, the said Fence Viewers, or any two of them, shall determine the same; which determination shall be final and binding on the occupiers of the said tracts or parcels of land, and have the same effect as if it had been made by three Fence Viewers in the manner aforesaid; and shall report their determination upon the matters aforesaid in writing, under their hands, to the said Commissioner of the Court of Requests by whom the said summons shall have been issued; and shall also, in all cases where they determine that the said plaintiff is entitled to recover any thing from the said defendant or defendants, state what distance of fence they have determined that the said defendant or defendants should have made or repaired.

VI. *And be it further enacted by the authority aforesaid,* That the said Fence Viewers, if they shall be required by either party, before they shall have made a report, as aforesaid, of their determination to the said Commissioner of the Court of Requests, shall give to such party requiring the same a true copy of their said determination.

VII. *And be it further enacted by the authority aforesaid,* That if either of the said parties shall desire to procure the attendance of any person to give evidence before such Fence Viewers, it shall and may be lawful for the Commissioner of the Court of Requests, by whom any summons shall have been issued as aforesaid to such Fence Viewers, to issue, upon the application of either of the said parties, a summons to any person to attend as a witness before the said Fence Viewers, at the time and place mentioned in the said summons to the Fence Viewers; and that the said Fence Viewers, when met as aforesaid, at the time and place mentioned in the summons, shall be and are hereby authorised, whenever it shall be desired by either party, or they shall think it proper, to administer an oath to any person, except the parties or persons interested, whose evidence they shall wish to take, which oath shall be in the following form:

“ You do solemnly swear, that you will true answer make to such questions as may be asked of you by either of the Fence Viewers now here assembled, touching the matters which they are now to examine and determine—So help you God.”

Form of oath;

And if any person giving evidence as aforesaid under oath, shall be guilty of false swearing, he shall be deemed guilty of perjury, and upon conviction thereof, shall be liable to the same punishment and disabilities that persons convicted of perjury in other cases are now by law liable.

False swearing under this Act perjury.

VIII. *And be it further enacted by the authority aforesaid,* That the Commissioner of the Court of Requests, to whom the determination of the Fence Viewers shall be returned, as aforesaid, shall cause the same to be copied into a book kept for that purpose by the Court of Requests for the Division to which he belongs, and thereupon the said Court of Requests shall issue an execution against the goods and chattels of the said defendant or defendants, in the same manner as if the party to whom it is due had received a judgment in the Court of Requests for the sum which the said Fence Viewers shall have determined, as aforesaid, he was entitled to receive; and also, (if the said sum amounts to more than two pounds, but not otherwise) for the costs he may have necessarily incurred in the recovery thereof, and when such sum shall not amount as aforesaid to more than two pounds, then the other party shall be entitled to an execution from said Court of Requests against the goods and chattels of the plaintiff or plaintiffs, for the costs he may necessarily have been put to in opposing the plaintiff's claim; the amount of the said costs in either case to be determined by the said Court of Requests: *Provided*, that when the said sum shall amount to more than two shillings and sixpence per rod for the length of fence which such Fence Viewers shall have determined such defendant or defendants ought to have made or repaired, the said plaintiff shall be entitled to recover and have execution for only the sum of two shillings and sixpence per rod, as aforesaid, and his costs: *Provided also*, that no such writ of execution shall be issued until after the expiration of forty days from the time of such determination.

Reports to be copied into a book by Commissioner of Court of Requests; who may issue execution against defendant for amount determined against him;

With costs, if the sum exceeds two pounds;

When defendant entitled to execution against plaintiff for costs of opposing his claim;

Costs determined by Court of Requests;

Execution not to issue for more than two shillings and six pence per rod;

Not to issue until forty days from time of such determination.

IX. *And be it further enacted by the authority aforesaid,* That all and every of such Fence Viewers shall be entitled to receive the sum of five shillings for every day they are necessarily engaged in discharging the duties imposed upon them by this Act, and so in proportion for any time less than one day, and no more; and that every witness who shall be summoned, and attend as aforesaid, before such Fence Viewers, shall be entitled to receive two shillings and six pence per day; and every Commissioner of the Court of Requests, and Bailiff, shall be entitled to receive for any service performed under this Act the same fees which they are respectively entitled to receive for similar services in the Court of Requests.

Fence viewers entitled to five shillings per day while necessarily engaged;

And witnesses to two shillings and six pence per day;

Fees to Commissioners and Bailiff for services under this Act.

Penalty on fence viewers for refusing to act;

X. *And be it further enacted by the authority aforesaid,* That any Fence Viewers, legally holding the office of Fence Viewers, who shall neglect or refuse to perform the duties of his office, shall forfeit for every neglect, to any person who may sue for the same, a sum not exceeding forty shillings, with costs of suit, to be recovered upon information and complaint before any one of the Justices of the Peace for the District in which such Fence Viewer was chosen, and to be levied by distress under a warrant issued by such Justice.

Recoverable before one Justice.

Party ceasing to improve land not entitled to take away any part of partition fence;

XI. *And be it further enacted by the authority aforesaid,* That when any party shall cease to improve his land, or shall lay his enclosure, before under improvement, in common, he shall not have a right to take away any part of the partition fence that to him belongs adjoining to the next enclosure that is improved or occupied: *Provided* the party occupying the lands adjoining the same will allow and pay therefor so much as the Fence Viewers, or a majority of them, shall in writing determine to be the reasonable value thereof; and whenever any lands which have laid unimproved and in common shall be afterwards enclosed or improved, the occupier or occupiers thereof shall pay for their fair or just proportion of the division or line fence standing upon the divisional line between the same land and the land of the enclosure of any other occupant or proprietor, the value thereof to be ascertained and set forth in writing by three Fence Viewers, in case the parties shall not agree among themselves, and the amount of said value to be recovered according to the proportions so estimated, in the same manner and form as hereinbefore provided respecting the making and keeping in repair division or line fences.

Provided the other party pay the value, as determined by fence viewers;

Occupier of unimproved lands afterwards enclosed to pay for proportion of existing division fence;

To be ascertained by fence viewers.

No part of division fence to be removed unless the other party refuse to pay for the same;

XII. *And be it further enacted by the authority aforesaid,* That in no case shall any person be authorised to take away any part of the partition fence that to him belongs, adjoining to the next enclosure that is improved or occupied, unless the party occupying the lands adjoining the same refuse to pay for the same, as aforesaid; nor without first giving due notice to such party for at least twelve months previously to the removal of the same.

Nor without twelve months notice.

Proceedings in case of water fences to be had in similar manner.

XIII. *And be it further enacted by the authority aforesaid,* That when a water fence, or a fence running into the water, is necessary to be made, the same shall be done in equal parts, unless by the parties otherwise agreed; and in case either party shall refuse or neglect to make or maintain the share to such party belonging, similar proceedings shall or may be had as in other cases of the like kind respecting fences out of the water in this Act mentioned.

Brook, creek, &c. not in itself a sufficient fence, may be submitted to fence viewers;

XIV. *And be it further enacted by the authority aforesaid,* That when lands belonging to or occupied by different persons, and subject to be fenced and bounded upon or divided from each other by any brook, pond or creek, which of itself is not a sufficient fence, in such case, if the par-

ties disagree, the same may be submitted to three Fence Viewers, as heretofore provided in cases of disagreement; and if in the opinion of such Fence Viewers such brook, river, pond or creek, is not of itself a sufficient fence, and that it is impracticable to fence at the true boundary line, they shall judge and determine how or on which side thereof the fence shall be set up and maintained, or whether partly on one side and partly on the other side, as to them shall appear just, and reduce such their determination to writing, as heretofore provided in other cases; and if either of the parties shall refuse or neglect to make up and maintain the part of the fence to such party belonging, according to the Fence Viewers' determination in writing, as aforesaid, the same may be done and performed as is in this Act before provided in other cases, and the delinquent party shall be subject to the same costs and charges, and to be recovered in like manner.

Who shall determine on kind of fence to be added;

Party refusing to do his part subject to liabilities as hereinbefore provided;

And to the like costs and charges.

XV. *And be it further enacted by the authority aforesaid,* That in all cases where any party shall desire to have a lane between his land and any adjoining tract or parcel of land, and shall make the fence on one side of the said lane on his own land, he shall not be obliged to make or repair, or pay for making or repairing any part of the fence on the other side of such lane, any thing herein contained to the contrary in any wise notwithstanding.

Person making a fence adjoining a lane not liable to make any fence on the other side of such lane.

XVI. *And whereas* it is expedient to provide for the opening of water courses in this Province, *be it therefore enacted by the authority aforesaid,* That in all cases when it shall be the joint interest of parties resident within this Province to open a ditch or water course, for the purpose of letting off surplus water from swamps or sunken miry lands, in order to enable the owners or occupiers of such swampy or sunken land to cultivate or improve the same, it shall be the duty of such several parties to open a just and fair share of such ditch or water course in proportion to the several interests that such parties may have in the same; and in cases where a dispute shall or may arise as to the part, width, depth or extent, that any party so interested ought to open or make, the same may be referred to three Fence Viewers, in the same way and manner as is heretofore by this Act provided in cases of disputes between parties relative to line or division fences; and it shall be the duty of such Fence Viewers, to whom such matters shall be referred, to divide or apportion such ditch or water course among the several parties, as in the opinion of such Fence Viewers shall be a just and equitable proportion, having due regard to the interest each of the parties shall have in the opening of such ditch or water course; and the Fence Viewers shall at the same time decide what length of time shall be allowed to each of the parties to open his or her share of such ditch, and the determination or award of such Fence Viewers shall be made in the same form, and signed and executed in the same manner, and have the same effect in regard to ditches or water courses, as is provided by this Act in regard to line or division fences.

Drains to be made in proportion to the several interests of the parties benefited;

Disputes to be settled by fence viewers in manner prescribed with regard to line fences;

Fence viewers to apportion the drains among the several parties;

And to decide in what time, each party is to open his portion;

Award in same form as in case of fences.

Drains may be opened at their own expense by parties interested across lands of persons not interested.

XVII. *And be it further enacted by the authority aforesaid,* That when it shall appear to such Fence Viewers that the owner or occupier of any tract or parcel of land is not sufficiently interested in the opening of such ditch to make him a party, and at the same time that it is necessary that such ditch should be continued across his land by the other party or parties, at their own expense, they may award the same in manner and form aforesaid, and upon such award, such party or parties may lawfully, and without molestation, open such ditch or water course across such land, as aforesaid, at their own expense.

Any party neglecting to open his share within time allowed, the other, after completing his own share, may do so:

XVIII. *And be it further enacted by the authority aforesaid,* That if any party shall neglect or refuse to open or make and keep open his share or proportion allotted or awarded to him by such Fence Viewers, as aforesaid, within the time allowed by such Fence Viewers, either of the other parties may, after first completing his own share or proportion allotted to him in manner aforesaid, open the share or proportion allotted to such party neglecting or refusing to open the same; and such party so opening such other parties share shall be entitled to recover the value thereof from the party so neglecting or refusing to open his share or proportion, in the same way and manner and form as is in this Act provided relative to line and division fences.

Value may be recovered from party neglecting.

Appropriation of fines paid under this Act;

XIX. *And be it further enacted by the authority aforesaid,* That all fines levied under the provisions of this Act shall be by the Justice or Justices of the Peace by whom the same may be imposed and collected, paid over to the Overseer or Overseers of Highways in the division wherein such fine or fines shall have been levied; and such Overseer or Overseers are hereby authorised and required to expend the same in the same manner as other monies coming to their hands to be expended on the Highways, and shall render an account thereof, within three months after expenditure thereof, to the Justices in Quarter Sessions assembled.

To be expended on highways

Duration of this Act. (Made permanent by 2 Vic. Chap. 15.)

XX. *And be it further enacted by the authority aforesaid,* That this Act shall be and continue in force for four years, and from thence to the end of the next ensuing Session of Parliament, and no longer.

So much of 33 Geo. III. Chap. 2, Sec. 5, as relates to fence viewers, repealed.

XXI. *And be it further enacted by the authority aforesaid,* That so much of the fifth clause of an Act of the Parliament of this Province, passed in the thirty-third year of the reign of King George the Third, intituled, "An Act to provide for the nomination and appointment of Parish and Town Officers within this Province," as provides that persons chosen to be Overseers of Highways and Roads shall also serve the office of Fence Viewers, shall be, and the same is hereby repealed; and that whatever duties that were before the passing of this Act directed to be performed by such Overseers of Highways and Roads, in relation to fences, shall hereafter be performed by the persons chosen to be Fence Viewers under the authority of this Act.

CHAP. XIII.

AN ACT for the relief of certain Religious Denominations of persons called Menonists, Tunkers and Quakers.

[Passed 6th March, 1834.]

[REPEALED BY 1 VIC. CHAP. 8, & 2 VIC. CHAP. 9.—SEE ALSO, STATUTES OF CANADA, 4 & 5 VIC. CHAP. 2.]

CHAP. XIV.

AN ACT to repeal part of and amend an Act passed in the fourth year of the reign of His late Majesty George the Fourth, intituled, "An Act to repeal the several Statutes of this Province respecting the Elections of Members of the House of Assembly, and the qualification of Voters and Candidates at such Elections, and to reduce the provisions thereof, with some amendments, into one Act, and also to provide against fraud in obtaining qualifications to vote at Elections."

[Passed 6th March, 1834.]

WHEREAS the laws now in force relating to the qualification of voters at elections are defective; *And whereas* there are many loyal and faithful subjects of His Majesty residing out of His dominions, many of whom are so resident with the approbation and consent of His Majesty; *And whereas* any of the said subjects coming to reside in this Province would be deprived of the privilege of voting at any election of a member to represent any Town, County or Riding in this Province, although possessed of the necessary freehold qualification for the purpose, until after a residence in this Province of seven years next preceding such election; *And whereas* it is expedient to remove such disability from His Majesty's subjects: *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 twelfth clause of an Act passed in the fourth year of the reign of His late Majesty George the Fourth, intituled, "An Act to repeal the several Statutes of this Province respecting the elections of members

Preamble.

(See Act of Union, Sec. 27.)

4 Geo. IV. Chap. 3, Secs. 12 and 13, repealed.

of the House of Assembly, and the qualification of voters and candidates at such elections, and to reduce the provisions thereof, with some amendments, into one Act, and also to provide against fraud in obtaining qualifications to vote at elections," shall be and the same is hereby repealed.

II. *And be it further enacted by the authority aforesaid,* That the fifteenth clause of the said Act passed in the fourth year of His said late Majesty's reign, be and the same is hereby repealed.

Before any elector shall vote, he shall, if required, take the following oath, in addition to that prescribed by 31 Geo. III. Chap. 31:

III. *And be it further enacted by the authority aforesaid,* That before any elector shall vote at any election of a member or members of the House of Assembly of this Province, he shall, if required by the Returning Officer or any candidate at such election, in addition to the oath required by the Act of the Parliament of Great Britain, passed in the thirty-first year of the reign of 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," take an oath in the following form, that is to say:

Form of Oath.

I, A. B., do swear, that the estate in right of which I vote at this election is [here describe the estate as the case may be] which I hold by grant from the Crown, descent, devise, marriage or conveyance, [as the case may be.] and [in case such estate shall have been derived otherwise than by grant from the Crown, descent, marriage or devise,] that I have been in actual possession, or in the receipt of the rents and profits thereof to my own use, by virtue of such conveyance, above twelve calendar months, or [as the case may be,] that the conveyance to me of the same has been registered three calendar months.

CHAP. XV.

AN ACT to attach certain Townships in the District of Newcastle to the Counties of Northumberland and Durham, respectively.

[Passed 6th March, 1834.]

Preamble
(See Act of Union, Sec. 11)

WHEREAS there are several townships in the District of Newcastle which are not attached to or included within any County of the same: *And whereas* there are many inhabitants settled in those townships, and it is therefore desirable to annex the same to some adjoining County: *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 townships of Ennismore, Harvey, Douro, Dummer, Belmont, Burleigh and Methuen, be annexed to and form part of the County of Northumberland; and that the townships of Verulam, Fenelon and Eldon, be annexed to and form part of the County of Durham.

Ennismore, Harvey, Douro, Dummer, Belmont, Burleigh and Methuen, annexed to County Northumberland; Verulam, Fenelon and Eldon, to Durham.

CHAP. XVI.

AN ACT concerning the release of Mortgages.

[Passed 6th March, 1834.]

WHEREAS it may have happened that by reason of the non-payment of the sum of money, or of the non-performance of the condition mentioned in any Mortgage, at the time therein limited for payment or for performance of the same, the original estate in law may have become vested in the Mortgagee, his heirs or assigns: *And whereas* after such estate shall so have become vested, the money secured by such Mortgage or the condition therein expressed as a defeasance of the same, may have been paid or performed, respectively, and the Mortgagee, his executors, administrators or assigns, may have executed a certificate of payment or performance of the condition of such Mortgage: *And whereas*, such certificate so given does not in law operate as a re-conveyance of the original estate of such Mortgagor, or as a release or defeasance of such Mortgage; *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 any certificate by any Mortgagee, his heirs, executors, administrators or assigns, heretofore given and registered under the provisions of an Act passed in the thirty-fifth year of the reign of His Majesty King George the Third, 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 the Province," or which may be hereafter registered under the provisions of this Act, whether the same shall have

Preamble.

Mortgagee's certificate under 35 Geo. III. Chap. 5, to operate as a valid release and re-conveyance;

If given after expiration
of time for redemption,

been given or shall hereafter be given, either before or after the time limited by such Mortgage for payment or performance, as aforesaid, shall be and the same is hereby declared to be valid and effectual in law, as a release of such Mortgage, and as a re-conveyance of the original estate of the Mortgagor therein mentioned: *Provided* that such certificate, if given after the expiration of the period within which the Mortgagor had a right in equity to redeem, shall not have the effect of defeating any title other than a title remaining vested in the Mortgagee, or his heirs, executors or administrators.

CHAP. XVII.

AN ACT to declare what Fees shall be received by Justices of the Peace for the duties therein mentioned.

[Passed 6th March, 1834.]

Preamble.

WHEREAS it is expedient that the fees to be taken by Justices of the Peace for the services hereinafter mentioned should be ascertained and authorised by law: *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, the following fees, and no more, shall be taken from the parties prosecuting by Justices of the Peace in this Province, or by their Clerks, for the duties and services hereinafter mentioned, that is to say:

Fees receivable by Jus-
tices of the Peace, or
their Clerks.

For an information and warrant for apprehension for an assault or other misdemeanor—three shillings and nine pence.

For discharge of the defendant—one shilling and three pence.

For information and warrant for surety of the Peace—three shillings and nine pence.

For discharge of the defendant—one shilling and three pence.

For every recognizance—two shillings and six pence.

For every information, besides that of the complainant—one shilling and three pence.

For warrant of commitment—two shillings and six pence.

II. *And be it further enacted by the authority aforesaid,* That the costs to be charged in cases of convictions under penal Statutes, when the fees

are not expressly prescribed by any Statute, shall be as follows, that is to say :

For information and warrant of summons—three shillings and nine pence.

For every subpoena to a witness—six pence.

For every conviction under a penal Statute—seven shillings and six pence.

For warrant to levy a penalty—two shillings and six pence.

For making up every record of conviction, when the same is required to be returned to the Sessions, or on certiorari—ten shillings.

For every certificate of dismissal of any charge under the Act providing for the summary punishment of petty trespasses and other offences—two shillings and six pence.

Provided also nevertheless, that in such cases as admit of a summary proceeding before a single Justice of the Peace, and wherein no higher penalty than five pounds can be imposed, the sum of two shillings and six pence only shall be charged for the conviction, and two shillings and six pence for the warrant to levy the penalty,

CHAP. XVIII.

An ACT to prevent the consumption of Spirituous Liquors in Shops.

[Passed 6th March, 1834.]

WHEREAS doubts are entertained whether by law Shopkeepers licenced to sell wine, brandy, rum and other spirituous liquors, are prohibited from allowing the same to be consumed within their Shops, notwithstanding the licence granted for that purpose declares that the same shall be consumed out of the Shop; *And whereas* it is expedient that such doubts should be set at rest: *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 Shopkeeper licenced to sell wine, brandy, rum or other spirituous liquors, shall allow any wine, brandy, rum or other spirituous liquors sold by him, to be consumed within his Shop, or within the building of which such Shop is part, either by the purchaser thereof or by any other person not usually resident within the building comprising such Shop.

Preamble.

(See 2 Vic. Chap. 26.)

No licenced shop keeper to allow spirituous liquors to be consumed within his shop or building.

Penalty:

II. *And be it further enacted by the authority aforesaid,* That if any Shopkeeper licenced to sell wine, brandy, rum or other spirituous liquor, shall allow the wine, brandy, rum or other spirituous liquor sold by him, or any part thereof, to be consumed within his Shop, or within the building of which such Shop is part, either by the purchaser thereof or any other person not usually resident within the building comprising such Shop, he, she or they shall, upon conviction thereof before any three Justices of the Peace within the District where the offence may have been committed, upon the oath of one credible witness, other than the informer, forfeit and pay the sum of five pounds, together with costs of suit, to be recovered and applied in the same manner and form as the penalty imposed for selling spirituous liquors by retail without licence.

May be recovered before three Justices;

Application of fine.

III. *And be it further enacted by the authority aforesaid,* That if any person or persons who shall have purchased any wine, brandy, rum or other spirituous liquor, from any Shop, shall consume the same or any part thereof, or allow the same or any part thereof to be consumed in the Shop or any part of the building comprising such Shop, without the permission of such Shopkeeper or person in charge of such Shop, then and in such case, the person so offending shall be liable to the same penalties, to be recovered and applied in the same manner as hereinbefore provided, in respect to any Shopkeeper who shall be convicted of an offence under this Act.

Purchaser consuming spirits, &c. within the shop or building liable to the same penalty.

Justices may consider the intentions of the parties,

IV. *Provided always, and be it further enacted by the authority aforesaid,* That if it shall appear to the Magistrates before whom any person shall be prosecuted under this Act, that such person did not intend to violate the provisions of this Act, then no penalty shall in such case be imposed.

Prosecution must be within six months.

V. *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 shall have elapsed from the time the offence was committed.

Act to continue in force four years.
(Made perpetual by 2 Vic. Chap. 26.)

VI. *And be it further enacted by the authority aforesaid,* That this Act shall be and remain in force for the space of four years, and from thence to the end of the then next ensuing Session of Parliament, and no longer.

CHAP. XIX.

AN ACT to establish the present Survey of certain Side Lines in the Second Concession West of Green Point, in the Township of Sophiasburgh.

[Passed 6th March, 1834.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XX.

AN ACT relating to the Survey of the Gore between Fredericksburgh and Ernestown, in the Midland District.

[Passed 6th March, 1834.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXI.

AN ACT to provide for establishing the Concession Lines in the Township of Louth, in the District of Niagara.

[Passed 6th March, 1834.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXII.

AN ACT to authorise the Niagara Canal Company to make a Canal navigable by Schooners to lead from the Welland Canal into the River Niagara.

[Passed 6th March, 1834.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXIII.

AN ACT to extend the Limits of the Town of York; to erect the said Town into a City; and to Incorporate it under the name of the City of Toronto.

[Passed 6th March, 1834.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXIV.

AN ACT to establish a Board of Police in the Town of Belleville.

[Passed 6th March, 1834.]

[REPEALED BY 6 WILLIAM IV. CHAP. 14.]

CHAP. XXV.

AN ACT to establish a Police in the Town of Cornwall, in the Eastern District.

[Passed 6th March, 1834.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXVI.

AN ACT to define the limits of the Town of Port Hope, and to establish a Police therein.

[Passed 6th March, 1834.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXVII.

AN ACT to incorporate the Village of Prescott, and to establish an Elective Police therein.

[Passed 6th March, 1834.]

[See Local and Private Acts, in 2nd Volume.]

CHAP.

CHAP. XXVIII.

AN ACT to incorporate certain persons under the style and title of the Cobourg Rail Road Company.

[Passed 6th March, 1834.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXIX.

AN ACT to incorporate certain persons under the style and title of the London and Gore Rail Road Company.

[Passed 6th March, 1834.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXX.

AN ACT to incorporate certain persons under the style and title of the President, Directors and Company, of the Port Hope and Rice Lake Canal Company.

[Passed 6th March, 1834.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXI.

AN ACT to incorporate certain persons therein mentioned under the style and title of the Richmond Canal Company.

[Passed 6th March, 1834.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXII.

AN ACT to incorporate certain persons therein mentioned under the style and title of the President, Directors and Company, of the Credit Harbour.

[Passed 6th March, 1834.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXIII.

AN ACT to incorporate certain persons by the name of the Bath School Society, and for other purposes therein mentioned.

[Passed 6th March, 1834.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXIV.

AN ACT to authorise the construction of a Road from Hamilton, in the Gore District, to Port Dover, in the London District.

[Passed 6th March, 1834.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXV.

AN ACT for the construction of Piers at the Isthmus of Long Point, on Lake Erie.

[Passed 6th March, 1834.]

Preamble; Commissioners to be authorised to erect piers for securing opening across Long Point. 2. Commissioners to be appointed by Governor, &c. 3. Three thousand pounds granted to defray the expenses. 4. Account to be rendered on or before 1st January, 1835; To be laid before Legislature. 5. Contracts not to exceed sum granted; Tenders to be advertised for; Three per cent allowed to Superintendent on amount expended.

CHAP. XXXVI.

AN ACT to authorise Richard Tunks, to erect a Mill Dam upon the River Thames, in the London District.

[Passed 6th March, 1834.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXVII.

AN ACT to provide for the Maintenance and Government of the Provincial Penitentiary, erected near Kingston, in the Midland District.

[Passed 6th March, 1834.]

WHEREAS if many offenders convicted of crimes were ordered to solitary imprisonment, accompanied by well regulated labour and religious instruction, it might be the means under Providence, not only of deterring others from the commission of like crimes, but also of reforming the individuals, and inuring them to habits of industry: *And whereas* it is expedient to provide for the maintenance and good government of the Provincial Penitentiary erected near Kingston, in the Midland District, and to define the general powers and duties of the officers who are to be connected therewith: *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 Penitentiary shall be under the direction of five Inspectors, to be appointed by the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, immediately after the passing of this Act, and to hold their office during pleasure; and that the said Board of Inspectors shall, from time to time, choose one of their number to be their President; and shall have full power and authority to make all necessary rules and regulations respecting the discipline and police of the said Penitentiary.

Preamble.

(See 5 Wm. IV. Chap. 42;
1 Vic. Chaps. 53 & 54;
2 Vic. Chap. 65;
3 Vic. Chap. 59;
Statutes of Canada, 4 & 5
Vic. Chap. 69.)

Penitentiary to be under direction of five Inspectors to be appointed by the Governor;

Board of Inspectors to choose a President;

And make rules for discipline of the Penitentiary.

II. *And be it further enacted by the authority aforesaid*, That the Inspectors of the said Penitentiary shall have power, and it shall be their duty from time to time, to examine and inquire into all matters connected

Duty of Inspectors.

with the government, discipline and police of the said Penitentiary; the punishment and employment of the prisoners therein confined; the financial concerns and contracts for work; and the purchases and sales of the articles provided for such Penitentiary, or sold on account thereof; and that they may from time to time require reports from the Warden or other officers of the Penitentiary, in relation to any or all of the said matters.

Inspectors to inquire into charges against Warden and officers;

May subpoena witnesses;

And examine on oath.

III. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the said Board of Inspectors to inquire into any improper conduct which may have been alleged to have been committed by the Warden or other officers of the said Penitentiary; and for that purpose they shall have power to issue subpoenas to compel the attendance of witnesses, and the production of papers and writings before them; and that any witnesses who shall appear before them may be examined on oath, to be administered by the President of the Board.

Perjury under this Act.

IV. *And be it further enacted by the authority aforesaid,* That any witness or witnesses who shall wilfully and corruptly forswear themselves, such witness or witnesses shall on conviction suffer the pains and penalties inflicted on persons guilty of wilful and corrupt perjury.

Warden to admit Inspectors;

And exhibit books and accounts.

V. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Warden and other officers of the said Penitentiary, to admit the Inspectors of such Penitentiary, or any of them, into every part of said Penitentiary; to exhibit to them on demand, all the books, papers, accounts and writings, pertaining to the Penitentiary, or to the business, management, discipline and government thereof, and to render them every facility in their power to enable them to discharge their several duties.

Board to keep minutes of their proceedings;

To meet once in two months and make annual report;

Inspector not to hold other office in the Penitentiary.

VI. *And be it further enacted by the authority aforesaid,* That the Board of Inspectors shall keep regular minutes of its meetings and proceedings, which shall be signed by the members of the Board, and preserved in the Penitentiary; and it shall be the duty of the said Board of Inspectors to meet once in every two months at the Penitentiary, and then to inspect the same; and they shall annually, on or before the first day of November, make a report to the Legislature of the state and condition of the said Penitentiary; of the prisoners confined therein; of the monies expended and received, and generally of all their proceedings during the past year: *Provided always,* that no Inspector of the said Penitentiary shall be Warden thereof, or be concerned in the business of such Warden, or hold any other appointment connected with the Penitentiary.

Officers;
Warden;
Clerk, Chaplain, Physician, Deputy Warden, Keepers;
(See 4 & 5 Vic. Chap. 69, Sec. 5)

VII. *And be it further enacted by the authority aforesaid,* That the Officers of the said Penitentiary shall be as follows: one Warden or Principal Superintendent, who shall reside at or near the Penitentiary; one Clerk; one Chaplain; one Physician and Surgeon; one Deputy

Warden, who shall also reside at or near the Penitentiary; and not exceeding twenty Keepers; such Clerk and Keepers to be appointed by the Board of Inspectors, and to hold office during pleasure; and the Warden, Chaplain, Physician and Deputy Warden, to be appointed by the Governor, Lieutenant-Governor, or Person Administering the Government of the Province, and to hold their respective offices during pleasure.

Clerks, &c. to be appointed by Board;

Warden, &c. by the Governor.

VIII. *And be it further enacted by the authority aforesaid,* That the Governor, Lieutenant-Governor, or Person Administering the Government, is hereby authorised to procure a Guard, which said Guard, while on duty at the Penitentiary shall be subject to the orders of the Warden or his Deputy.

Guard.

{See 3 Vic. Ch. 59. Sec. 4}

IX. *And be it further enacted by the authority aforesaid,* That the Warden of said Penitentiary, before entering on the duties of his office, shall execute a bond to His Majesty, with sufficient sureties, to be approved by the Inspectors of the Penitentiary, in the penal sum of two thousand pounds, conditioned for the faithful performance of the duties of his office according to law, which bond shall be according to the form annexed, and shall be filed in the office of the Secretary of the Province; and the said Warden, Clerk, Deputy Warden and Keepers of said Penitentiary shall, before they enter on the duties of their respective offices, severally take and subscribe, *before the Chairman of the Quarter Sessions of the Midland District,* the following oath of office, such oath to be filed in the office of the Clerk of the Peace of the said District:

Warden's bond, £2000.

{See 3 Vic. Ch. 59, Sec. 5}

"I, A. B., do promise and swear, that I will faithfully, diligently and justly, serve and perform the office and duties of ———, of the Provincial Penitentiary in Upper Canada, according to the best of my abilities.— So help me God."

Oath of office.

X. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the said Warden, or his Deputy, to attend constantly at the Penitentiary, except when performing some other necessary duty connected with his office; to exercise a general supervision over the government, discipline and police of the said Penitentiary; to give the necessary directions to the Keepers, and to examine daily into the state of the Penitentiary, and the health, conduct and safe keeping of the prisoners; to use every proper means to furnish such prisoners with employment the most beneficial to the public, and the best suited to their various capacities; and to superintend all the manufacturing and mechanical business that may be carried on within the Penitentiary; to receive the articles so manufactured, and to sell and dispose of the same for the benefit of the Province, when the labour of the convicts is not let out by contract.

Duty of Warden.

{See 4 & 5 Vic. Chap. 69, Sec. 4}

XI. *And be it further enacted by the authority aforesaid,* That all transactions and dealings on account of the said Penitentiary, shall be conducted by and in the name of the Warden, who shall be capable in law

All transactions on account of Penitentiary to be in name of the Warden;

{See 4 & 5 Vic. Chap. 69, Sec. 4}

of suing and being sued in all Courts and places, and in all matters concerning the said Penitentiary, by his name of office of "Warden of the Provincial Penitentiary in Upper Canada;" and by that name the said Warden shall be and is hereby authorised to sue for and recover all sums of money that may become due from any person to the Province on account of the said Penitentiary; and it shall be the duty of the said Warden to enforce the payment of all debts due to the Institution under his charge, as soon and with as little expense to the Province as possible; but he may, with the approbation of the Inspectors, accept of such security from any debtor, on granting time, as may be conducive to the interests of the Province.

Disputed claims to be referred to arbitration.

XII. *And be it further enacted by the authority aforesaid,* That whenever any controversy shall arise relative to any claim or demand which any person may have against the said Warden, or relative to any claim or demand which the said Warden may have against any person on account of the Penitentiary, such controversy may be referred to the arbitration of two or more persons, mutually chosen by such Warden and the person with whom such controversy may exist.

Warden to make contracts for labour of convicts:

Upon such terms as he shall deem beneficial;

Counterpart to be filed with Clerk of the Penitentiary.

XIII. *And be it further enacted by the authority aforesaid,* That whenever the Inspectors of said Penitentiary shall so direct, it shall be the duty of the Warden of the said Penitentiary to make contracts from time to time for the labour of the convicts confined therein, or of any of the said convicts, with such persons and upon such terms as may be deemed by the said Warden most beneficial to the Province; and all contracts so to be made shall be reduced to writing, and a counterpart or copy of every such contract shall be filed with the Clerk of the Penitentiary, and a copy thereof shall be delivered to the Inspectors.

Contracts for supply of provisions;

To be made annually or semi-annually;

At a fixed price for each prisoner;

Daily rations:

Notice for tenders:

XIV. *And be it further enacted by the authority aforesaid,* That the prisoners confined in the said Penitentiary shall be supplied with provisions by contract, unless the Inspectors shall otherwise direct; which contract shall be made by the Warden, annually or semi-annually, under direction of the Inspectors, with such persons as may be willing to accept the lowest terms, at a fixed price per day for each prisoner; the articles of food, and the quantities of each kind, to be prescribed by the Inspectors, and inserted in the contract; and so many rations shall be delivered at the Penitentiary daily, or at such other times as may be agreed on, as there are convicts confined therein; and for the purpose of ascertaining who will furnish supplies on the lowest terms, the Warden shall cause a notice to be published in two of the newspapers printed in the District in which the Penitentiary is situated, and in such other newspapers and for such time as the Inspectors shall direct, stating the particular supplies wanted, the manner in which they are to be delivered, and the time during which proposals will be received by such Warden for furnishing the same; the proposals to be offered, pursuant to such notice, shall specify the lowest price per ration per day, and the contracts shall be made with

those persons whose terms shall be the most advantageous to the Province, and who shall give satisfactory security for the performance of their contracts, unless the Inspectors shall deem it expedient to decline all the proposals and advertise anew.

Security to be given for performance of contract.

XV. *And be it further enacted by the authority aforesaid,* That the necessary medicines and other hospital stores, for the use of the Penitentiary, shall be purchased from time to time, as may be requisite, by the Warden of the Penitentiary, with the advice of a Physician, and under the direction of the Inspectors.

Medicines and Hospital stores.

XVI. *And be it further enacted by the authority aforesaid,* That the Warden may purchase such raw materials as may be necessary to be manufactured by the convicts in the Penitentiary, and to be paid for by the said Warden out of any money in his hands belonging to the Province; and whenever any supplies or materials for the Penitentiary shall be purchased, it shall be the duty of the Warden to take bills thereof at the time of such purchase, and the Clerk shall compare such bills with the articles delivered at the Penitentiary, and if found to be correct, shall enter them in books to be provided for the purpose; and whenever any services shall be rendered for the said Penitentiary, it shall in like manner be the duty of the Warden to take bills thereof at the time of making payment therefor, every such bill to be entered by the Clerk in the books of the Penitentiary, unless he shall know or have reason to believe that such bills are erroneous.

Raw materials to be purchased by the Warden;

Bills to be compared with articles delivered, and entered by Clerk;

Bills for services rendered to be taken by Warden at time of payment.

XVII. *And be it further enacted by the authority aforesaid,* That no Inspector, Warden, or other officer or person employed at the Penitentiary, shall be directly or indirectly interested in any contract, purchase or sale, for by or on account of said Penitentiary, under the penalty of one hundred pounds, to be recovered by action of debt in any of His Majesty's Courts in this Province; which penalty so recovered shall be paid into the hands of His Majesty's Receiver-General, for the public uses of the Province.

No Inspector, Warden or Officer, to be interested in any contract;

Under penalty of £100.

XVIII. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the said Warden to keep a regular and correct account of all monies received by him from any source whatever, by virtue of his office, including all monies taken from convicts, or received as the proceeds of property taken from them, and of all sums paid by him, and the persons to whom and the purposes for which the same were paid; and to make out and deliver to the Inspectors, or one of them, monthly, on oath, a return of all monies received by him on account of the Penitentiary during the preceding month, specifying from whom received and to whom paid, and on what account, and stating also the balance in his hands at the time of rendering such account.

Warden to keep account of money received and paid;

And deliver monthly returns on oath.

Warden to close his accounts annually, on 1st October, and by the 1st of November render to the Governor a full account, to be laid before the Legislature;

Also an inventory of property on hand;

With affidavits of their correctness.

Warden to transmit to Inspectors annual report of proceedings;

Number of convicts, &c.;

And profits.

No perquisites or emoluments to be received other than provided by this Act.

(Repealed by 1 Vic. Ch. 53)

Annual report to the Governor of convicts discharged, and particulars relating to their offences, &c.

Deputy Warden to supply the place of Warden in his absence.

(See 4 & 5 Vic. Chap. 69, Sec. 5.)

XIX. *And be it further enacted by the authority aforesaid,* That the said Warden shall annually close his account on the first day of October in every year; and on or before the first day of November thereafter shall render to the Governor, Lieutenant-Governor, or Person Administering the Government, to be laid before the Legislature, a full and true account of all monies received by him on account of the Penitentiary, and of all monies expended by him for the uses thereof, with sufficient vouchers for the same; and also an inventory of the goods, raw materials, and other property of the Province on hand, exhibiting a complete detail of the transactions of the Penitentiary for the year; and to the several returns, accounts and inventories required to be rendered by the preceding clauses, there shall be annexed an affidavit of the Warden and Clerk of the Penitentiary, stating that the same are correct and true in every respect, to the best of their knowledge and belief.

XX. *And be it further enacted by the authority aforesaid,* That the Warden shall, on or before the fifteenth of October in every year, transmit to the Inspectors of the Penitentiary a report, exhibiting a complete and comprehensive view of the transactions of the Penitentiary during the preceding year; of the number of convicts confined therein; the various branches of business in which they are employed; the number employed in each branch; and the profits to the Province, if any, arising therefrom.

XXI. *And be it further enacted by the authority aforesaid,* That the Warden, Deputy Warden, Keepers and other officers of the Penitentiary, shall not receive any perquisites or emoluments for their services, other than the compensation provided by this Act; except that the Warden and his Deputy shall be provided with dwellings at or near the Penitentiary, and shall be furnished with fuel and candles from the stock provided for the use of the Province, *and with servants from among the convicts, if they shall think proper.*

XXII. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the said Warden annually, on or before the first day of October in each year, to make a report to the Governor, Lieutenant-Governor, or Person Administering the Government of the Province, of the names of the convicts discharged in the preceding year from the said Penitentiary, either by pardon or upon the expiration of the term for which they were respectively to be confined; the Districts in which they were tried; the crimes for which they were convicted; the terms of time for which they were severally committed; the ages and description of their persons; and in cases of pardons, the terms unexpired of the time for which such convicts were respectively sentenced; when such pardons were granted, and the conditions, if any, upon which they were granted.

XXIII. *And be it further enacted by the authority aforesaid,* That whenever there shall exist a vacancy in the office of Warden of the said Penitentiary, or when the Warden shall be absent from the Penitentiary, all

the duties and powers of said Warden, so far as the same relate to the safe keeping of the prisoners and the discipline of the Penitentiary, shall devolve upon and be executed by the Deputy Warden of said Penitentiary, until such vacancy be filled, or the Warden return to the Penitentiary.

XXIV. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Physician of the said Penitentiary, to keep a register of all the sick convicts placed under his care, stating the disease with which they are or were afflicted, and the date of their entering and leaving the hospital; also, a register of the deceased convicts, stating their names, ages, time and cause of death, and all other circumstances which they may deem necessary; which register shall always remain at the Penitentiary, and be open for inspection.

Duty of Physician as to register of the sick, &c.

XXV. *And be it further enacted by the authority aforesaid,* That all books of account, registers, returns, and other documents and papers relating to the affairs of the Penitentiary, shall be considered as public property, and remain therein; and the Warden of the said Penitentiary shall preserve therein at least one set of copies of all official reports made to the Legislature respecting the same, for which purpose a suitable number of such reports, when printed, shall be supplied to him.

Books of account.

XXVI. *And be it further enacted by the authority aforesaid,* That the Warden of the Penitentiary shall receive annually the sum of *two hundred pounds*; and the Deputy Warden the annual sum of one hundred and fifty pounds, to be paid out of any monies that may be provided for that purpose; and that the Physician and Surgeon, the Chaplain, the Clerk, the Keepers and the Guard, shall respectively receive such annual remuneration for their services, as the Inspectors, with the approbation of the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, may deem just and reasonable: *Provided always,* that none of the salaries mentioned in this Act shall commence until the said Penitentiary shall be so far completed as to be in readiness for the reception and confinement of prisoners.

Salary of Warden;

[See 1 Vic. Chap. 54.]
Of Deputy Warden, &c.

Remuneration of other officers.

Time of their commencement.

XXVII. *And be it further enacted by the authority aforesaid,* That all convicts in the Penitentiary, other than such as are confined in solitude for misconduct in the Penitentiary, shall be kept constantly employed at hard labour during the day time, except when incapable of labouring by reason of sickness or bodily infirmity, and except on Sunday, Christmas-day and Good Friday; and that it shall be the duty of the Warden to keep each prisoner singly in a cell at night, and also during the day time when unemployed.

Convicts to be kept constantly employed at hard labour, except in case of sickness, and on certain holy-days.

XXVIII. *And be it further enacted by the authority aforesaid,* That the clothing and bedding of the convicts shall be of coarse materials, manufactured, when it can be done, in the Penitentiary; they shall be

Clothing, bedding and food;

Bible to each convict.

supplied with a sufficient quantity of inferior and wholesome food; and it shall be the duty of the Warden to furnish, at the expense of the Province, a Bible to each convict confined in the Penitentiary who can read.

Violent conduct of convicts how to be suppressed.

XXIX. *And be it further enacted by the authority aforesaid,* That when several convicts combined, or any convict alone, shall offer violence to any officer of the Penitentiary, or to any other convict, or do or attempt to do any injury to the building or any workshop, or to any appurtenances thereof, or attempt to escape, or resist or disobey any lawful command, the officers of the Penitentiary, or either of them, shall and may use all suitable means to defend themselves, to enforce the observance of discipline, to secure the persons of the offenders, and to prevent any such escape.

Warden to take charge of convicts' property;

XXX. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the said Warden to take charge of any property which any convict shall have with him at the time of entering the Penitentiary, and if it be not demanded by any Trustee of the estate of such convict, appointed pursuant to law, the Warden shall preserve the same for the benefit of such convict or his representatives; and the said Warden shall keep a correct account of all such property, and shall pay the amount thereof to such convict when released, or to his legal representatives; and in case of the death of such convict without being released, if no legal representative shall demand such property within one year, then the same shall be applied to the use of the Province.

Keep an account;

Disposal in case of convicts' death;

Donation to convicts on their discharge.

XXXI. *And be it further enacted by the authority aforesaid,* That whenever any convict shall be discharged either by pardon or otherwise, it shall be the duty of the Warden to furnish such convict necessary clothing, not exceeding three pounds in value, and such sum of money, not exceeding one pound, as the said Warden may deem proper and necessary.

Conveying letters to or from convicts a misdemeanor.

XXXII. *And be it further enacted by the authority aforesaid,* That no person shall, without the consent of the Warden, bring into or convey out of the Penitentiary any letter or writing to or from a convict; and whoever shall violate the provisions of this clause shall be deemed guilty of a misdemeanor.

Certain persons privileged to visit the prison, and no others, except by special permission.

XXXIII. *And be it further enacted by the authority aforesaid,* That the following persons shall be authorised to visit the prison at pleasure, namely, the Governor, Lieutenant-Governor, or Person Administering the Government of the Province, the Members of the Legislature, the Judges of the Court of King's Bench, and the Attorney and Solicitor-Generals; and no other persons shall be permitted to enter within the walls where the convicts are confined, except by the special permission of the Warden, or under such regulations as the Inspectors shall prescribe.

XXXIV. *And be it further enacted by the authority aforesaid,* That when-
 ever any convict shall be delivered to the Warden or his Deputy, the
 officer having such convict in charge shall deliver to such Warden the
 certified copy of the sentence received by such officer from the Clerk of
 the Court, and shall take from such Warden a certificate of the delivery
 of such convict; and whenever any convict confined in said Penitentiary
 shall escape therefrom, it shall be the duty of the Warden of such Peni-
 tentiary to take all proper measures for the apprehension of such convict,
 and for that purpose he may offer a reward, not exceeding fifty pounds, for
 the apprehension and delivery of such convict.

Duty of officer on
 delivering convict to
 the Warden;

In case of escape.

XXXV. *And be it further enacted by the authority aforesaid,* That it shall
 not be lawful for any Coroner to hold an inquest in the said Penitentiary
 upon the body of any deceased convict, unless requested by the Warden of
 the Penitentiary, or one of the Inspectors; but it shall be the duty of the
 Warden to call the Coroner in all cases of death of any convict from any
 cause other than ordinary sickness; and whenever a convict shall die, it
 shall be the duty of the Warden, unless the body of such convict shall be
 taken away for interment by the relatives of the deceased within twenty-
 four hours after his death, to deliver on demand such dead body to the
 agent of the Medical Society of the District wherein the Penitentiary shall
 be situated.

Coroner's Inquest on
 request of Warden;

Disposal of body of
 deceased convict.

XXXVI. *And be it further enacted by the authority aforesaid,* That in
 case any pestilence or contagious disease should break out among the
 convicts of the said Penitentiary, or in the vicinity thereof, the Inspectors
 of the prison may cause the convicts confined in such Penitentiary, or
 any of them, to be removed to some suitable place of security, where
 such of them as may be sick shall receive all necessary care and medical
 assistance; such convicts shall be returned as soon as may be to the Peni-
 tentiary, to be confined therein according to their respective sentences,
 if the same be unexpired.

Removal of convicts in
 case of pestilence.

XXXVII. *And be it further enacted by the authority aforesaid,* That
 whenever, by reason of the Penitentiary being on fire, or any building
 contiguous or near the said Penitentiary being on fire, there shall be rea-
 son to apprehend that the convicts confined therein may be injured or
 endangered by such fire, the Warden of said Penitentiary may, in his
 discretion, remove such convicts to some safe and convenient place, and
 there confine them so long as it may be necessary to avoid such danger.

Removal of convicts in
 case of fire.

XXXVIII. *And be it further enacted by the authority aforesaid,* That it
 shall be the duty of the Warden of the Penitentiary to receive into the
 said Penitentiary, and safely to keep therein, subject to the discipline of
 the said Penitentiary, any criminal convicted of any offence against our
 Sovereign Lord the King, sentenced to imprisonment therein by any
 Court of the Province, until such sentence be executed, or until such con-
 vict shall be discharged by due course of law, the Province supporting

Warden's duty to receive
 criminals, &c.

such convict, and paying the expenses attendant upon the execution of such sentence, except that the District in which such conviction shall take place shall defray the expense of conveying such convict to the Penitentiary.

Punishment for an escape or attempt.

XXXIX. *And be it further enacted by the authority aforesaid,* That in case any prisoner shall escape or attempt to escape out of the custody of any officer to whom such prisoner may have been so committed, he shall be liable to the like punishment as if he had been committed by virtue of a commitment or conviction under the authority of a Court of Justice, and the officer shall be liable to the like penalties and punishment for any neglect or violation of duty in respect to the custody of such prisoner, as if such prisoner had been committed by virtue of a commitment or conviction under the authority of a Court of Justice.

Warden and persons employed in Penitentiary, exempt from serving on Juries or in Militia, &c.

XL. *And be it further enacted by the authority aforesaid,* That the Warden of the Penitentiary, and all persons actually employed in said Penitentiary, shall be exempted during their continuance in office from serving on Juries and from Militia duty, and also from serving as Town or Parish officers.

Spirituos liquors prohibited.

XLI. *And be it further enacted by the authority aforesaid,* That no spirituous or fermented liquors shall on any pretence whatever be sold within the said Penitentiary, nor shall any kind of spirituous or fermented liquors be brought into the Penitentiary, for the use of any convict confined therein without a written permit, signed by the Physician of the said Penitentiary, specifying the quantity and quality which may be furnished to any Prisoner, for whom, and the time when the same may be furnished; which permit shall be delivered to and kept by the Keeper of the Penitentiary.

Payment of salaries.

XLII. *And be it further enacted by the authority aforesaid,* That the sums necessary to pay the salaries mentioned in this Act, shall be paid by the Receiver General of the Province to the Warden, in discharge of such warrant or warrants as may be issued for that purpose by the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, for the time being; and shall be accounted for to His Majesty, through the Lords Commissioners of His Treasury, in such manner and form as His Majesty, His Heirs or Successors, shall be graciously pleased to direct.

FORM OF BOND.

Bond.

“ Know all men by these presents, that we, A. B., Warden of the Provincial Penitentiary erected in the Midland District; C. D. of ———, in the ———; and E. F., of ———, in the ———, are held and firmly bound to our Sovereign Lord the King; His Heirs and Successors, in the sum of ———, that is to say, the said A. B. in the sum of ———, and

the said C. D. and E. F. in the sum of ———, each, to be paid to our Sovereign Lord the King, His Heirs and Successors, for which payment to be well and truly made, we bind ourselves severally and respectively, and each of us, his heirs, executors and administrators, firmly by these presents, sealed with our seals, and dated this ——— day of ———, in the year of our Lord ———.”

The condition of this obligation is such, that if the above bounden A. B. shall faithfully demean himself in his said office of Warden, according to law, and shall duly account for all monies that may come into his hands by virtue of his said office, then this obligation to be void, otherwise to remain in full force and virtue.

Signed and delivered }
in presence of— }

L. S.
L. S.
L. S.

CHAP. XXXVIII.

AN ACT to repeal part of an Act passed in the third year of His Majesty's reign, intituled, "An Act granting to His Majesty a sum of money to defray the expense of erecting a Penitentiary in this Province, and for other purposes therein mentioned."

[Passed 6th March, 1834.]

Preamble; £12,500 granted by 3 Wm. IV. Chap. 43; Expedient that money should be received at earlier period; So much of the Act as limits the payment to three instalments repealed.

CHAP. XXXIX.

AN ACT to alter and amend the Charter, and increase the Stock of the Welland Canal Company, and to authorise His Majesty's Receiver-General to subscribe Stock in the said Company on behalf of this Province.

[Passed 6th March, 1834.]

[See Local and Private Acts, in 2nd Volume.]

CHAP.

CHAP. XL.

AN ACT to repeal part of, amend and extend the provisions of an Act passed in the last Session of the present Parliament, intituled, "An Act granting to His Majesty a sum of money, to be raised by Debenture, for the improvement of the navigation of the River Saint Lawrence."

[Passed 6th March, 1834.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLI.

AN ACT to revive and continue an Act granting to His Majesty a duty on Licenses to Auctioneers, and on Goods, Wares and Merchandize sold by Auction.

[Passed 6th March, 1834.]

Preamble; 58 Geo. III. Chap. 6, revived and continued four years.

[SEE 3 VIC. CHAP. 23.]

CHAP. XLII.

AN ACT to authorise a Loan to the Tay Navigation Company.

[Passed 6th March, 1834.]

Preamble; £1000 to be paid to the Company by the Receiver-General, upon warrant of Governor, &c. 2. Security for re-payment in ten years with interest. 3. Such sum to be raised on Debentures, bearing 6 per cent. interest; Redeemable within ten years.

[SEE 1 Wm. IV. CHAP. 10; 7 Wm. IV. CHAP. 75, SEC. 2.]

CHAP. XLIII.

AN ACT to grant a sum of money to defray the expense of erecting a Bridge over the Grand River at Dunnville, and for other purposes therein contained.

[Passed 6th March, 1834.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLIV.

AN ACT granting a sum of money to defray the expense of erecting a Bridge over the Grand River at Paris, and for other purposes therein mentioned.

[Passed 6th March, 1834.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLV.

AN ACT granting to His Majesty a sum of money to enable His Majesty to compensate the services of the Arbitrator appointed under the Act of the Imperial Parliament, passed in the third year of His late Majesty's reign, intituled, "An Act to regulate the Trade of the Provinces of Lower and Upper Canada, and for other purposes relating to the said Provinces."

[Passed 6th March, 1834.]

Preamble; £600 granted to His Majesty to compensate the Arbitrator. 2. To be paid by the Receiver-General in discharge of Governor's warrant, and accounted for through the Lords of the Treasury.

CHAP. XLVI.

AN ACT granting a sum of money in aid of the funds of the Female Benevolent Society of Kingston.

[Passed 6th March, 1834.]

Preamble; Grant to His Majesty of £150 in aid of the funds of the Society. 2. Warrant to Receiver-General for that amount to be issued, and accounted for in usual manner.

CHAP. XLVII.

AN ACT to repeal part of and to extend the provisions of an Act passed in the third year of His Majesty's reign, intituled, "An Act granting a sum of money for the improvement of Roads and Bridges in the several Districts of this Province," and for other purposes therein mentioned.

[Passed 6th March, 1834.]

Preamble; Commissioners appointed by 3 Wm. IV. Chap. 59, may lay out unexpended monies according to the provisions thereof; To be accounted for and returns made on or before 1st September, 1834. 2. Certain parts of 3 Wm. IV. Chap. 59, Sec. 20, repealed. 3. Particular appropriations of £490; For erection of Draw Bridge across the Thames; Commissioners; When such sum to be paid to Commissioners; £100 for opening and Bridging Middle Road; Commissioners; £40 for certain road in Township of Howard; Commissioners. 4. Commissioners may pay for work done. 5. Receiver-General to raise £20,000 upon Debentures, at 6 per cent. interest. 6. £15 unappropriated to be expended on Eastern Town line of Burford. 7. £20 granted by 1 Wm. IV. Chap. 18, and unappropriated, to be expended in widening arch on Yonge street; Commissioners.

CHAP. XLVIII.

AN ACT granting to His Majesty a sum of money for the improvement of Roads and Bridges in the several Districts in this Province.

[Passed 6th March, 1834.]

Preamble; £25,000 may be raised by loan, to be applied to the improvement of roads and bridges. 2. Receiver-General to issue Debentures. 3. Receiver-General to make a report of Debentures issued, to be laid before the Legislature. 4. Interest when and how paid. 5. Warrants to be issued for the payment of Debentures. 6. Punishment for forging Debentures. 7. Debentures charged upon the public revenues of the Province. 8. Interest on Debentures when to cease. 9. Appropriation of the said sum of £25,000; Ottawa District £1300; Bathurst, £2350; Eastern, £2350; Johnstown, £2350; Midland, £2100; Prince Edward, £650; Newcastle, £2350; Home, £2425; Gore, £2350; Niagara, £2000; London, £2425; Western, £2350.

CHAP. XLIX.

AN ACT to revive and continue an Act passed in the fourth year of the reign of King George the Fourth, intituled, "An Act prescribing the mode of measuring the contents of Wooden Stills, also for fixing the rate of Duty to be paid on all Stills used for the distillation of Spirituous Liquors within this Province."

[Passed 6th March, 1834.]

Preamble; 4 Geo. IV. Chap. 13, revived and continued four years.

CHAP. L.

AN ACT to continue and make permanent an Act passed in the second year of His Majesty's reign, intituled, "An Act to impose an additional Duty on Licences to vend Wines, Brandy and Spirituous Liquors."

[Passed 6th March, 1834.]

Preamble.

WHERES an Act passed in the second year of His Majesty's reign, intituled, "An Act to impose an additional duty on licences to vend wines, brandy and spirituous liquors," will shortly expire: *And whereas* it is expedient to continue and make permanent 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 the said recited Act be and the same is hereby continued.

2 Wm. IV. Chap. 20, continued;

[See 7 Wm. IV. Chap. 27, which erroneously assumes this Act to be temporary. But the 2 Wm. IV. Ch. 20, is now wholly superseded by the provisions of 3 Vic. Chaps. 20 & 22.]

CHAP. LI.

AN ACT granting to His Majesty a sum of money, towards defraying the expense of the Administration of the Civil Government of this Province.

[Passed 6th March, 1834.]

Preamble; £9,925 6s. 6d. granted to His Majesty to defray certain charges of civil administration of Government; Distribution of sum granted. 2. Allowances to the Attorney and Solicitor-General. 3. Allowance to Registrar and Secretary, and Clerk. 4. Money how paid and accounted for.

CHAP. LII.

AN ACT to make good certain monies advanced for the contingent expenses of the last Session of the Legislature of this Province, and also to make good certain monies advanced in compliance with Addresses of the House of Assembly during the present Session.

[Passed 6th March, 1834.]

Preamble, reciting advances by the Lieutenant-Governor; £6489 7s. 5½d. for payment of contingent expenses; £350; £747 3s. 3½d. for debts incurred in completing Parliament Buildings; £7586 10s. 8½d. to be applied in making good the sums so advanced. 2. To be accounted for through the Lords of the Treasury.

CHAP. LIII.

AN ACT to borrow a sum of money in Great Britain, at a reduced rate of interest, to cancel a part of the Public Debt of this Province, and for other purposes.

[Passed 6th March, 1834.]

Preamble; Receiver-General authorised to raise loan of £200,000, sterling, to redeem debt and for public improvements; Rate of interest 5 per cent. payable in London; Principal redeemable in twenty years. 2. Debentures to be issued for not less than £100 sterling, each; Debentures to be signed by Receiver-General; Payable to order of Inspector-General, who shall indorse the same; Annual returns of Debentures by Inspector-General. 3. Amount of principal and interest in sterling money to appear on Debentures; and time when redeemable; place of payment. 4. Debentures and interest charged on proportion receivable by this Province of duties payable in Lower Canada. 5. Debentures uncanceled at time for payment, to be received by Collectors, &c. as cash. 6. Allowance of interest on Debentures to the time of their being paid to any Collector, &c.; Interest suspended during time Debentures remain in hands of Collectors of the revenue. 7. Date of paying Debentures to Revenue Collectors to be endorsed; Interest to the day of receiving Debentures to be allowed to Collectors. 8. Forging or uttering counterfeit Debentures, &c. felony. 9. Receiver-General before each Session to render account of Debentures issued, to be laid before Legislature. 10. Interest on Debentures payable half yearly, on warrants to be issued after 30th June and 31st December. 11. Receiver-General may pay 1 per cent. to London agent. 12. Payment of Debentures when due; If not presented for payment in six months from their becoming due, interest to cease after that period. 13. Application of money raised under this Act, and how accounted for. 14. Receiver-General authorised to pay off and cancel Debentures issued under 1st Wm. IV. Chap. 18.

CHAP. LIV.

AN ACT to extend to certain persons the civil and political rights of natural born Subjects.

[His Majesty's Assent to this Bill communicated to the Legislative Council and House of Assembly, by Message from His Excellency Sir John Colborne, the eleventh day of March, 1835.]

[See Local and Private Acts, in 2nd Volume.]

C H A P. L V.

AN ACT to form certain Townships in the London District into a County, and to attach certain Townships to the Counties of Middlesex and Kent, in the London and Western Districts.

[The Royal Assent to this Bill promulgated by Proclamation bearing date fifth day of May, 1835.]

Preamble.

[See 3 Pic. Chap. 39.]

WHEREAS a certain tract of land situate in the Western and London Districts hath been lately surveyed and laid off into Townships, and many emigrants and others settled thereon; and it is expedient to provide by law for the administration of Justice 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 the Townships of Williams, McGillivray, Stephen, Hay, Stanley, Goderich, Colborne, Hullet, McKillop, Tuckersmith, Hibbert, Logan, Fullarton, Usborne, Bidulph, Blanchard, Downie, Ellice, North Easthope and South Easthope, do constitute and form the County of Huron, in the London District.

Townships forming the County of Huron.

Township of Adelaide to form part of Middlesex.

II. *And be it further enacted by the authority aforesaid,* That the Township of Adelaide be attached to and form part of the County of Middlesex, in the London District.

Moore, Sarnia, and other townships, to be attached to Kent.

III. *And be it further enacted by the authority aforesaid,* That the Townships of Moore and Sarnia, (formerly Saint Clair) Plympton, Ennis-killen, Warwick, Brooke and Bosanquet, be attached to and form part of the County of Kent, in the Western District.

C H A P. L V I.

AN ACT for imposing a tax on Lands adjoining Canboro' and Simcoe Road.

[The Royal Assent to this Bill promulgated by Proclamation bearing date at Toronto, the twenty-ninth day of September, 1835.]

[See Local and Private Acts, in 2nd Volume.]

STATUTES OF UPPER CANADA,

PASSED IN THE

FIRST SESSION OF THE TWELFTH PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT TORONTO, ON THE FIFTEENTH DAY OF JANUARY, IN THE FIFTH YEAR OF THE
REIGN OF OUR SOVEREIGN LORD WILLIAM THE FOURTH, AND PROROGUED ON
THE SIXTEENTH DAY OF APRIL FOLLOWING.

SIR JOHN COLBORNE, K. C. B.
LIEUTENANT GOVERNOR.

ANNO DOMINI 1835.

CHAP. I.

*AN ACT to prevent the unnecessary multiplication of Law Suits and
increase of costs in actions on Notes, Bonds, Bills of Exchange,
and other instruments.*

[Passed 16th April, 1835.]

WHEREAS it is expedient to make such alteration in the law as will Preamble.
prevent the necessity of bringing separate actions for sums not large in (Sec 3 Vic. Ch. 8)
amount, against the several makers of a bond or other instrument, or
against several persons liable to be sued upon a bill of exchange or
promissory note, as maker, endorser, or acceptor: *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 the first day of July next
after the passing of this Act, when several suits shall be brought on one Costs recoverable in
one suit only;
bond, recognizance, promissory note, bill of exchange, or other instru-
ment, which shall be made or entered into after the passing of this Act,
or when several suits shall be brought against the maker and endorser of
a note, or against the drawer, acceptor or endorsers of a bill of exchange,
there shall be collected or received from the defendant the costs taxed

And disbursements in others;

Not to extend to interlocutory costs.

Upon bills of exchange, &c. not exceeding £100, all the parties may be included in one action,

Defendants may plead separately.

Plaintiff may declare upon money counts alone.

Judgment against one or more of the defendants;
[See 3 Vic. Chap. 8, Sec. 3.]

Defendant's costs.

Set-off may be pleaded.

Verdict in set-off.

Rights of the parties as between each other to remain.

Defendants may be witnesses in certain cases.

on one suit only, at the election of the plaintiff, and in the other suits the actual disbursements only shall be collected or received from the defendant; but this provision shall not extend to any interlocutory costs in the progress of a cause.

II. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the holder of any bill of exchange or promissory note hereafter to be made, for a sum not exceeding one hundred pounds, instead of bringing separate suits against the drawers, makers, endorsers and acceptors of such bill or note, to include all or any of the said parties to the bill or note in one action, and to proceed to judgment and execution in the same manner as though all the defendants were joint contractors.

III. *And be it further enacted by the authority aforesaid,* That in any such action, any joint drawer or maker, endorser or acceptor, may plead in abatement the non-joinder of any other joint drawer, maker, endorser or acceptor, in the same manner as though this Act had not been passed; and no judgment to be rendered in pursuance of this Act shall be of any effect against a defendant not served with process.

IV. [Repealed by 3 Vic. Chap. 8.]

V. *And be it further enacted by the authority aforesaid,* That in any such action judgment may be rendered for the plaintiff against some one or more of the defendants, and also in favour of some one or more of the defendants against the plaintiff, according as the rights and liabilities of the respective parties shall appear, either upon confession, default, by pleading, or on trial; and when judgment shall be rendered in favour of any defendant, he shall recover costs against the plaintiff in the same manner as though judgment had been rendered for all the defendants.

VI. }
VII. } [Repealed by 3 Vic. Chap. 8.]

VIII. *And be it further enacted by the authority aforesaid,* That the rights and responsibilities of the several parties to any such bill or note, as between each other, shall remain the same as though this Act had not been passed, saving only the rights of the plaintiff, so far as they may have been determined by the judgment.

IX. *And be it further enacted by the authority aforesaid,* That in every suit brought pursuant to the provisions of this Act, any one or more of the defendants shall be entitled to the testimony of any co-defendant, as a witness in all those cases where the defendant or defendants calling the witness would have been entitled to his testimony had the suit been brought in the form heretofore used, and in no other case.

X. [Repealed by 3 Vic. Chap. 8.]

Copy of the bill or note may be filed with the declaration.

XI. *And be it further enacted by the authority aforesaid,* That when in any case an action shall be brought against more than one defendant under this Act, who must otherwise have been sued separately, and it shall happen that any one or more of the defendants shall die pending the suit, an action may nevertheless be brought against the executors or administrators of any such deceased defendant: *Provided,* such defendant would have been liable to be sued separately, in case this Act had not been passed.

Defendants executors liable to be sued.

XII. *Provided always nevertheless, and be it further enacted by the authority aforesaid,* That this Act shall not apply in any case in which the sum expressed to be payable in or upon any such bond, recognizance, promissory note, bill of exchange or other instrument, shall exceed the sum of one hundred pounds, nor to any case where separate actions are brought in the District Court, against persons residing in several Districts.

This Act not to extend to notes for more than £100

Nor to actions in several Districts.

XIII. *And be it further enacted by the authority aforesaid,* That when several defendants are included in one process, in pursuance of the provisions of this Act, and any one or more of them cannot be served with such process by reason that he or they is or are absent from the Province, or concealed within the same, then the action may proceed as against the other defendant or defendants without prejudice; and it shall be in the power of the plaintiff afterwards to sue such defendant or defendants separately who shall not have been served with process, and to recover costs as if this Act had not been passed.

Suits may proceed, though one or more defendants be absent.

XIV. [Repealed by 3 Vic. Chap. 8.]

Act limited to four years

C H A P. II.

AN ACT to allow the issuing of Writs of Error from the Court of King's Bench.

[Passed 24th February, 1835.]

WHEREAS it would facilitate the correction of errors in the judgment of inferior Courts of Record, if the writ of error, which for such purposes is required by the law of England to be issued from Chancery, and to be made under the Great Seal, were allowed in this Province to issue from the Court of King's Bench, under the seal of that Court: *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

Preamble.

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 by the law of England a writ of error may be sued out of Chancery, returnable in the Court of King's Bench, for removing the record of the judgment of an inferior Court of Record in order to its examination upon errors assigned, it shall be lawful in similar cases, and for the like purpose, to sue out a writ of error from the Court of King's Bench in this Province, running in the name of the King, and having teste and return like other writs of the said Court; and upon the return of such writs the said Court may proceed thereon as if the record of the judgment had been removed under the Great Seal of this Province.

Writs of error may be sued out from the K. B.

Court of K. B. may make rules respecting the same.

II. *And be it further enacted by the authority aforesaid,* That for securing suitors against vexatious delays and expense through the suing out of such writs of error, it shall and may be lawful for the Judges of the Court of King's Bench to make such rules and orders, from time to time during any term of sitting of the said Court, as may appear just and expedient for securing the payment of costs, and of the debt or damages awarded by the judgment of the inferior Court, or either of them, in case such judgment shall be affirmed in error; and also for restraining frivolous writs of error from being brought merely for delay.

CHAP. III.

AN ACT to mitigate the Law in respect to imprisonment for Debt.

[Passed 16th April, 1835.]

Preamble.

[See 3 Vic. Ch. 6.]

WHEREAS the imprisonment of persons in execution for debt is no otherwise justifiable than as a means of compelling such persons to apply whatever monies or property they may be possessed of, or may have under their control, to the satisfaction of their creditors: *And whereas* it is impossible with a just regard to the rights of creditors and to the interests of commerce, to afford effectual relief to insolvent debtors until a proper jurisdiction is provided and suitable laws enacted to facilitate and ensure a recourse against all the property of such insolvent debtors, but in the mean time it is expedient to make such provision as will render the law in this respect less rigorous than at present; *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 June next after the passing of this Act, no person shall be arrested or holden to special bail upon any process issuing from His Majesty’s Court of King’s Bench for this Province, or from any District Court in this Province, when the cause of action shall not amount to ten pounds; and that so much of the eighth clause of a certain Act of the Parliament of this Province passed in the second year of the reign of His late Majesty King George the Fourth, intituled, “An Act to repeal part of and amend the laws now in force respecting the practice of His Majesty’s Court of King’s Bench in this Province,” as authorises personal arrest in a civil suit when the cause of action shall amount to five pounds or upwards; and also, so much of the eighth clause of a certain other Act of the Parliament of this Province passed in the same year, intituled, “An Act to reduce into one Act the several laws now in force establishing District Courts, and regulating the practice thereof, and also to extend the powers of the said District Courts,” as authorises personal arrest in all actions of contract within the jurisdiction of such Courts, be and the same are hereby repealed, so far only as the said clauses extend to authorise personal arrest for any sum less than ten pounds: *Provided always nevertheless*, that such repeal shall not take effect until after the said first day of June next, and shall not render illegal or irregular any arrest for a less sum than ten pounds, which shall take place in any Court before or on the said first day of June next, and shall not render illegal or irregular any proceedings which shall be had after or in consequence of such arrest.

Limitation of arrest to debts of £10 and upwards;

Part of eighth Sec. of 2 Geo. IV. Ch. 1, repealed.

Part of eighth Sec. of 2 Geo. IV. Ch. 2, repealed.

II. *And be it further enacted by the authority aforesaid*, That from and after the said first day of June next, it shall not be lawful to take execution against the body of any person, plaintiff or defendant, upon a judgment recovered for costs only, nor in any case in which the judgment shall not be rendered for the sum of ten pounds or upwards, exclusive of costs; and that if any person shall be in custody upon an execution at the time of the passing of this Act, or at any time hereafter upon an execution which may issue before the said first day of June next, in a case in which it is provided by this clause that no execution shall issue against the body, such person may, upon application to the Court from whence the execution shall have issued, or to a Judge thereof in vacation, and after notice given to the opposite party, or his attorney, by a rule to shew cause, be discharged from custody by order of the said Court or Judge; but it shall be lawful to take out execution against the goods and chattels, or against the lands or tenements of the person so discharged, in the same manner as in other cases of debtors discharged under the provisions of this Act.

Ca. sh. not to be issued for costs only, nor for any judgment under £10 exclusive.

Debtor in execution for sums under £10 may apply to the Court for his discharge;

Notice to the other party; Order for discharge;

Liability of future estate;

Debtors in execution for sums not exceeding £20, who shall have been three months imprisoned, may apply for discharge;

Court may order discharge;

Liability of future estate;

Defendant not to be again arrested.

Debtors in execution for sums exceeding £20 and under £100, when entitled to discharge;

Notice to the opposite party.

III. *And whereas* it might tend greatly to the relief of certain debtors in execution for small debts, and at the same time occasion no material prejudice to trade and public credit, if such debtors should, after a limited period of imprisonment, be allowed to be discharged, saving to their creditors their remedy against the property of the debtor so discharged; *be it therefore enacted by the authority aforesaid,* That from and after the passing of this Act, all persons in execution upon any judgment rendered in this Province in a civil suit for any debt or damages, not exceeding the sum of twenty pounds, exclusive of the costs recovered by such judgment, and who shall have lain in prison thereupon for the space of three calendar months, or being confined under such execution upon the Gaol limits of any District in this Province for the space of twelve calendar months before the time of their application to be discharged as hereinafter mentioned, may make his, her or their application, in term time to the Court from whence such execution shall have issued, to be discharged from custody upon such execution, and shall thereupon make and file an affidavit to the effect hereinafter mentioned, and if the Court shall be satisfied upon cause shewn, that the person in custody is entitled to relief under this Act, or if no cause to the contrary shall be shewn, then such Court shall forthwith make a rule or order for discharging the party or parties from custody, as to such execution: *Provided always,* that notwithstanding the discharge of any debtor or debtors by virtue of this Act, the judgment against him or them shall continue and remain in full force to all intents and purposes, except as to the taking in execution the person or persons of such debtor or debtors thereupon; and it shall be lawful for the creditor to take out execution against the lands and tenements, or goods and chattels of any such debtor so discharged, or to bring any action on any such judgment against such debtor, or to bring any such action or use any such remedy for the recovery of his demand against any other person or persons, liable to satisfy the same, in the same manner as such creditor could have done in case such debtor had never been charged in execution upon such judgment: *Provided also,* that no debtor so discharged shall be liable to be arrested or taken in execution upon the same judgment, or in any action or proceeding to be afterwards instituted thereupon.

IV. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, all persons in execution upon any judgment rendered in this Province in a civil suit, for any debt or damages exceeding the sum of twenty pounds, exclusive of costs, and who shall have lain in prison thereupon for the space of six calendar months before the time of their application to be discharged as hereinafter mentioned, when the debt shall not exceed one hundred pounds, or twelve calendar months when the debt shall exceed one hundred pounds, may, upon giving thirty days notice in writing, to the opposite party or his attorney, of his intention to make such application as hereinafter mentioned, apply for his discharge in term time to the Court from whence the execution shall have issued; and that such application shall be founded on an

affidavit of the person in custody, as aforesaid, to the effect hereinafter mentioned.

V. *And be it further enacted by the authority aforesaid,* That the opposite party, upon being called upon to shew cause against such application, may disclose to the Court upon affidavit of himself or of any other person or persons, any facts in answer to such application, and such Court may examine into the same, and may require further statements upon oath from or in behalf of either party in their discretion, and that when, in the opinion of the Court, the party at whose suit the debtor is in custody shews no reasonable ground whatever, (and in such case only) for expecting benefit from the further detention of the debtor in execution, it shall be lawful for the Court to make an order for discharging such debtor forthwith: *Provided always,* that such discharge shall have the same and no other effect as to any other remedy upon the same judgment, or in consequence thereof, as a discharge ordered under this Act in cases where the debt shall not exceed twenty pounds.

Court authorised to examine the matter and order discharge;

Effect thereof.

VI. *And be it further enacted by the authority aforesaid,* That the application made by any debtor for his discharge from custody under this Act, whether the sum for which he is so detained shall be under or above twenty pounds, shall be founded upon an affidavit made by such debtor in the cause in which he is in custody, to be afterwards filed among the papers of such cause, in which affidavit shall be set forth the time that he has been in custody upon such execution, and the amount for which he is detained; and stating further that he is not possessed, nor any person or persons in trust for him, or to his use, of lands or tenements, monies, goods, chattels or effects of any description, besides his necessary wearing apparel or bedding, to the amount of five pounds; that since judgment in the cause was rendered against him he has not made any disposition or conveyance of his property or effects in order to defeat the remedy under the said judgment; that he has not the means within his power or under his control, excepting his necessary wearing apparel and bedding, of satisfying the debt for which he is in execution, or any part thereof; that he was guilty of no fraud, deceit or dishonest practice, in contracting the said debt, and that to the best of his knowledge and belief, the party at whose suit he is in custody can derive no benefit from his the said debtor's being longer imprisoned under such execution.

Affidavit of certain facts to be made by debtor applying for discharge.

VII. *And be it further enacted by the authority aforesaid,* That if it shall happen that any discharge granted under this Act, shall have been unduly or fraudulently obtained upon any false allegation of circumstances, which, if true, might have entitled the prisoner to be discharged by virtue of this Act, such prisoner shall, upon the same being made appear to the satisfaction of the Court by whose rule or order the said prisoner had been so discharged, be liable to be again taken in execution, and remanded to his former custody, by the rule or order of the same Court:

Debtor obtaining discharge by fraud liable to be again taken in execution.

Provided always, that no Sheriff or Gaoler shall be liable as for the escape of any such prisoner, in respect of his enlargement, during such time as he shall have been at large by means of such his undue discharge, as aforesaid.

Fraudulent assignment of property to be a misdemeanor;

VIII. *And be it further enacted by the authority aforesaid*, That any person who shall assign, remove, conceal or dispose of any of his property, with intent to defraud his creditors, and any person who shall receive such property with such intent, shall, upon conviction, be deemed guilty of a misdemeanor, and such offence may be tried before any Court of Oyer and Terminer or General Gaol Delivery, and may be punished by fine or imprisonment: *Provided always*, that no person convicted, as aforesaid, shall be fined in a greater sum than one hundred pounds, nor be imprisoned for a longer period than six months.

Punishment.

Act limited to four years.
(Made perpetual by 3 Vic.
Chap. 6.)

IX. *And be it further enacted by the authority aforesaid*, That this Act shall continue in force for four years, and from thence to the end of the then next ensuing Session of Parliament.

CHAP. IV.

AN ACT to enable suitors in the District Courts to procure the attendance of witnesses from any District in this Province, and to authorise certain persons therein named to take affidavits in the said District Courts.

[Passed 16th April, 1835.]

Preamble.

WHEREAS the want of means of compelling the attendance upon any trial in a District Court of a witness resident within another District than that in which such trial is to take place, is prejudicial to the interests of suitors, and frequently occasions the institution in the Court of King's Bench of actions which in their nature are of the proper cognizance of the District Court, thereby subjecting the parties to delay and expense beyond what would otherwise be necessary: *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 be lawful for the Clerk of the Crown and

Subpoenas to witnesses in other Districts may be issued from the Crown office.

Pleas, or for his Deputy in any of the respective Districts of this Province, in which a witness or witnesses residing or living within another District is required to attend upon the trial of a cause in the District Court, to issue a subpoena commanding the attendance of such witness or witnesses at the time and place required; which subpoena shall be issued upon a proper præcipe being filed for that purpose, and shall be under the seal of the Court of King's Bench, and shall bear teste in the same manner as writs of subpoena to be issued in causes instituted in the Court of King's Bench.

II. *And be it further enacted by the authority aforesaid, That any witness failing to attend in obedience to such subpoena, shall be subject to the same penalties and remedies by action or by attachment for contempt of the Court of King's Bench, as in case of wilful disobedience of a writ of subpoena requiring the attendance of a witness in a suit depending in that Court.*

Liability of witnesses for non-attendance.

III. *And be it further enacted by the authority aforesaid, That all affidavits in any cause pending, or hereafter to be brought in any District Court in this Province, may be taken before any Commissioner appointed for taking affidavits in His Majesty's Court of King's Bench in this Province, as well as before the Judge or Clerk thereof.*

Affidavit in District Court may be sworn before Commissioners of the K. B.

C H A P. V.

AN ACT to continue and amend the law for attaching the property of Absconding Debtors.

[Passed 16th April, 1835.]

WHEREAS an Act passed in the second year of His Majesty's reign, intituled, "An Act to afford means for attaching the property of absconding debtors," will expire at the end of the present Session of the Provincial Legislature; *And whereas* it is expedient to continue and amend 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 the said recited Act be and the same is hereby continued for and during the term of two years from the passing of this Act, and from thence to

Preamble.

[See 2 Vic. Ch. 5; 3 Vic. Ch. 7.]

Act 2 Wm. IV. Ch. 5, continued for two years. (Made permanent by 2 Vic. Chap. 5.)

the end of the then next ensuing Session of Parliament, and no longer, any thing herein contained to the contrary notwithstanding.

Attachment for debts not due to an inhabitant of this Province.

II. *And whereas* it is necessary to make certain amendments in the said Act, and to remove doubts which have arisen respecting some of its provisions: *be it therefore enacted by the authority aforesaid*, That from and after the passing of this Act it shall be lawful to grant an attachment in the manner provided by the first clause of the said Statute, when a debt is sworn to as therein mentioned, notwithstanding the absconding or concealed debtor may not be indebted to an inhabitant of this Province.

Bond to be given to the Sheriff;

III. *And be it further enacted by the authority aforesaid*, That the bond mentioned in the fourth clause of the said Statute shall be given to the Sheriff of the District in which the estate has been attached, and the penalty need not be more than double the amount of the value of the estate attached, and the condition of the bond may be so framed that whatever may be the amount of the several claims against the absconding debtor, the bond shall be void upon the payment by the obligors, or any of them, of the value of the estate taken and seized; and the bond so given shall and may be put in suit by the Sheriff for the benefit of any party entitled, whenever the case may require it; and the amount collected thereon shall and may be retained in his hands, to be applied by him in the same manner as it would be to apply the proceeds of the estate in respect of which the bond shall have been given.

Who may sue thereon;

Application of the money collected.

Plaintiff may proceed to judgment notwithstanding debtor's absconding;

IV. *And be it further enacted and declared by the authority aforesaid*, That notwithstanding any thing contained in the said Act, any person who shall have commenced a suit against another by process, bailable or non-bailable, which process shall have been served before the suing out of any attachment against the same person as an absconding or concealed debtor, shall, notwithstanding the subsequent suing out of such attachment, be allowed to proceed in the ordinary manner to judgment and execution; and in case of his obtaining execution before any person at whose suit the estate, real or personal, of such debtor shall have been attached, he shall be allowed the full advantage of his legal priority of execution, in the same manner as if the estate had not been attached, and were remaining in the possession of the debtor; and in case the goods shall have been delivered up to the absconding or concealed debtor or his agent upon security, the Sheriff shall enforce the bond taken for his benefit in the same manner as in the case of a creditor suing out an attachment: *Provided always*, that the amount of costs incurred by the suing out and executing the attachment, or such portion thereof as the Court in which the cause is pending, or a Judge thereof, shall think reasonable, shall be retained for the benefit of the person who has paid the same, or who is liable therefor, in consequence of his having taken out the attachment: *And provided also*, that nothing in this Act contained shall prevent the Court in which the action was brought, and process served upon the person against whom an attachment or attach-

Costs of attachment, how to be paid;

Judgment may be set aside in cases of fraud.

ments shall afterwards issue, from setting aside the judgment and execution in such action as fraudulent, or staying proceedings therein, when such action shall appear to have been instituted or proceeded in by collusion with the debtor, or to have been otherwise fraudulently brought for the purpose of defeating the claims of others.

V. *And be it further enacted by the authority aforesaid,* That upon the trial of any action against an absconding or concealed debtor, it shall be lawful for any other person who shall before such trial have sued out an attachment, to contest the plaintiff's demand, in the same manner as the defendant might, and to call evidence to disprove the same, or to establish a set-off: *Provided,* he shall have given notice of such set-off fifteen days exclusive before the trial.

Any other creditor may contest the plaintiff's demand on trial;

And establish a set-off.

VI. *And be it further enacted by the authority aforesaid,* That when several attachments shall be placed in the Sheriff's hands against the same absconding or concealed debtor, the proceeds of the estate which shall have been attached, shall not be paid over to such attaching creditor or creditors according to priority, but they shall be ratably distributed among such of the creditors suing out the said attachments as shall obtain judgment against the debtor, in proportion to the amount of the sums really due upon such judgments; and no distribution shall take place until reasonable time, in the opinion of the Court, has been allowed for the several creditors to proceed to judgment: *Provided always,* that when the estate shall not be sufficient to satisfy the claims of all the attaching creditors, none shall be allowed to share unless he shall have sued out his attachment, and placed it in the hands of the Sheriff, within six months from the issuing of the first writ of attachment.

In case of several attachments being issued, the proceeds to be applied ratably;

Subsequent attachment to be issued within six months of the first.

VII. *And be it further enacted by the authority aforesaid,* That before execution shall be taken out in any action brought against an absconding or concealed debtor, the plaintiff shall make and file an affidavit, which shall be kept among the papers in the cause, in which he shall swear that to the best of his knowledge and belief the sum which has been allowed to him by the Jury is justly and truly due to him by the defendant, and that he has given credit for all payments made to him by the defendant, and for every demand which the defendant could rightly make against him; or if the plaintiff shall in his affidavit acknowledge that the sum actually due to him is less than that which the Jury have awarded, then the execution shall be endorsed accordingly, and no more shall be levied for the plaintiff than is admitted to be due: *Provided always,* that if the affidavit of the plaintiff cannot be obtained in due time by reason of his foreign residence, or from any other reason which shall be assigned, then an affidavit to the effect above mentioned may be received from the attorney or agent of such plaintiff.

Before execution plaintiff to make oath of his debt, &c.

[See 2 Wm. IV. Chap. 5.]

CHAP. VI.

AN ACT to provide for the payment of wages to the Members of the House of Assembly who represent the different Towns in this Province.

[Passed 24th February, 1835.]

Preamble.

[See 6 Wm. IV. Ch. 1;
1 Vic. Ch. 17.]

[This Act has ceased to
have effect since the Union
of the Provinces.]

Town members entitled to
wages, not exceeding 10s.
per day;

To be raised by assess-
ment;

Justice's order on Treas-
urer.

WHEREAS an Act passed in the forty-third year of the reign of His Majesty King George the Third, intituled, "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 authorise and direct the levying and collecting of assessments and rates within this Province, and to provide for the payment of wages to the House of Assembly,'" does not make provision for an assessment in the Towns which now do or hereafter may send representatives for the compensation of such representatives; *And whereas* the said Act ought in that respect to be amended: *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, now representing or hereafter to represent any Town, having attended, to receive from the Speaker of the House of Assembly a warrant under his hand and seal, signifying the time 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 such Town represented by such member may be situated, 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 the place of his abode in going to or returning from his 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 Towns now or hereafter to be represented by such member within any District, in the same manner and form as by law any assessment may now or hereafter be levied for any public purpose in any Town 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 entitled, out of the monies which may come

into their hands from the said assessment upon any Town now or hereafter to be represented.

II. *And be it further enacted by the authority aforesaid,* That no rate or assessment shall be levied upon any inhabitant or house-holder in any Town now or hereafter to be represented, as aforesaid, for contribution to the payment of any representative for any County or Riding in which such Town shall be situate. Inhabitants of Towns not liable to assessments for the County.

III. *And be it further enacted by the authority aforesaid,* That this Act shall be in force in every respect for the payment of such members, representatives of Towns in this Province, as shall have attended the present Session of the Provincial Parliament according to the provisions of this Act. Act to have effect in relation to present Session.

C H A P. VII.

AN ACT to establish a Standard Weight for the different kinds of Grain and Pulse in this Province.

[Passed 16th April, 1835.]

WHEREAS it is expedient and necessary that an uniform standard Preamble. weight, equivalent to the Winchester bushel, should be established for the different kinds of grain and pulse exposed to sale 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 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 following rates shall be and the same are hereby declared to be the standard weight, which in all cases shall be allowed to be equal to the Winchester bushel, namely:

Wheat.....	Sixty pounds.
Indian Corn.....	Fifty-six pounds.
Rye.....	Fifty-six pounds.
Peas.....	Sixty pounds.
Barley.....	Forty-eight pounds.
Oats.....	Thirty-four pounds.
Beans.....	Fifty pounds.
Timothy and Clover Seed.....	Sixty pounds.

Previous contracts not affected by this Act.

Provided always, that the effect of any contract made before the passing of this Act shall not be varied by any thing herein contained.

Operation of this Act upon subsequent contracts.

II. *And be it further enacted by the authority aforesaid, That upon every sale or delivery of any description of grain or pulse in this Act mentioned, which shall be made after the passing of this Act, and in every contract which shall be made after the passing of this Act, for the sale or delivery of any such grain or pulse, the bushel shall be taken and intended to mean the weight of a bushel as regulated by this Act, and not a bushel in measure, or according to any greater or less weight, unless the contrary shall appear to have been agreed upon by the parties.*

C H A P. V I I I.

AN ACT to reduce to one Act of Parliament the several laws relative to the appointment and duties of Township Officers in this Province, except an Act passed in the fourth year of the reign of William the Fourth, Chapter twelve, intituled, "An Act to regulate Line Fences and Water Courses, and to repeal so much of an Act passed in the thirty-third year of the reign of His late Majesty King George the Third, intituled, 'An Act to provide for the nomination and appointment of Parish and Town Officers within this Province,' as relates to the office of Fence Viewers being discharged by Overseers of Highways and Roads."

[Passed 16th April, 1835.]

(Superseded and intended to be expressly repealed by 1st Vic. Chap. 21, Sec. 1.—See clerical error at the end of that section, omitting the repeal.)

Preamble.

WHEREAS it is expedient that the several laws now in force relative to the appointment and duties of Township Officers, and the mode of notifying and holding township meetings, except an Act passed in the fourth year of the reign of William the Fourth, Chapter twelve, intituled, "An Act to regulate line fences and water courses, and to repeal so much of an Act passed in the thirty-third year of the reign of His late Majesty King George the Third, intituled, 'An Act to provide for the nomination and appointment of Parish and Town Officers within this Province,' as relates to the office of Fence Viewers being discharged by Overseers of Highways and Roads," should be repealed and reduced to one Act of Parliament, and that provision should be made for the appointment of certain other Township Officers not now authorised to be chosen: *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 an Act passed in thirty-third year of the reign of King George the Third, intituled, "An Act to provide for the nomination and appointment of Parish and Town Officers within this Province," except the tenth clause thereof; and also an Act passed in the thirty-fourth year of George the Third, intituled, "An Act to restrain the custom of permitting horned cattle, horses, sheep and swine, to run at large;" and also the first, second and third clauses of an Act passed in the forty-third year of the reign of George the Third, intituled, "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,'" and also an Act passed in the forty-fourth year of the reign of George the Third, intituled, "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;" and also an Act passed in the forty-fifth year of the reign of George the Third, intituled, "An Act to make provision for further appointments of Parish and Town Officers throughout this Province;" and also an Act passed in the forty-sixth year of the reign of George the Third, intituled, "An Act to alter and amend an Act passed in the thirty-third year of His present Majesty's reign, intituled, 'An Act to provide for the nomination and appointment of Parish and Town Officers,' and also to repeal certain parts of an Act passed in the thirty-third year of His present Majesty's reign, intituled, 'An Act to authorise and direct the laying and collecting of assessments and rates in every District in this Province, and to provide for payment of wages to the Members of the House of Assembly;" and also an Act passed in the forty-eighth year of George the Third, intituled, "An Act for the better regulation of Parish and Town Officers throughout this Province;" and also the sixth, seventh, eleventh, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, twenty-ninth, thirtieth, thirty-first, thirty-second and thirty-third clauses of an Act passed in the fiftieth year of the reign of George the Third, intituled, "An Act to provide for the laying out, amending and keeping in repair, the public Highways and Roads in this Province, and to repeal the laws now in force for that purpose;" and also an Act passed in the fifty-first year of George the Third, intituled, "An Act to repeal an Act passed in the forty-seventh year of His Majesty's reign, intituled, 'An Act to repeal the several Acts

Repeals 33 Geo. III. c. 2;

34 Geo. III. c. 5;

43 Geo. III. c. 10, Secs. 1, 2 & 3;

41 Geo. III. c. 1;

45 Geo. III. c. 6;

46 Geo. III. c. 5;

42 Geo. III. c. 11;

Various clauses of 50 Geo. III. c. 1;

31 Geo. III. c. 5;

now in force in this Province relating to rates and assessments, and also to particularize the property, real and personal, which during the continuance thereof shall be subject to rates and assessments, and fixing the several valuations at which each and every particular of such property shall be rated and assessed, and to make further provisions for the same;”

53 Geo. III. c. 9; and also an Act passed in the fifty-third year of George the Third, intituled, “An Act to alter and amend an Act passed in the forty-eighth year of His Majesty’s reign, intituled, ‘An Act for the better regulation of Parish and Town Officers throughout this Province;’” and also an Act passed in the fifty-sixth year of George the Third, intituled, “An Act to repeal and amend part of an Act passed in the fiftieth year of His Majesty’s reign, intituled, ‘An Act to provide for the laying out, amending and keeping in repair, the public Highways and Roads in this Province, and to repeal the laws now in force for that purpose;’” and also an Act passed in the fifty-seventh year of George the Third, intituled, “An Act to repeal part of, and alter and amend 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 within this Province;’” and also an Act passed in the fifty-ninth year of George the Third, intituled, “An Act further to extend the provisions of an Act passed in the fifty-fifth year of His Majesty’s reign, intituled, ‘An Act to make provision for the further appointment of Parish and Town Officers throughout this Province;’” and also the third, sixth, ninth, tenth, eleventh and sixteenth clauses of an Act passed in the fifty-ninth year of George the Third, intituled, “An Act to repeal the several laws now in force relative to levying and collecting rates and assessments in this Province, and further to provide for the more equal and general assessment of lands and other ratable property throughout this Province;” and also the sixth, eighth, ninth, eleventh and twelve clauses of an Act passed in the fifty-ninth year of the reign of George the Third, intituled, “An Act to repeal part of and amend the laws now in force for laying out, amending and keeping in repair, the public Highways and Roads in this Province;” and also an Act passed in the fourth year of the reign of His late Majesty King George the Fourth, intituled, “An Act to repeal part of the second clause of an Act passed in the thirty-third year of His late Majesty’s reign, intituled, ‘An Act to provide for the nomination and appointment of Parish and Town Officers within this Province,’ and to make more effectual provision for obtaining an accurate census of the population of this Province;” and also the fourth, fifth and eighth clauses, of an Act passed in the fourth year of George the Fourth, intituled, “An Act to repeal part of and amend an Act passed in the fiftieth year of His late Majesty’s reign, intituled, ‘An Act to provide for the laying out, amending and keeping in repair, the public Highways and Roads in this Province, and to repeal the laws now in force for that purpose,’ and also to repeal part of and amend the provisions of an Act passed in the fifty-ninth year of His late Majesty’s reign, intituled, ‘An Act to repeal part of and amend the laws now in force for laying out, amending and keeping in repair, the public Highways and Roads in this Province;’” and also an Act

passed in the eleventh year of His late Majesty George the Fourth, intituled, "An Act to provide for an increase of the number of Overseers of Highways, Pounds and Pound-Keepers, in the respective Townships throughout this Province;" and also an Act passed in the fourth year of William the Fourth, Chapter eleventh, intituled, "An Act to repeal part of and amend the laws now in force in this Province, respecting the appointment and duties of Township Officers," be, and the same are hereby repealed: *Provided always*, that any prior Acts or Enactments repealed by any of the Acts hereinbefore recited, shall be and remain repealed.

11 Geo. IV. c. 7;

4 W. IV. c. 11.

CHAP. IX.

AN ACT to prevent the sale of spirituous liquors to Indians.

[Passed 16th April, 1835.]

[EXPIRED.—SEE 3 VIC. CHAP. 13.]

CHAP. X.

AN ACT to promote the public health, and to guard against infectious diseases in this Province.

[Passed 16th April, 1835.]

TO guard against the introduction of malignant, contagious and infectious diseases, and for the preservation of the public health of the 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 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, from time to time to appoint three or more persons in each and every Town of this Province, and in such other places as may be deemed necessary, to act as Health Officers within the limits of the Town or place for which they shall be so appointed.

Preamble.

(See 2 Vic. Chap. 21.)

Lieutenant Governor and Council to appoint Boards of Health.

Their power and duties.

II. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for such Health Officers, or any two of them, as often as they shall think necessary, in the day time, to enter into and upon the premises of the persons resident within the limits of the Town or place for which they shall have been so appointed, and to examine the same; and if upon such examination it shall be found that the said premises are in an unclean or filthy state, or that any matter or thing exists thereon which in their opinion may endanger the public health, it shall and may be lawful for such Health Officers, or any two of them, to order and direct the proprietor or occupant of such premises to cleanse the same, and to remove whatsoever shall or may be found thereon, which in the opinion of the said Health Officers, or any two of them, may endanger the public health, and in case the proprietor or occupier of any such premises shall neglect or refuse to obey the orders and directions of such Health Officers, or any two of them, it shall and may be lawful for the said Health Officers, or any two of them, to call to their assistance all Constables and Peace Officers, and such other persons as they may think fit, and to enter on the said premises and to cleanse the same, and remove therefrom and destroy whatsoever in their opinion it may be necessary to remove or destroy for the preservation of the public health.

The Governor, &c. may make rules respecting vessels entering ports.

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, by and with the advice and consent of His Majesty's Executive Council, to make and declare such rules and regulations concerning the entry or departure of any boats or vessels at the different ports or other places within this Province, and the landing and receiving passengers and cargoes on board the same, as shall be thought best calculated to preserve the public health.

Penalty for disobedience.

IV. *And be it further enacted by the authority aforesaid,* That if any person or persons shall wilfully disobey or resist any lawful order of the Health Officers, duly appointed under and by virtue of this Act, or any two of them, or shall wilfully violate any rule or regulation made and declared by the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, by and with the advice of His Majesty's Executive Council, in pursuance of the power vested in him by this Act, or shall wilfully resist or obstruct the said Health Officers in the execution of their duties, such person or persons, on being convicted of such wilful disobedience or violation of such rules and regulations, or of resistance to the said Health Officers, before two or more of His Majesty's Justices of the Peace for the District where such offender or offenders reside, shall forfeit and pay a fine not less than twenty shillings nor more than twenty pounds; which said fine shall and may be levied and collected by seizure and sale of such offender or offenders goods and chattels, under and by virtue of a warrant issued under the hands and seals of the Justices before whom such offender or offenders shall or may have been convicted; and shall be paid into the hands of His Majesty's Receiver-General, to

How recoverible.

and for the public uses of the Province, and be accounted for through the Lords Commissioners of His Majesty's Treasury, for the time being, in such manner and form as His Majesty shall be pleased to direct.

V. *And be it further enacted by the authority aforesaid, That this Act shall be and continue in force for one year, and from thence to the end of the then next ensuing Session of the Provincial Parliament, and no longer.* Act limited to one year, (Made perpetual by 2 Vic. Ch. 21.)

VI. *And be it further enacted by the authority aforesaid, That in all cases in which disease of a malignant and fatal character shall be discovered to exist in any dwelling-house, or out-house temporarily occupied as a dwelling, in any City, Town or Village, within this Province, which said dwelling-house or out-house shall be situated in an unhealthy or crowded part of said City, Town or Village, or be in a neglected and filthy state, or inhabited by too many persons, it shall and may be lawful to and for the Board of Health of such City, Town or Village, or a majority thereof, in the exercise of a sound discretion, and at the proper costs and charges of the said Board of Health, to compel the inhabitants of any such dwelling-house or out-house to remove therefrom, and to place them in sheds or tents, or other good shelter, in some more salubrious situation, until measures can be taken, by and under the direction and at the costs and charges of the said Board of Health, for the immediate cleansing, ventilation, purification and disinfection, of the said dwelling-house or out-house: *Provided always*, and be it understood, that this provision shall apply and relate to all dwelling-houses and out-houses situated within one mile of any City, Town or Village, in this Province.* Proceedings in cases of malignant diseases in crowded or unhealthy places.

CHAP. XI.

AN ACT to amend and continue for a limited time an Act passed in the eleventh year of His late Majesty's reign, intituled, "An Act to encourage the establishment of Agricultural Societies in the several Districts of this Province."

[Passed 16th April, 1835.]

[EXPIRED.]

CHAP. XII.

AN ACT to provide for the support of the several Light-Houses in this Province, at present unprovided for.

[Passed 16th April, 1835.]

Preamble; Appropriation of £1000 for support of Light-Houses. 2 How to be accounted for.

[EXPIRED.]

CHAP. XIII.*AN ACT to continue the Road Acts of 1833 and 1834.*

[Passed 16th April, 1835.]

[EXPIRED.]

CHAP. XIV.*AN ACT to incorporate a Joint Stock Company for the construction of a Harbour at the mouth of Stoney Creek, on Lake Ontario.*

[Passed 16th April, 1835.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XV.*AN ACT to incorporate a Joint Stock Company for the manufacture of Salt, in the Township of Saltfleet, in the District of Gore.*

[Passed 16th April, 1835.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XVI.*AN ACT to incorporate certain persons therein mentioned under the style and title of the President, Directors and Company, of the Grimsby Breakwater Pier and Harbour Company.*

[Passed 16th April, 1835.]

[See Local and Private Acts, in 2nd Volume.]

CHAP.

CHAP. XVII.

AN ACT to incorporate sundry persons under the style and title of the Hamilton and Port Dover Rail Road Company.

[Passed 16th April, 1835.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XVIII.

AN ACT for incorporating certain persons therein named, and their associates, under the style and title of the Cayuga Glass Manufacturing Company.

[Passed 16th April, 1835.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XIX.

AN ACT to incorporate certain persons therein mentioned, under the name and style of the Erie and Ontario Rail Road Company.

[Passed 16th April, 1835.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XX.

AN ACT to authorise a new Survey in the Township of King.

[Passed 16th April, 1835.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXI.

AN ACT to establish the Boundary Lines of the Township of Wolford, in the District of Johnstown.

[Passed 16th April, 1835.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXII.

AN ACT to alter the times of holding the Court of Quarter Sessions in the District of Niagara.

[Passed 16th April, 1835.]

[REPEALED BY 7 Wm. IV. CHAP. 11.]

CHAP. XXIII.

AN ACT to continue and amend an Act passed in the second year of His Majesty's reign, intituled, "An Act for incorporating a Joint Stock Company under the style and title of the President, Directors and Company, of the Port Dover Harbour."

[Passed 16th April, 1835.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXIV.

AN ACT to explain and amend an Act incorporating the Welland Canal Company, and for appointing Arbitrators for certain purposes therein mentioned.

[Passed 16th April, 1835.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXV.

AN ACT to authorise the levying an increased tax on the inhabitants of the District of Prince Edward, for the term of three years.

[Passed 16th April, 1835.]

Preamble; Additional rate of one half-penny in the pound may be levied. 2. Application thereof. 3. To be added to the assessment roll. 4. No per centage to be allowed.

[EXPIRED.]

CHAP. XXVI.

AN ACT to appoint Commissioners to settle disputes respecting certain Roads and Lines in the Township of Norwich, in the District of London, and to establish the said Lines and Roads.

[Passed 16th April, 1835.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXVII.

AN ACT to revive and continue an Act passed in the tenth year of His late Majesty's reign, intituled, "An Act the better to protect the Mississagua Tribes, living on the Indian Reserve at the River Credit, in their exclusive right of fishing and hunting therein.

[Passed 16th April, 1835.]

Preamble; 10 Geo. IV. Chap. 3, continued, 2. Act limited to four years.

[EXPIRED.]

CHAP. XXVIII.

AN ACT to make good certain monies advanced for the contingent expenses of the last Session of the Legislature of this Province; and also to make good certain monies advanced in compliance with an Address of the House of Assembly during the present Session.

[Passed 16th April, 1835.]

Preamble; Eight thousand one hundred and seven pounds, four shillings, granted to defray contingent expenses. 2. How to be accounted for.

CHAP. XXIX.

AN ACT to provide additional aid in support of Common Schools in the several Districts in this Province.

[Passed 16th April, 1835.]

Preamble; £5,650 granted for the support of Common Schools for the year 1835; Appropriation; 2. To be paid upon warrants to the Receiver-General; And accounted for. 3. Payment of Teachers. 4. Additional salary to Clerks of the Boards.

CHAP. XXX.

AN ACT granting to His Majesty a sum of money for the purpose of a Steam Dredging Machine.

[Passed 16th April, 1835.]

Preamble £2000 granted for the purposes of this Act, 2. Appointment of Commissioners. 3. Sum granted to be paid on warrants to Receiver-General; And accounted for. 4. Commissioners to account to Lieutenant-Governor.

CHAP. XXXI.

AN ACT to authorise a Loan to be raised in the manner therein mentioned.

[Passed 16th April, 1835.]

Preamble.

(See 1 Vic. Chaps. 51, 52;
2 Vic. Chap. 72;
Statutes of Canada, 4 & 5
Vic. Chap. 33.)

Authority to Receiver
General to raise by loan
a sum not exceeding
£400,000. Sterling;

WHEREAS it is important to the public interests of this Province that the debentures still outstanding and payable, as well as those which may hereafter become due should be redeemed, and for successfully prosecuting the various public works and improvements now or that may be in operation, it is therefore advantageous and expedient to negotiate a further loan in Great Britain for those purposes: *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 His Majesty's Receiver General of this Province to treat with any person or persons,

or with any body politic or corporate, in London or elsewhere in Great Britain, for the raising by loan on the credit of this Province, a sum not exceeding four hundred thousand pounds, sterling money of Great Britain, or for raising by loan so many and such sums, not less than fifty thousand pounds each, of sterling money, as aforesaid, as shall not exceed in the whole the said sum of four hundred thousand pounds; *Provided*, that such loan or loans can be obtained at a rate of interest not greater than five per centum per annum, payable in London; and on condition that the principal shall be redeemed at the expiration of twenty years.

Interest not to exceed five per cent. payable in London;

Period of redemption.

II. *And be it further enacted by the authority aforesaid*, That for the money so borrowed, His Majesty's Receiver General of the Province, for the time being, shall issue debentures in such sums, not less than one hundred pounds sterling each, as may be desired by the lenders thereof, which debentures shall be prepared and made out in such manner and form as the said Receiver General shall think most safe and convenient: *Provided always*, that every such debenture shall be signed by the Receiver General of this Province, and shall be made payable to the order of the Inspector General of this Province, for the time being, who shall endorse the same in blank, and shall on or immediately after the first day of January, and the first day of July, in every year, make a return to the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, of the debentures endorsed by him under this Act.

Debentures may be issued;

To be signed by Receiver General;

Annual return to be made.

III. *And be it further enacted by the authority aforesaid*, That each debenture shall express on the face of it the principal sum in sterling money of Great Britain, and the rate of interest payable thereon, and the time at which such debenture shall be redeemable; and that a place in London shall be named by the Receiver General in the said debenture, at which the principal monies and the interest accruing thereon, shall be paid on behalf of the Government of this Province.

Form of debentures.

IV. *And be it further enacted by the authority aforesaid*, That all such debentures and the interest thereon, and all charges incident to or attending the same, shall be, and are hereby charged and chargeable upon, and shall be repaid and borne out of the monies that shall come into the hands of the Receiver General of this Province, to and for the public uses of this Province, on account of the proportion payable to this Province of duties which already have been or hereafter may be levied and received in the Province of Lower Canada, upon goods imported into the said Province, or from any other source whatever.

Charges of such debentures to be paid out of the public funds.

V. *And be it further enacted by the authority aforesaid*, That the debentures which shall be lawfully issued by the authority of this Act, which may remain undischarged and uncanceled at the period therein appointed for the payment thereof, shall and may thereafter be received and taken, and shall pass and be current to all and every the Receivers and Collectors in this Province of the Customs, of any revenue or tax whatsoever.

Debentures may be received in payment by Collectors of Customs, &c.

ever, granted, due or payable, or which may hereafter be granted, due, or payable to His Majesty, His Heirs and Successors, under or by virtue of any Act of the Parliament of Great Britain, or of the Provincial Parliament, or otherwise, and also at the office of the Receiver General of this Province from the said Collectors and Receivers, or from any person making any payment there to His Majesty, His Heirs or Successors, upon any account or for any cause whatsoever; and that the same in the hands of such Collectors and Receivers, and in the hands of the Receiver General of this Province, shall be deemed and taken as cash, and as such shall be charged against and credited to such Collectors and Receivers, and to such Receiver General aforesaid, respectively, in their accounts with each other, and with His Majesty, His Heirs and Successors.

Interest upon such debentures.

VI. *And be it further enacted by the authority aforesaid,* That the interest which shall from time to time be due upon any debenture which may be so issued, shall be allowed to all persons, bodies politic or corporate, paying the same to any Receiver or Collector of any of His Majesty's revenues in this Province, to the respective days whereupon such debentures shall be so paid: *Provided always,* that no interest shall run or be paid upon or for any such debenture during the time such debentures so paid shall remain in the hands of any of the said Receivers or Collectors, but for such term the interest on every such debenture shall cease.

Time of receiving such debentures to be noted.

VII. And to the end that it may be known for what time such debentures bearing interest shall from time to time remain in the hands of such Receivers or Collectors, as aforesaid: *Be it further enacted by the authority aforesaid,* That the person or persons who shall pay any such debenture or debentures, so bearing interest, to the Receivers or Collectors of any of His Majesty's revenues or taxes, shall, at the time of making such payment, put his or their name or names, and write thereupon in words at length the day of the month and year in which he, she or they, so paid such debenture bearing interest, all which the said Collectors and Receivers, respectively, shall take care to see done and performed accordingly, to which respective days the said Receivers and Collectors shall be allowed again the interest which he or they shall have allowed or paid upon such respective debenture, upon his or their paying the same into the hands of the Receiver-General aforesaid.

Forging debentures to be felony;

VIII. *And be it further enacted by the authority aforesaid,* That if any person or persons shall forge or counterfeit any such debenture, as aforesaid, which shall be issued under the authority of this Act, and uncanceled, or any stamp, endorsement or writing thereto or therein, or tender in payment any such forged or counterfeit debenture, or any debentures with such counterfeit endorsement or writing thereon, or shall demand to have such counterfeit debenture, or any debenture with such counterfeit endorsement or writing thereupon or therein, exchanged for ready money, by any person or persons who shall be obliged or required to exchange the

same, or by any other person or persons whomsoever, knowing the debenture so tendered in payment, or demanded to be exchanged, or the endorsement or writing thereupon or therein, to be forged or counterfeited, and with intent to defraud His Majesty, His Heirs and Successors, or the persons appointed to pay off the same, or any of them, or any other person or persons, bodies politic or corporate, then every such person or persons so offending, being thereof lawfully convicted, shall be adjudged a felon, and shall be liable to the punishment provided in the twenty-fifth section of an Act passed by the Parliament of this Province, in the third year of His Majesty's reign, intituled, "An Act to reduce the number of cases in which capital punishment may be inflicted, to provide other punishments for offences which shall no longer be capital after the passing of this Act, to abolish the privilege called 'benefit of clergy,' and to make other alterations in certain criminal proceedings before and after conviction." Punishment.

IX. *And be it further enacted by the authority aforesaid,* That the Receiver-General of this Province, for the time being, shall, before each Session of the Parliament of this Province, transmit to the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, a correct account of the numbers, amount and dates, of the different debentures which he may have issued under the authority of this Act; of the amount of the debentures redeemed by him, and the interest paid thereon, respectively; and also of the amount of the said debentures outstanding and unredeemed at the periods aforesaid, and of the premium or other profits received, and the expenses attending the issuing the same, and of carrying this Act into execution, to be laid before the Legislature of this Province. Annual account to be laid before the Legislature.

X. *And be it further enacted by the authority aforesaid,* That the interest growing due upon the said debentures shall and may be demandable in half yearly periods, computing from the date thereof; and shall and may be paid on demand by or through the Receiver-General of this Province, for the time being, whose duty it shall be to deposit, at the places specified in the said debentures, the half yearly interest which may from time to time be due and payable thereon; and that the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, shall, after the thirtieth day of June, and the thirty-first day of December, in each year, issue warrants to the Receiver-General for the payment of the amount of interest that shall have been advanced. Interest payable half yearly.

XI. *And be it further enacted by the authority aforesaid,* That at any time after the said debentures, or any of them, shall respectively become due and payable according to the terms thereof, it shall and may be lawful for the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, to order and direct His Majesty's Receiver-General, for the time being, to pay off, cancel and discharge the same in London according to the terms of the said loan; and if the said debentures shall not be presented at the place named by the said Receiver- Payment of debentures when due.

General in London within six months after the same may become due and payable, the interest shall cease and be no further payable in respect to the time which may elapse between the expiration of the said six months and their presentment for payment.

Until such loan obtained in Great Britain provisional debentures may be issued in this Province not exceeding £100,000;

XII. *And be it further enacted by the authority aforesaid,* That until the Receiver-General shall have negotiated such loan under the provisions of this Act in Great Britain, he is hereby authorised to treat with any person or persons, bodies politic or corporate, in this Province, who may be willing to advance such monies as may be required for such public works as are now or may be in progress, not exceeding the sum of one hundred thousand pounds, on the credit of Government bills or debentures, secured on the public revenues coming into the hands of His Majesty's Receiver-General, under the control of the Legislature, such bills or debentures to be made out in such manner and form as His Majesty's Receiver-General shall think most safe and convenient, not bearing a higher interest than six per centum per annum, payable half yearly in this Province, and redeemable at a period not exceeding five years; and that the interest growing due upon said debentures, as well as for the redemption thereof, shall be paid by the Receiver-General in discharge of such warrant or warrants as shall be issued by the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, under the provisions of this Act; and that the said sum of one hundred thousand pounds, or so much thereof as may be raised in this Province, shall be paid off by the Receiver-General out of the sum of four hundred thousand pounds authorised to be borrowed in England, and shall not constitute an additional loan.

Interest six per cent.;

Redeemable in five years;

To be repaid out of the loan raised in England.

Debentures may be paid off at any time;

After six months notice.

XIII. *And be it further enacted by the authority aforesaid,* That the bills or debentures which may be issued under the authority of this Act within this Province, shall or may be collected in and paid off at any time after six months notice inserted in the Upper Canada Gazette; and no further interest to be claimed after the expiration of the said six months by the holders of the said bills or debentures.

4 Wm. IV. Chap. 40, Sec. 3, repealed.

XIV. *And be it further enacted by the authority aforesaid,* That the third clause of an Act passed in the last Session of the Legislature, intituled, "An Act to repeal part of, amend and extend the provisions of an Act passed in the last Session of the Provincial Parliament, intituled, 'An Act granting to His Majesty a sum of money, to be raised by debenture, for the improvement of the navigation of the River St. Lawrence,'" is hereby repealed.

Sterling money to be expressed in the debentures.

XV. *And be it further enacted by the authority aforesaid,* That each debenture shall express on the face of it the principal sum in sterling money of Great Britain, and the rate of interest payable thereon, and the time at which such debentures shall be redeemable; and that a place in London shall be named by the Receiver-General in the said debenture at

which the principal monies and the interest accruing thereon shall be paid on behalf of the Government of this Province.

XVI. *And be it further enacted by the authority aforesaid, That all monies required to be paid by the Receiver-General under the authority of this Act shall be so paid by him in discharge of such warrant or warrants as shall for that purpose be issued by the Governor, Lieutenant-Governor, or Person Administering the Government of this Province; and shall be accounted for to His Majesty through the Lords Commissioners of His Treasury, for the time being, in such manner and form as His Majesty, His Heirs and Successors, shall be graciously pleased to direct.*

Monies how payable

And accounted for.

CHAP. XXXII.

AN ACT to make good certain monies advanced by His Excellency to defray the expenses incurred by the Cholera in 1834.

[Passed 16th April, 1835.]

Preamble; £2150 granted to re-pay expenses incurred on account of the Cholera. 2. To be paid upon warrants to Receiver-General; And accounted for.

CHAP. XXXIII.

AN ACT to provide for the payment of certain sums therein mentioned.

[Passed 16th April, 1835.]

Preamble; £7658 granted for payment of officers of the Civil Government. 2. Further grant for payment of Crown officers; Attorney-General; Solicitor-General. 3. To be paid upon warrants to the Receiver-General; And accounted for.

CHAP. XXXIV.

AN ACT authorising a loan to the President and Directors of the Desjardin's Canal Company.

[Passed 16th April, 1835.]

[See Local and Private Acts, in 2nd Volume.]

C H A P. XXXV.

AN ACT for the remuneration of Dean S. Howard, for extra work performed by him in the erection of the Trent Bridge.

[Passed 16th April, 1835.]

Preamble: £575 granted to D. S. Howard. 2. To be paid on warrants to Receiver-General; And accounted for.

C H A P. XXXVI.

AN ACT to amend and continue the Act granting Militia Pensions.

[Passed 16th April, 1835.]

WHEREAS an Act passed in the seventh year of His late Majesty's reign, intituled, "An Act to repeal part of, amend and continue the laws now in force for the payment of Militia Pensions," as revived and continued by an Act passed in the eleventh year of His said Majesty's reign, intituled, "An Act to provide for the payment of Militia Pensions, by reviving and continuing for a limited time the law for that purpose, which has recently expired," will expire at the end of the present Session of the Provincial Legislature; *And whereas* Donald McDermid, Lieutenant in the Glengarry Militia, now of Charlottenburgh, in the Eastern District, Nathaniel S. Cohoof, of the London District, Private in the first Regiment of the Lincoln Militia, and Artemas W. Cushman, of Fredericksburgh, in the Midland District, have by their several petitions during the present Session of Parliament, prayed to be entered on the Pension List of this Province, on account of disability occasioned by wounds received during the late war with the United States, and it is expedient to continue the said first recited Act, to afford the said petitioners relief in the premises: *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 Act passed in the seventh year of His late Majesty's reign be and the same is hereby continued for and during the term of four years from the passing of this Act, and from thence to the end of the then next ensuing Session of Parliament, and no longer, any thing in the said recited Acts to the contrary in any wise notwithstanding.

Preamble.

Recites 7 Geo. IV. Ch. 6.

[See 3 Vic. Chaps. 27, 28.]

Petitioners praying to be allowed pensions in respect of wounds received.

Act 7 Geo. IV. Chap. 6, continued for four years.

(Made perpetual by 3 Vic. Chap. 28.)

Surgeons to be appointed for the examination of the petitioners;

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 nominate and appoint any three Surgeons resident in the several Districts in which the said petitioners respectively reside, and authorised by the laws of this Province to practise Physic and Surgery, to examine the said petitioners, respectively, and the decision of the Surgeons so appointed, or any two of them, shall be final; and if the said Surgeons, or any two of them, shall be satisfied on such examination that the said petitioners, or either of them, are or is actually disabled from wounds received during the late war with the United States, and shall give a certificate to that effect, it shall and may be lawful for the Governor, Lieutenant-Governor, or Person Administering the Government, to cause the name of the said petitioners, or such of them as may appear by such certificate to have been disabled, to be inserted on the Pension List of this Province; and the person or persons whose name shall be so inserted shall from thenceforth be entitled to receive a Pension of twenty pounds per annum, in the same manner as the other Militia Pensioners.

Surgeons' certificates;

Pension of £20 per annum to each petitioner; [See 3 Vic. Chap. 27.]

CHAP. XXXVII.

AN ACT to increase the Salary of the Keeper of the False Ducks Light-House.

[Passed 16th April, 1835.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXVIII.

AN ACT for the promotion of Science by enabling the Mechanics' Institute of the City of Toronto to procure certain Apparatus.

[Passed 16th April, 1835.]

Preamble; £200 granted for the purchase of philosophical instruments. 2. Instruments to be deposited at Toronto. 3. Money granted to be accounted for by Receiver General.

CHAP. XXXIX.

AN ACT for the erection of a Light-House on Heartley's Point, on Lake Erie.

[Passed 16th April, 1835.]

Preamble; Light House to be erected on Heartley's Point. 2. Commissioners. 3. Grant of £800 for the purposes of this Act; How to be paid; And accounted for. 4. Commissioners to render account to Lieutenant Governor. 5. Commissioners not to exceed sum granted; Contracts to be advertised for; Lowest tender to be accepted; Three per cent for superintending the erection.

CHAP. XL.

AN ACT granting a sum of money to the Kingston Mechanics' Institute.

[Passed 16th April, 1835.]

Preamble; £100 granted for purchase of books and instruments. 2. To be deposited at Kingston.
3. Sum granted to be accounted for by Receiver General.

CHAP. XLI.

AN ACT granting a sum of money for the erection of a Light-House on Gull Island, or such other place as the Commissioners may select.

[Passed 16th April, 1835.]

Preamble; Light House to be erected upon Gull Island. 2. Commissioners; [*Repealed by 6 Wm. IV. Ch. 43*] 3. £1000 granted for the purposes of this Act. 4. Commissioners to account for the expenditure by 1st January, 1836; And report their opinion as to amount of tonnage necessary to be levied for repayment of grant, &c.; [*Repealed by 6 Wm. IV. Ch. 43.*] 5. Commissioners not to exceed sum granted; Tenders to be advertised for; Lowest tender to be accepted; Allowance for superintendance.

[See 6 W_M. IV. CH. 43; 7 W_M. IV. CH. 88.]

CHAP. XLII.

AN ACT granting a sum of money for the further completion of the Kingston Penitentiary, and for other purposes therein mentioned.

[Passed 16th April, 1835.]

Preamble: £3,000 granted for the purposes of the Penitentiary. 2. Duties of Commissioners under 3 W_M. IV. Ch. 44, to be performed by the Board of Inspectors and Wardens. 3. Detailed account of expenditure to be rendered to the Lieutenant-Governor, &c.; And the monies to be accounted for by the Receiver General.

CHAP. XLIII.

An ACT granting a loan to the Cobourg Harbour Company.

[Passed 16th April, 1835.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLIV.

AN ACT to extend the time of holding the next Election in the County of Leeds.

[Passed 24th February, 1835.]

Preamble; Time for polling extended to twelve days. This Act applies to next Election only.

[EXPIRED.]

CHAP. XLV.

AN ACT for altering and amending the Charter of the President, Directors and Company, of the Commercial Bank of the Midland District, and for increasing the number of Shares to be held in the Capital Stock of the Company.

[The Royal Assent to this Bill promulgated by Proclamation, bearing date the twenty-seventh day of October, one thousand eight hundred and thirty-five.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLVI.

AN ACT to incorporate sundry persons under the style and title of the President, Directors and Company, of the Gore Bank.

[The Royal Assent to this Bill promulgated by Proclamation, bearing date the twenty-seventh day of October, one thousand eight hundred and thirty-five.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLVII.

AN ACT for the relief of the Heirs of the late Peter Desjardins.

[The Royal Assent to this Bill promulgated by Proclamation, bearing date the twenty-eighth day of November, one thousand eight hundred and thirty-five.]

[See Local and Private Acts, in 2nd Volume.]

STATUTES OF UPPER CANADA,

PASSED IN THE

SECOND SESSION OF THE TWELFTH PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT TORONTO, ON THE FOURTEENTH DAY OF JANUARY, IN THE SIXTH YEAR OF
THE REIGN OF OUR SOVEREIGN LORD WILLIAM THE FOURTH, AND PROROGUED ON
THE TWENTIETH DAY OF APRIL FOLLOWING.

SIR FRANCIS BOND HEAD, K. C. H.

LIEUTENANT GOVERNOR.

ANNO DOMINI 1836.

CHAP. I.

*AN ACT to provide for the payment of wages to Members representing
Cities and incorporated Towns within the Province.*

[Passed 7th March, 1836.]

Preamble.
Reciting 5 Wm. IV. Ch. 6.
(See 1 Vic. Ch. 17.)

(Superseded by the Act
of Union.)

Members for incorporated
towns to receive Speaker's
warrant;

WHEREAS an Act of the Parliament of this Province, passed in the fifth year of the reign of His present Majesty, intituled, "An Act to provide for the payment of wages to the members of the House of Assembly who represent the different Towns in this Province," does not make provision for an assessment in any incorporate Town or City which now does or hereafter may send a representative or representatives to the Commons House of Assembly, for the compensation of such representative or representatives; *And whereas* it is just and right that such provision should be made: *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 any prorogation and dissolution of the Assembly of this Province, it shall and may be lawful for every member thereof now representing or hereafter to represent any incorporated Town or City, having attended, to receive from the Speaker of the House of Assembly a warrant under

his hand and seal, signifying the time such member hath attended his duty in said Assembly; and every member possessed of such warrant shall and may ask and demand of the Common Council or other Magistrates of the incorporated Town or City represented by him, 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 the place of his abode in going to and returning from the said Assembly; which sum it shall be lawful for the said Common Council, or other Magistrates, and they are hereby required to levy the same by assessment, to be made on each and every inhabitant householder of such incorporated Town or City now or hereafter to be 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 such incorporated Town or City in this Province; and for the said Council, or other Magistrates, to order and direct the Treasurer or Chamberlain of such incorporated Town or City to pay the amount to which any such representative may be entitled, out of the monies which may come into his hands and subject to the order of the Council or Magistrates.

Demand to be made on the Common Council, not exceeding 10s. per diem;

To be levied by assessment.

II. *And be it further enacted by the authority aforesaid,* That no rate or assessment shall be levied on any inhabitant householder in any incorporated Town or City, now or hereafter to be represented, as aforesaid, for contribution to the payment of the wages of any representative for any County or Riding in which such incorporated Town or City shall be situated.

Inhabitants of incorporated towns exempt from contributing to wages of County Members.

III. *And be it further enacted by the authority aforesaid,* That this Act shall extend in every respect to the payment of wages to the member or members representing any incorporated Town or City in this Province as shall have attended the present or former Session of this present Provincial Parliament.

Act to extend to payment of wages of former Sessions.

CHAP. II.

AN ACT to amend and extend the provisions of an Act passed during the last Session of the Provincial Legislature, intituled, "An Act to reduce to one Act of Parliament the several laws relative to the appointment and duties of Township Officers in this Province, except an Act passed in the fourth year of the reign of William the Fourth, Chapter twelve, intituled, 'An Act to regulate Line Fences and Water Courses,' and to repeal so much of an Act passed in the thirty-third year of the reign of His late Majesty King George the Third, intituled, 'An Act to provide for the nomination and appointment of Parish and Town Officers within this Province as relates to the office of Fence Viewers being discharged by Overseers of Highways and Roads.'"

[Passed 20th April, 1836.]

[REPEALED BY 1 VIC. CHAP. 21.]

CHAP. III.

AN ACT to prevent Bodies Corporate within this Province from entering upon and taking possession of the Lands of the Crown, without permission from His Majesty.

[Passed 20th April, 1836.]

Preamble.

WHEREAS it is necessary for the preservation of the rights of His Majesty, to prevent by law the entering upon any of His Majesty's lands in this Province, without his assent, by any body corporate created for the purpose of erecting or making rail roads, canals, or other works of a like description, within 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 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 not be lawful for any body corporate now created, or hereafter to be created, within this Province, their servants or agents, or any of them, at any time or times from and after the passing of this Act, to enter into and upon, have, hold, use or enjoy, for the purposes of such body corporate, or for any other purpose, any part or parts of the lands or grounds of or belonging to the King's Majesty, without the licence and consent of His Majesty, His Heirs or Successors, for such purposes first had and obtained, signified and had under the hand and seal of the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, for the time being, any thing in any Act of incorporation of this Province to the contrary notwithstanding.

Entry on Crown lands not to be made without special licence.

CHAP. IV.

AN ACT to repeal and amend certain parts of an Act passed in the thirty-sixth year of the reign of King George the Third, intituled, "An Act to amend an Act for regulating the manner of licencing Public Houses, and for the more easy convicting of persons selling spirituous liquors without licence," and for other purposes therein mentioned.

[Passed 20th April, 1836.]

Preamble.

[See 2 Vic. Chap. 25 :
3 Vic. Cha. 10, 20, 21, 22]

WHEREAS the laws now in force inflicting penalties upon persons selling spirituous liquors without licence, are found by experience to prove ineffectual, by reason of the fine in many cases being un-

reasonably heavy, and the Justices of the Peace having no discretion in the premises; *And whereas* it is expedient to amend 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 so much of an Act of the Parliament of this Province, passed in the thirty-sixth year of the reign of His late Majesty King George the Third, 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,'" as fixes the penalty upon any person or persons selling spirituous liquors without licence, shall be and the same is hereby repealed.

Act 36 Geo. III. Ch. 3, repealed, so far as relates to penalties for selling without licence.

II. *And be it further enacted by the authority aforesaid*, 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, rum, brandy or other spirituous liquors, or shall vend any wine, rum, brandy or other spirituous liquors, unless he, she or they, shall have previously obtained a licence for such purpose as by law required, such person or persons shall forfeit and pay a sum of money, in the discretion of the Justices before whom any such conviction shall be had, not exceeding twenty pounds, nor less than five pounds, to be levied as by the before recited Act is directed, upon being convicted on the oath of any one credible witness, in addition to the informer, of his, her or their, having offended against the laws in such case made and provided: *Provided always, that no part of the fines which may be levied under the authority of this or any former Act, shall be paid to any informer, any provision in any former Statute of this Province to the contrary notwithstanding: Provided always, that all sums collected as fines, under the authority of this Act, be paid over to the Commissioners of Roads, to be by them laid out in making and repairing the highways,*

Penalty for selling without licence not to exceed £20, nor to be less than £5, in the discretion of the Magistrates;

No part to be paid to any informer; [See 3 Vic. Ch. 19, Sec 7; Chap. 20, Secs. 8 & 11; and Chap. 21, Sec. 4]

Proceeds of fines to be expended on highways.

III. *And be it further enacted by the authority aforesaid*, That in default of goods and chattels of the offender or offenders to satisfy such fine, with the costs of conviction, such offender or offenders shall be forthwith committed to the Common Gaol of the District in which the conviction shall have been had, and the offender is resident, for a period not exceeding three months, nor less than one week, or until the fine and costs be paid.

In default of goods and chattels, offender to be imprisoned.

IV. *And whereas* the great increase in the number of licenced Inns and Public Houses in the City of Toronto, and Liberties thereof, and other

Provisions for licencing houses in the City of Toronto, &c.

District Towns, or any other Town or Village containing twenty dwelling-houses within a distance of one mile, within this Province, tends greatly to the increase of vice and immorality, and does not effect the object desired, namely, the accommodation of the public: *Be it therefore further enacted by the authority aforesaid*, That from and after the passing of this Act, no certificate shall be granted for a licence to keep an Inn or Public House in the City of Toronto, or Liberties thereof, or any District Town, or any other Town or Village containing twenty dwelling-houses, within a distance of one mile, within any District of this Province, to any person or persons applying for the same, until the person or persons applying therefor have proved to the satisfaction of the authorities authorized by law to grant the same, that such person or persons is or are possessed of a dwelling-house held from year to year, or for a term of years, containing at least three rooms beyond those required for the use of the family, and that he or they have, at the time of application, at least three good beds in such house, over and above those required for the use of the family, and are also possessed of a good stable, capable of stabling at least two pair of horses.

V. *And be it further enacted by the authority aforesaid*, That from and after the passing of this Act, no licence shall be issued to any person or persons within the City of Toronto, and other District Towns and Villages containing twenty dwelling-houses within a distance of one mile, within this Province, for the sale of wine, brandy, rum or other spirituous liquors, by retail, or for keeping an Inn or Public House, upon the payment of a less sum for such licence than the sum of seven pounds ten shillings, provincial currency, any law, usage or custom, to the contrary notwithstanding.

VI. *And be it further enacted by the authority aforesaid*, That no brewer resident in the City of Toronto, or Liberties, or within one mile thereof, or any District Town within any District of this Province, shall, after the passing of this Act, sell beer by retail in a less quantity than three gallons, without first having obtained a licence for such purpose from the Justices by law authorised to issue licences for the keeping of ale and beer houses; and that every brewer applying for such licence, as aforesaid, shall pay such sum of money therefor, not exceeding two pounds ten shillings, as the Justices granting the same, shall think reasonable and just; to be applied, collected and accounted for, in the same manner as the duties payable on ale and beer house licences; and any brewer hereafter selling any beer by retail contrary to this Act, without having obtained such licence, as aforesaid, shall be subject to the like pains and penalties by law inflicted upon persons keeping ale and beer houses without licence; to be prosecuted and applied according to the provisions of an Act passed in the fourth year of the reign of His late Majesty King George the Fourth, intituled, "An Act to restrain the selling of beer, ale, cider, and other liquors not spirituous, in certain Towns and Villages in this Province, and to regulate the manner of licencing ale houses within the same."

£7 10s to be paid for licence in the City, &c.

[See 3 Vic. Chap 22, Sec. 2.]

Brewers not to sell by retail, less than three gallons, without a licence.

Duty on such licence:

[See 3 Vic. Ch 20, Secs. 14, 15, 16 & 17.]

Penalty on Brewer selling by retail without licence:

How recoverable.

VII. *And be it further enacted by the authority aforesaid,* That all prosecutions and convictions to be had under this or any former law of this Province for vending wine, rum, brandy or other spirituous liquors, or beer, ale, cider, or other liquors not spirituous, without licence, shall and may be heard, adjudged and determined, by any two or more Justices of the Peace for the District in which the party or parties complained of shall be resident, or where the offence was committed, any law to the contrary notwithstanding.

Prosecution to be before two or more Justices.
(See 3 Vic. Ch. 19, Sec. 13; Chap. 20, Sec. 12.)

VIII. *And be it further enacted by the authority aforesaid,* That the Inspectors of licences in each District of this Province shall furnish to the respective Clerks of the Peace for his District, and to the Chamberlain of the City of Toronto, on or before the first day of February in each and every year, a list in writing of all persons who have taken out licences in their respective Districts, and in the City of Toronto, either as Inn or Tavern-keepers, or as wholesale Store-keepers, which said lists shall be published by the Chamberlain of the City of Toronto, and by the Clerks of the Peace, respectively, of the several Districts, in at least two newspapers published in each of the said Districts.

Inspector of licences to furnish to Clerk of the Peace a list of licences annually.

IX. *And be it further enacted by the authority aforesaid,* That this Act shall be and continue in force for four years from the passing thereof, and from thence to the end of the then next ensuing Session of Parliament, and no longer.

Act to continue in force four years.
(Made perpetual by 3 Vic. Chap. 21, Sec. 5; and, Chap. 22, Sec. 1.)

CHAP. V.

AN ACT to incorporate the City of Toronto and Lake Huron Rail Road Company.

[Passed 20th April, 1836.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. VI.

AN ACT to incorporate certain persons therein mentioned, under the name and style of the Niagara and Detroit Rivers Rail Road Company.

[Passed 20th April, 1836.]

[See Local and Private Acts, in 2nd Volume.]

CHAP.

CHAP. VII.

AN ACT to incorporate a Company to construct a Rail Road from Burlington Bay to Lake Huron.

[Passed 20th April, 1836.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. VIII.

AN ACT to incorporate sundry persons under the style and title of the Gananoque and Wiltsie Navigation Company.

[Passed 20th April, 1836.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. IX.

AN ACT to incorporate a Company under the style and title of the City of Toronto Gas Light Company.

[Passed 20th April, 1836.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. X.

AN ACT to incorporate certain persons under the style and title of the Cayuga Bridge Company.

[Passed 20th April, 1836.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XI.

AN ACT to incorporate certain persons under the style and title of the Hamilton Water Works Company.

[Passed 20th April, 1836.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XII.

AN ACT for erecting a Suspension Bridge over the Niagara River, at or near Queenston, in Upper Canada.

[Passed 20th April, 1836.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XIII.

AN ACT to establish a Market in the West Ward of the Town of Brockville.

[Passed 20th April, 1836.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XIV.

AN ACT to repeal an Act passed in the fourth year of His present Majesty's reign, intituled, "An Act to establish a Board of Police in the Town of Belleville," and to make further provisions for the establishment of a Police in said Town.

[Passed 20th April, 1836.]

[See Local and Private Acts, in 2nd Volume.]

CHAP.

C H A P. X V.

AN ACT for the preservation of the Fishery within Burlington Bay.

[Passed 20th April, 1836.]

Preamble.

Reciting 4 Geo IV. Ch.37;

WHEREAS an Act passed in the fourth year of the reign of His late Majesty King George the Fourth, chapter thirty-seventh, intituled, "An Act for the better preservation of the Herring Fishery at the outlet of Burlington Bay," hath been found insufficient for the purposes intended, and it is necessary to repeal the said Act, and to make further provision for the preservation of the said Fishery: *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 above recited Act shall be and the same is hereby repealed.

The recited Act repealed.

Seines not to be used within half a mile of Burlington Bay.

II. *And whereas* the use of seines and nets in the said Burlington Bay is found to be destructive to the Fishery, by destroying the spawn deposited on the shallow parts thereof: *Be it therefore enacted by the authority aforesaid*, That it shall not be lawful from and after the passing of this Act at any time to draw any seine or other net in the said Bay, except within the distance of half a mile from the land at the outlet thereof.

Gill nets, &c. obstructing the passage of fish prohibited.

III. *And be it further enacted by the authority aforesaid*, That no person shall at any time set nets, commonly called gill nets, in the waters of Burlington Bay, nor shall any person set any net or other device whatsoever, so as to prevent the free passage of the fish to and from the said Bay.

Penalty not exceeding £5, for any offence committed under this Act;

To be recovered before one Justice;

Commitment in default of payment;

Application of penalties.

IV. *And be it further enacted by the authority aforesaid*, That if any person or persons shall offend against the provisions of this Act, every person so offending shall forfeit and pay a sum not exceeding five pounds, nor less than ten shillings, with costs, on conviction before any one or more of His Majesty's Justices of the Peace for the District of Gore, on the oath of one or more credible witness or witnesses; or in default of payment shall be committed to the Common Gaol of the District, for a term not exceeding thirty days nor less than two days, unless the penalty and costs be sooner paid; one-half of the said penalty to be paid to the informer or informers, and the other half into the hands of His Majesty's Receiver General, to and for the public uses of this Province; to be accounted for to His Majesty, through the Lords Commissioners of His Treasury, for the time being, in such manner and form as His Majesty, His Heirs and Successors, shall be graciously pleased to direct.

CHAP. XVI.

AN ACT to alter and amend an Act passed in the eighth year of His Majesty's reign, intituled, "An Act to confer upon His Majesty certain powers and authorities necessary to the making, maintaining and using, the Canal intended to be completed under His Majesty's direction, for connecting the waters of Lake Ontario with the River Ottawa, and for other purposes therein mentioned."

[Passed 20th April, 1836.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XVII.

AN ACT to amend the Charter of the Port Hope Harbour and Wharf Company.

[Passed 20th April, 1836.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XVIII.

AN ACT to authorise the establishment of Mutual Insurance Companies in the several Districts of this Province.

[Passed 20th April, 1836.]

WHEREAS divers loyal subjects of His Majesty, being inhabitants of this Province, have by their petition represented the great advantages that would arise from the introduction into this Province of the principle of Mutual Insurance against losses by fire, and have prayed the interference of the Legislature to enable them to bring the said principle into effective operation: *And whereas* it hath been made apparent that the said representation is well founded, and it is expedient that the prayer of the petitioners be granted: *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

Preamble.

[See Statutes of Canada, 4 & 5 Vic. Chap. 64.]

Ten freeholders of any District authorised to call a meeting to establish a Fire Insurance Company therein;

Meeting to be advertised.

for the Government of the said Province," and by the authority of the same, That it shall and may be lawful at any time for any ten freeholders in any District in this Province to call a meeting of the freeholders of such District, for the purpose of considering whether it be expedient to establish in such District a Fire Insurance Company on the principle of Mutual Insurance: *Provided always*, that such meeting shall be called by an advertisement mentioning the time, place, and object of such meeting, published and inserted during three weeks immediately preceding such meeting in all the public newspapers published in the District in which the meeting is to be holden, if any is published therein; and in case no newspaper should be published in said District, the meeting may be convened by advertisement posted up in some public place in three or more Townships in said District.

Subscription book to be opened.

II. *And be it further enacted by the authority aforesaid*, That if at such meeting there shall not be fewer than thirty freeholders present, and a majority of them shall determine that it is expedient to establish such Company, they may elect three persons from among the freeholders of the District then present, to open and keep a book in which all freeholders in the District may sign their names, and enter the sums for which they shall be respectively bound to effect insurance with the Company.

Limitation as to lands, &c. to be held by the Company.

III. *Provided always, and be it further enacted by the authority aforesaid*, That the lands, tenements and hereditaments, which it shall be lawful for the said Companies, respectively, to hold, shall be only such as shall be requisite for its accommodation in relation to the convenient transaction of its business, or such as shall have been bonâ fide mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts, and further the said Company shall not directly or indirectly deal or trade in buying or selling any goods, wares, merchandize or commodities whatsoever.

Incorporation of Company.

IV. *And be it further enacted by the authority aforesaid*, That whenever the number of persons duly qualified who shall have signed their names in the said subscription book shall be forty or more, and the sums for which they shall have bound themselves to effect insurance shall amount together to ten thousand pounds currency, or upwards, such persons, and all other persons who may thereafter become members of the said Company, by effecting insurances therein in the manner hereinafter provided, shall be and are hereby ordained, constituted and declared, to be a body corporate and politic in fact, by and under the name and style of "The Mutual Fire Insurance Company," and their legal addition shall be of the District by name for which the Company shall have been established; and by that name may mutually insure their respective dwelling-houses, stores, shops and other buildings, household furniture and merchandize, against loss or damage by fire, whether the same shall happen by accident, lightning, or any other means, excepting that of design in the assured, or by

the invasion of an enemy or insurrection; and by that name they and their successors shall and may have continued succession, and be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, answering and being answered unto in all Courts and places whatsoever; and they and their successors may and shall have a common seal, and may change and alter the same at their will and pleasure; and also that they and their successors, by their corporate name, aforesaid, shall be capable of purchasing, having and holding, to them and their successors, any estate, real, personal or mixed, to and for the use of the said Company, and of letting, conveying, and otherwise departing therewith, for the benefit and on account of the said Company, from time to time, as they shall deem necessary and expedient.

Common seal;

Authority to hold lands.

V. *Provided always, and be it further enacted by the authority aforesaid,* That there shall not be more than one such Company in any one District, and that whenever any such Company shall be established in and for any District, no other such Company shall be established in and for the same under the authority of this Act, but the Company so first established shall alone have the right of insuring property lying within such District under the authority of this Act; but nothing herein contained shall be construed to prevent any person from causing any such property to be insured by any person or Company by whom it may lawfully have been insured if this Act had not been passed: *And provided further,* that nothing herein contained shall prevent any such Company, after it shall have been lawfully incorporated under the provisions of this Act, from insuring any property, movable or immovable, lying within the District for which it is established, although the owner of such property be not a freeholder in such District, nor to prevent any person so insured from becoming a member of the Company.

One company only to be formed in each District.
(See Statutes of Canada, 4 & 5 Vic. Ch. 64, Sec. 1.)

VI. *And be it further enacted by the authority aforesaid,* That all and every the person and persons who shall at any time become interested in the said Company by insuring therein, and also their respective heirs, executors, administrators and assigns, continuing to be insured therein, as hereinafter provided, shall be deemed and taken to be members thereof for and during the terms specified in their respective policies, and no longer, and shall at all times be concluded and bound by the provisions of this Act.

Insurer to be member of the company during the term of his policy.

VII. *And be it further enacted by the authority aforesaid,* That the property, affairs and concerns, of the said Company, shall be managed and conducted by a Board of Directors, to be chosen annually, on the first Monday in June, and to be composed of seven persons, one of whom shall be chosen President, and such persons shall hold their offices for one year; which said Board of Directors shall be members of the said Company, and insurers therein to the amount of two hundred pounds, at least, for the time they hold office, and be elected at such place within the Dis-

Affairs of the company to be managed by a board of seven directors;

One to be chosen President;

Qualification of directors;

Mode of election:

[See Statutes of Canada,
4 & 5 Vic. Ch. 64, Sec. 3.]

trict, and at such time of the day, as a majority of the Board for the time being shall appoint; and public notice thereof shall be given in such of the provincial newspapers printed and published within such District, and in such other manner as the Board of Directors for the time being shall order and direct, and at least thirty days previous to the time of holding the said election; and the said election shall be held and made by such of the members of the said Company as shall attend for that purpose in their own proper persons, or by proxy; and all elections for such Directors shall be by ballot; and the seven persons who shall have the greatest number of legal votes at any such election shall be the Directors; and if it shall happen at any such election that two or more members have an equal number of votes, in such manner that a greater number of persons than seven shall, by a plurality of votes, appear to be chosen Directors, then the said members of the said Company hereinbefore authorised to hold such election, shall proceed to elect by ballot until it is determined which of the said persons so having an equal number of votes shall be the Director or Directors, so as to complete the whole number of seven; and the said Directors so chosen, as soon as may be after the said election, shall proceed in like manner to elect by ballot one of their own number to be President; and if any vacancy or vacancies shall at any time happen among the Directors, during the current year of their appointment, by death, resignation, or removal from the District, such vacancy or vacancies shall be filled up for the remainder of the year in which they may so happen, by a person or persons to be nominated by a majority of the remaining Directors, and as soon as may be after any such vacancy or vacancies shall have occurred.

Election of President:

Vacancies to be supplied.

Number of votes in proportion to shares.

VIII. *And be it further enacted by the authority aforesaid,* That each member of the said Company shall be entitled to the number of votes proportioned to the amount by him or her insured, at least one month prior to the time of voting, according to the following rates, that is to say: for any sum insured in the said Company amounting to one hundred pounds, one vote; for four hundred pounds, two votes; nine hundred pounds, three votes; and one vote for every six hundred pounds above nine hundred.

Corporation not dissolved by non-election of directors on day specified.

IX. *And be it further enacted by the authority aforesaid,* That in case at any time it shall happen that an election of Directors shall not be made on any day when pursuant to this Act it ought to have been made, the said Corporation shall not for that cause be deemed to be dissolved, but it shall be lawful on any subsequent day to hold and make an election of Directors, in such manner as shall have been regulated by the by-laws and ordinances of the said Corporation: *Provided,* that such election be held within ten months from the annual day appointed for holding such election; and the Directors appointed at such subsequent day of election shall be invested with all and every such powers and authorities contained in this Act, as if they had been duly elected on the annual day of election appointed by this Act, and shall hold office for the remainder of the current year of such their election.

X. *And be it further enacted by the authority aforesaid,* That the said Board of Directors, for the time being, shall superintend the concerns of the said Company, and shall have the management of the funds and property thereof, and of all matters and things thereunto relating, and not otherwise provided for by the said Company; and shall have power from time to time to appoint a Secretary, Treasurer, and such other officers, agents and assistants, as to them may seem necessary, and prescribe their duties, fix their compensation or allowances, take such security from them as they may deem necessary, or may be required by this Act, for the faithful performance of their respective duties, and remove them at pleasure and appoint others in stead; determine the rates of insurance, the sum to be insured on any building, and the sum to be deposited for the insurance thereof; and to order and direct the making and issuing of all policies of insurance, the providing of books and stationery, and other things needful for the office of the said Company, and for carrying on the affairs thereof; and may draw upon the Treasurer for the payment of all losses which may have happened, and for expenses incurred in transacting the concerns of the said Company; and may hold their meetings monthly, and oftener if necessary, for transacting the business of the said Company; and shall keep a record of their proceedings; and any Director disagreeing with the majority of the Board at any meeting may enter his dissent, with his reasons therefor, on record.

Powers and duties of board of directors;

Record of their proceedings.

XI. *And be it further enacted by the authority aforesaid,* That the said Board of Directors, for the time being, shall have power to make and subscribe such by-laws, ordinances, rules and regulations, and to repeal, alter and amend any by-laws, rules, ordinances or regulations previously made, as to them shall appear needful and proper, touching the management and disposition of the affairs and property of the said Company, and touching the duty of the officers, agents and assistants, of the said Company, and all such other matters and things as appertain to the business of the said Company, and not being contrary to the laws of this Province; and that five Directors shall constitute a quorum for the transaction of business; and the decision of a majority of the Directors present at any sitting of the Board, provided there be a sufficient number to constitute such quorum, shall be binding and conclusive, and be deemed and taken to be the act and deed of the whole Board; and upon all occasions where there shall be an equality of votes at any such sitting of the said Board, the President shall have a casting vote; and the said Board shall have power to convene at any time a general meeting of the Company upon any urgent occasion.

Authority to make by-laws;

Five directors to constitute a quorum;

President to have a casting vote.

XII. *And be it further enacted by the authority aforesaid,* That every person who shall become a member of the said Company by effecting insurances therein, shall, before he receives his policy, deposit his promissory note payable to the said Company, for such a sum of money as shall be determined by the Board of Directors; a part of which said note, not exceeding five per cent, shall be immediately paid to the Treasurer, for the purpose of discharging the incidental expenses of the institution; and

Each member of the company to deposit promissory note; [See Statutes of Canada, 4 & 5 Vic. Ch. 64, sec. 4.]

£5 per cent thereon to be paid;

Remainder how payable;

At the expiration of the insurance amount unpaid to be relinquished to signers of notes.

Liability of members to pay their proportion of losses.

the remainder of the said deposit note shall be payable in part or the whole at any time when the Board shall deem the same requisite for the payment of losses or other expenses; and at the expiration of the term of insurance, the said note, or such part of the same as shall remain unpaid, after deducting all losses and expenses occurring during the said term, shall be relinquished and given up to the signer thereof.

XIII. *And be it further enacted by the authority aforesaid,* That every member of the said Company shall be and is hereby bound and obliged to pay his or her proportion of all losses and expenses happening or accruing in and to the said Company during the continuance of his or her policy of insurance, and all the right, title, interest and estate, at the time of insurance of the assured, of, in or to the buildings insured by and with the said Company, to the lands on which the same shall stand, and to all other lands thereto adjacent, which shall be mentioned and declared liable in the policy of assurance, shall stand pledged to the said Company; and the said Company shall have full power to sell, demise or mortgage, the same or any part thereof, to meet the liabilities of the assured, for his, her or their, proportion of any losses or expenses happening or accruing to the said Company during the continuance of his or her policy, which sale, demise or mortgage, shall be made in such manner as shall be specified in the policy of the assured.

Proceedings in case of loss by fire;

Directors to determine amount of loss;

In case of difference, amount to be settled by arbitration;

Or party suffering may bring his action;

If no more be recovered than amount determined by the board, plaintiff to pay costs;

Execution not to issue against company until six months after judgment.

XIV. *And be it further enacted by the authority aforesaid,* That in case of any loss or damage by fire happening to any member upon property insured in and with the said Company, the said member shall give notice thereof in writing to the Board of Directors, or some one of them, or to the Secretary of the Company, within thirty days after such loss or damage shall have happened; and the Directors, upon a view of the same, or in such other way as they may deem proper, shall ascertain and determine the amount of such loss or damage; and if the party suffering shall not be satisfied with the determination of the Directors, the question shall then either be submitted to three disinterested persons as referees, one of whom shall be named by the Board, and one by the suffering party, and the two referees so named shall name the third, and the decision or award of a majority of them shall be binding; or the suffering party may bring an action against the said Company for the loss or damage sustained, and if upon the trial of the said action a greater sum shall be recovered than the amount determined upon by the Directors, the party suffering shall have judgment therefor against the said Company, with interest thereon from the time such loss or damage happened, and notice given thereof, as aforesaid, with costs of suit; but if no more shall be recovered than the amount so previously determined by the Board, then the plaintiff or plaintiffs in such suit shall have judgment for such amount, and shall not be entitled to costs against the defendants, but the defendants shall be entitled to costs against the said plaintiff or plaintiffs, as in the case of a verdict for the defendant: *Provided always,* that no execution shall issue

against the said Company upon any judgment until after the expiration of six months from the recovery thereof.

XV. *And be it further enacted by the authority aforesaid,* That the Directors shall, after receiving notice of any loss or damage by fire sustained by any member, and ascertaining the same, or after the recovery of any judgment, as aforesaid, against the said Company for such loss or damage, settle and determine the sums to be paid by the several members thereof, as their respective proportion of such loss, and publish the same in such manner and form as they shall see fit, or as the by-laws shall have prescribed; and the sum to be paid by each member shall always be in proportion to the original amount of his deposit note or notes, and shall be paid to the Treasurer within thirty days next after the publication of said notice; and if any member shall for the space of thirty days after the publication of such notice neglect or refuse to pay the sum assessed upon him, her or them, as his, her or their, proportion of any loss or damage, as aforesaid, in such case the Directors may sue for and recover the whole amount of his, her or their, deposit note or notes, with costs of suit; and the money thus collected shall remain in the Treasury of the said Company, subject to the payment of such losses and expenses as shall or may thereafter accrue during the continuance of his, her, or their policy; and the balance, if any remaining, shall be returned to the party from whom it was collected, on demand, after thirty days from the expiration of the term for which insurance was made.

Directors to settle the amount which members are to pay on every loss by fire;

In default of payment directors may sue for whole amount of deposit notes;

Balance to be returned to the party at expiration of insurance.

XVI. *And be it further enacted by the authority aforesaid,* That if it shall ever so happen that the whole amount of deposit notes shall be insufficient to pay the loss occasioned by any one fire or fires, in such case the sufferers insured by the said Company shall receive towards making good their respective losses a proportionate dividend of the whole amount of such deposit notes, according to the sums by them respectively insured; and in addition thereto a sum to be assessed in such manner as shall be provided by any by-law of the said Company on all the members of the said Company, not exceeding one pound currency upon every one hundred pounds by them respectively insured; and the said members shall never be required to pay at any one time for any loss or damage occasioned by fire, more than one pound upon every one hundred pounds currency insured in the said Company, in addition to the amount of his, her or their, deposit notes; but any member upon payment of the whole of his or her deposit note, and surrendering his or her policy before any subsequent loss or expense has occurred, shall be discharged from the said Company.

Provision for payment in case losses shall exceed whole amount of deposit notes;

By assessment on the members;

Not exceeding one per cent at any one time;

Members paying deposit notes before loss, discharged from liability.

XVII. *And be it further enacted by the authority aforesaid,* That the said Company may make insurance for any term not exceeding seven years, and any policy of insurance issued by the said Company, signed by the President, and countersigned by the Secretary, (but not otherwise,) shall be deemed valid and binding on the said Company, in all

Insurances not to exceed seven years;

Policies to be void in certain cases.

cases where the assured has a title in fee simple unincumbered to the building or buildings insured, and to the land covered by the same; but if the assured have a less estate therein, or if the premises be incumbered, the policy shall be void, unless the true title of the assured and the incumbrances on the premises be expressed therein and in the application therefor.

Losses to be paid within three months;

XVIII. *And be it further enacted by the authority aforesaid,* That the Directors shall settle and order the payment of all losses within three months after they shall have been notified, as aforesaid; but no allowance is to be made in any case for gilding, historical or landscape painting, stucco or carved work.

No allowance for ornamental work.

Policy rendered void on alienation of property insured;

XIX. *And be it further enacted by the authority aforesaid,* That when any house or other building shall be alienated by sale or otherwise, the policy shall thereupon be void, and be surrendered to the Directors of the said Company to be cancelled, and upon such surrender the assured shall be entitled to receive his, her or their, deposit note or notes, upon payment of his or their proportion of all losses and expenses that have accrued prior to such surrender: *Provided always,* that the grantee or alienee having the policy assigned to him, her or them, may have the same ratified and confirmed to him, her or them, for his, her or their, own proper use and benefit, upon application to the Directors, and with their consent within thirty days next after such alienation, on giving proper security to the satisfaction of the Directors for such portion of the deposit or premium note as shall remain unpaid; and by such ratification and confirmation the party causing the same, shall be entitled to all the rights and privileges and be subject to all the liabilities to which the original party insured was entitled and subjected under this Act.

But assignee may have the same confirmed to him by directors.

Alteration of premises after insurance made.

XX. *And be it further enacted by the authority aforesaid,* That if any alteration shall be made in any house or building by the proprietor thereof after an insurance has been made thereon with the Company, whereby it may be exposed to greater risk or hazard from fire than it was at the time it was insured, then and in every such case the insurance made upon such house or building shall be void, unless an additional premium and deposit after such alteration may be settled with and paid to the Directors, but no alterations or repairs in buildings not increasing such risk or hazard shall in any wise affect insurance previously made thereon.

Directors may retain premium notes on leased lands until expiration of insurance.

XXI. *And be it further enacted by the authority aforesaid,* That in case any building or buildings situated upon leased lands, and insured by the Company, be destroyed by fire, in such cases the Directors may retain the amount of the premium note given for insurance thereof until the time for which insurance was made shall have expired, and at the expiration thereof the assured shall have the right to demand and receive such part of said retained sum or sums as has not been expended in losses and assessments.

XXII. *And be it further enacted by the authority aforesaid,* That if insurance on any house or building shall be and subsist in said Company, and in any other office, or from and by any other person or persons at the same time, the insurance made in and by said Company shall be deemed and become void, unless such double insurance subsist with the consent of the Directors, signified by endorsement on the back of the policy signed by the President and Secretary.

Policy void in case of insurance in any other company without consent of directors.

XXIII. *And be it further enacted by the authority aforesaid,* That any ten members of the Corporation, to be so formed as hereinbefore mentioned, may call the first meeting of any such Company, at such time and place within the District as they may determine upon for holding such meeting, by advertising the same in such of the provincial newspapers printed and published within the District as they shall think proper, giving at least thirty days notice of the time, place and design of such meeting, for the purpose of choosing the first Board of Directors, of making and establishing by-laws, and of transacting any business necessary and proper to carry into effect the provisions and intentions of this Act: *Provided however,* that no policy of insurance shall be issued by the Company until application shall be made for insurance on twelve thousand five hundred pounds at the least.

First meeting.

XXIV. *And be it further enacted by the authority aforesaid,* That each and every of the Directors of the said Company shall, before he enters upon the duties of his office, give a bond to the Treasurer of the District in which said Company is formed, in the sum of five hundred pounds currency, (or such further sum as may be fixed by any by-law or ordinance,) together with two good and sufficient sureties in the sum of two hundred and fifty pounds each, to the satisfaction of the said Treasurer, conditioned for the faithful discharge of the duties of his office, agreeable to the provisions of this Act, and the by-laws, regulations, ordinances, requirements and restrictions made or to be made in pursuance thereof; and on the complaint of any person who has been injured by the misconduct of any Director, it shall be the duty of the said Treasurer to institute a suit or action at law against such Director and his sureties upon the bond to be so given, as aforesaid, upon receiving security to indemnify the said Treasurer against costs, and to certify to the Court who is the prosecutor in any such cause, and the said Court may on motion of the defendants in such cause order the prosecutor to find sureties to indemnify the defendants for their costs, should he fail to prosecute or recover; and if the defendants shall plead performance of the condition of said bond, the prosecutor may reply as many breaches respecting his interest as he shall think fit; and the Jury on trial of such issues as shall be put to them, shall assess damages for such breaches as the prosecutor shall prove, and the Court shall enter up judgment for the whole penalty of the bond, and issue execution in favour of the prosecutor for such a sum as the Jury shall have found for damages and costs; and the judgment shall remain for the benefit of such other person or persons as may

Directors to give bonds to District Treasurer;

Who may institute suits thereon;

And certify to the Court who is prosecutor;

Judgment to be entered for the whole penalty for the benefit of any other plaintiff.

by *scire facias* thereon shew that they have been injured by any breaches of the condition of such bond; and if the prosecutor shall fail to recover in such suit the Court shall award costs to the defendants, and issue execution for the same against such prosecutor.

Treasurer and Secretary
to give bond.

XXV. *And be it further enacted by the authority aforesaid, That each and every of the Treasurers and Secretaries to any Company to be formed under the provisions of this Act, shall before they enter upon the duties of their respective offices give bonds to the Company in the sum of five hundred pounds currency, with two good and sufficient securities in two hundred and fifty pounds each, to the satisfaction of the Board of Directors, conditioned for the faithful discharge of the duties of their respective offices, agreeable to the provisions of this Act, and of the by-laws, rules and regulations of the Company, made pursuant thereto.*

Alteration of this Act.

XXVI. *And be it further enacted by the authority aforesaid, That the Legislature of this Province may at any time hereafter make such additions to this Act, or such alterations in any of its provisions as they may think proper, should the public interest require it.*

CHAP. XIX.

AN ACT to extend the time of commencing the Cobourg Rail Road.

[Passed 20th April, 1836.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XX.

AN ACT to repeal and amend certain parts of an Act passed in the third year of His Majesty's reign, intituled, "An Act to incorporate a Company under the style and title of the British America Fire and Life Assurance Company."

[Passed 20th April, 1836.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXI.

AN ACT continuing the Road Acts of one thousand eight hundred and thirty-three and one thousand eight hundred and thirty-four, and rendering the Commissioners accountable for the expenditure of the road monies granted by the same.

[Passed 20th April, 1836.]

Preamble; Continuation of the Road Acts of 1833 and 1834. 2. Township Commissioners to sue for any monies left unexpended.

CHAP. XXII.

AN ACT to authorise the Commissioners of the late pretended Bank of Kingston to dispose of certain Real Estate, and for other purposes therein mentioned.

[Passed 20th April, 1836.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXIII.

AN ACT to authorise the sale of the old site of the Gaol and Court House, in the District of Newcastle.

[Passed 7th March, 1836.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXIV.

AN ACT to authorise the erection of a Mill-Dam upon the River Thames, in the London District.

[Passed 7th March, 1836.]

[See Local and Private Acts, in 2nd Volume.]

CHAP.

C H A P. XXV.

AN ACT for the relief of William Conway Keele.

[Passed 20th April, 1836.]

[See Local and Private Acts, in 2nd Volume.]

C H A P. XXVI.

AN ACT for the relief of Andrew Deacon.

[Passed 20th April, 1836.]

Preamble; Inspector-General authorised to allow per centage to Andrew Deacon.

C H A P. XXVII.

AN ACT to repeal and amend certain Acts of this Province, in relation to the Gold and Silver Coin made current by law, and to make further provision respecting the rates at which certain Gold and Silver Coins shall pass current in this Province.

[Passed 20th April, 1836.]

WHEREAS it is expedient to amend the laws for the regulation of certain coins current 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 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 first, second, third, fourth and eighth sections of an Act passed in the thirty-sixth year of the reign of King George the Third, intituled, "An Act for the better regulation of certain coins current in this Province;" and also an Act passed in the forty-ninth year of His Majesty's reign, intituled, "An Act to repeal and amend certain parts of an Act passed in the thirty-sixth year of His Majesty's reign, intituled, 'An Act for the better regulation of certain coins current in this Province,' to equalize them to the standard weight and value of the like

Preamble.

[See 3 Vic. Ch. 15; Statutes of Canada, 4 & 5 Vic. Chaps. 17 & 93: which last Act repeals this Statute wholly, and all other Statutes of Upper Canada relating to the Currency.]

1st, 2nd, 3rd, 4th and 8th sections of 36 Geo. III. Chap. 1;

49 Geo. III. Chap. 6;

coins in the Province of Lower Canada;" and also an Act passed in the seventh year of the reign of His late Majesty King George the Fourth, intituled, "An Act to repeal part of an Act passed in the thirty-sixth year of His late Majesty's reign, intituled, 'An Act for the better regulation of certain coins current in this Province,' and to make further provision for the regulation of the British silver and copper coinage current in this Province;" and also another Act passed in the eleventh year of the reign of His said Majesty King George the Fourth, intituled, "An Act for the better regulation of the Currency," shall be and the same are hereby repealed.

7 Geo. IV. Chap. 4;

And 11 Geo. IV. Chap. 6. repealed.

II. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, the gold and silver coins hereinafter 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:

Gold and silver coins herein mentioned to be current and a legal tender.

OF GOLD COINS:

- The British Guinea, weighing five pennyweights nine and a half grains, Troy, at one pound five shillings and six pence;
- The British Sovereign, weighing five pennyweights three and a half grains, Troy, at twenty-four shillings and four pence;
- The Eagle of the United States of America, coined before the first day of July, one thousand eight hundred and thirty-four, weighing eleven pennyweights six grains, Troy, at fifty-three shillings and four pence;
- The Eagle of the United States of America, coined since the first day of July, one thousand eight hundred and thirty-four, weighing ten pennyweights eighteen grains, Troy, at fifty shillings.

AND OF SILVER COINS:

- The British Crown, at six shillings;
 - The British Half Crown, at three shillings;
 - The British Shilling, at one shilling and three pence;
 - The British Sixpence, at seven pence half-penny;
 - The Spanish Milled Dollar, at five shillings, equal to four shillings and six pence sterling money of Great Britain;
 - The Dollar of the United States of America, at five shillings;
 - The Mexican Dollar, coined in the years one thousand eight hundred and thirty-one, one thousand eight hundred and thirty-two, and one thousand eight hundred and thirty-three, 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.

III. *And be it further enacted by the authority aforesaid,* That if any person or persons shall colour, gild, or case over with gold or silver, or

Counterfeiting, or importing any such coin when counterfeited, declared felony;

with any wash or materials producing the colour of gold or silver, any coin of coarse gold or of coarse silver, or of base metal resembling any coin made or declared to be current by this Act; or if any person or persons shall bring, or cause to be brought, into this Province, any forged, false or counterfeit money, like to any of the gold or silver coin made or declared to be current in this Act, knowing the same to be false, 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 coin, or any piece of gilded silver resembling any such coin, knowing the same, every such person shall for every such offence be deemed guilty of felony, and upon conviction thereof shall be liable to suffer such punishment as is provided by the twenty-fifth clause of a certain Act of the Parliament of this Province, passed in the third year of the reign of His present Majesty, intituled, "An Act to reduce the number of cases in which capital punishment may be inflicted, to provide other punishment for offences which shall no longer be capital after the passing of this Act, to abolish the privilege called benefit of clergy, and to make other alterations in certain criminal proceedings before and after conviction."

Punishable under the 25th clause of 3 Wm. IV. Chap. 3.

Uttering such false or counterfeit money punishable as by the preceding clause.

IV. *And be it further enacted by the authority aforesaid,* That if any person or persons 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 made or declared to be current by this Act, as hereinbefore specified, or to any of the higher or lower denominations thereof, knowing the same to be false or counterfeit, and shall be thereof convicted, every such person so offending shall be liable to suffer such punishment as is provided for any of the offences mentioned in the last preceding clause of this Act.

Coin when depreciated in weight not a legal tender.

V. *And be it further enacted by the authority aforesaid,* That such of the gold or silver coins made or declared current by this Act, as are depreciated in weight more than one twenty-fifth part of their full weight, shall not be legal money in this Province.

Act to be in force four years.

[Further continued for two years by 3 Vic. Chap. 15.]

VI. *And be it further enacted by the authority aforesaid,* That this Act shall be and continue in force for four years, and from thence to the end of the then next ensuing Session of the Provincial Parliament, and no longer.

CHAP. XXVIII.

AN ACT to provide for the making and keeping in repair the West Gwillimbury Road and Bridge, and to authorise the erection of a Toll Gate thereon.

[Passed 20th April, 1836.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXIX.

AN ACT to repeal an Act passed in the forty-ninth year of the reign of His late Majesty King George the Third, intituled, "An Act to encourage the destroying of Wolves in this Province," and to make further provision for exterminating those destructive animals.

[Passed 20th April, 1836.]

WHEREAS the Act passed in the eleventh year of His late Majesty's reign, intituled, "An Act to repeal an Act passed in the forty-ninth year of His late Majesty's reign, intituled, 'An Act to encourage the destroying of wolves in this Province,' and to make further provision for exterminating those destructive animals," has expired, and it is necessary to afford more ample encouragement for the destruction of said animals: *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 passed in the forty-ninth year of the reign of King George the Third, intituled, "An Act to encourage the destroying of wolves in this Province," be and the same is hereby repealed.

Preamble.

Reciting 11 Geo. IV. Chap. 17.

49 Geo. III. Chap. 3, repealed.

II. *And be it further enacted by the authority aforesaid*, That from and after the passing of this Act any person who shall produce the head of a wolf, with the ears on, before any Justice of the Peace acting for any District in this Province, and shall make oath or affirmation, as the case may be, or otherwise prove to the satisfaction of the said Justice, that the wolf was killed within that District, or within one mile of an actual settlement in the District, shall be entitled to receive from the Treasurer of the District the sum of one pound ten shillings as a bounty for the same.

Any person producing the head of a wolf, with the ears on, before any Justice, upon oath, made, entitled to £1 10s.

III. *And be it further enacted by the authority aforesaid*, That the said Justice of the Peace before whom the head of the wolf shall be produced, having first cut off the ears thereof, shall give the person a certificate that the fact has been proved to his satisfaction; which certificate shall authorise the person holding the same to demand and receive from the Treasurer of the District the said sum of one pound and ten shillings for the head of every wolf so killed and presented:

Justice to give his certificate thereof.

IV. *And be it further enacted by the authority aforesaid*, That the Treasurer of the District shall forthwith pay and satisfy the bounty to which such certificate shall entitle the person presenting the same, pro-

Treasurer of District to pay the bounty from funds in hands;

Or if funds deficient,
then from next monies
received.

vided that the District funds in his hands shall enable him so to do; and if the said funds shall not enable him to satisfy the same forthwith, then the Treasurer shall pay the same out of the monies of the District which shall next thereafter come into his hands.

Other District expenses
to be first paid.

V. *Provided always, and be it further enacted by the authority aforesaid,* That it shall not be lawful for the Treasurer of any District to pay and satisfy the bounty to which such certificate shall entitle the person presenting the same until he shall have paid the other annual expenses of the District, arising from the building of a Court House and Gaol, and keeping the same in repair; the fees of the Clerk of the Peace, and salary of the Gaoler; the maintenance of the prisoners; and the wages of the members of the House of Assembly; any thing herein contained to the contrary notwithstanding.

Certificate to be, in
certain cases, a lawful
tender in discharge of
rates or assessments.

VI. *And be it further enacted by the authority aforesaid,* That when the funds of any District will not enable the Treasurer of such District to pay and satisfy the bounty to which such certificate shall entitle the person presenting the same, each certificate, as aforesaid, for having destroyed a wolf, 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 from any person or persons within the District wherein such wolf shall have been destroyed, and shall as such be accepted and taken as equivalent to so much of the current money of the Province by the Collector of any Township within the District, to 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 equivalent to so much of the current money of this Province.

Act to be in force four
years.

[Further continued by
Statutes of Canada,
4 & 5 Vic. Chap. 23,
to November, 1844,
and the end of the
following Session.]

VII. *And be it further enacted by the authority aforesaid,* That this Act shall continue and be in force for and during the term of four years, and from thence to the end of the then next ensuing Session of Parliament, and no longer.

CHAP. XXX.

AN ACT to continue the improvement of certain Roads in the Home District.

[Passed 20th April, 1836.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXI.

AN ACT to make good certain monies advanced for the Contingent Expenses of the last Session of the Legislature of this Province, and also to make good certain monies advanced in compliance with two Addresses of the House of Assembly, during the present Session.

[Passed 20th April, 1836.]

Preamble; The sum of £10,477 16s. 7½d granted to defray contingent expenses. 2. To be accounted for through the Lords Commissioners of the Treasury.

CHAP. XXXII.

AN ACT to regulate the next Election in the County of Leeds.

[Passed 7th March, 1836.]

[EXPIRED.]

CHAP. XXXIII.

AN ACT granting to His Majesty a sum of money for the improvement of Roads and Bridges in the several Districts of this Province.

[Royal Assent given by Message to the Legislature, 28th November, 1836.]

[Grants fifty thousand pounds for the above purpose.]

CHAP. XXXIV.

AN ACT to loan two thousand pounds to the Welland Canal Company.

[Royal Assent given by Message to the Legislature, 28th November, 1836.]

Preamble; £2,000 granted; to be paid into the hands of Francis Hall, to be distributed among Contractors. 2. Detailed account of expenditure to be laid before Legislature. 3. Money to be accounted for through Lords of the Treasury.

CHAP. XXXV.

AN ACT to improve the navigation of the Inland Waters of the District of Newcastle.

[The Royal Assent given by Message to the Legislature, 28th November, 1836.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXVI.

AN ACT granting a sum of money for improving the Hill at the River Rouge, and other purposes therein mentioned.

[Royal Assent given by Message to the Legislature, 28th November, 1836.]

Preamble; £600 granted. 2. Commissioners named, &c. 3. Vacancies to be filled by Lieutenant-Governor. 4. Money to be paid on warrant, and accounted for, &c. 5. Detailed account of expenditure to be laid before Legislature.

CHAP. XXXVII.

AN ACT granting a sum of money to complete the payment of the War Losses.

(Royal Assent given by Message to the Legislature, 28th November, 1836.)

MOST GRACIOUS SOVEREIGN:

Preamble.

(See 7 Wm. IV. Chap 89;

WHEREAS by a message from His Excellency the late Lieutenant-Governor, Sir John Colborne, dated on the twenty-sixth day of January, one thousand eight hundred and thirty-five, with reference to an Address of the House of Assembly, on the subject of the war losses, it is set forth, "That as the payment of fifty-seven thousand four hundred and twelve pounds, sterling, contemplated by the Provincial Act passed in the third Session of the last Parliament, has been actually made, His Majesty's Government has directed that twenty thousand pounds may be reserved out of the casual and territorial revenue, to be applied to the liquidation of the war claims: and that he is authorised to appropriate this sum of twenty thousand pounds, sterling, provided a similar sum shall be raised and appropriated in like manner by the Legislature to the satisfaction of the war claims; and that if such joint payment of forty thousand pounds, sterling, be made in the Province, application will be made to the Imperial Parliament for the means of discharging the amount of seventeen thousand nine hundred and ten pounds, sterling, requisite in order to effect

the complete satisfaction of the whole of the war claims:" 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 there be granted to His Majesty, out of the revenues of this Province, the sum of twenty thousand pounds sterling, to be applied in satisfaction of the claims of the sufferers by the late war with the United States of America, and to be paid by the Receiver General of this Province, so soon as he shall have received from His Majesty's Government the sum necessary to complete the liquidation of the whole of the balance of the said claims, and proposed to be granted according to the despatch recited in the above-mentioned message from His Excellency to the House of Assembly, on the twenty-sixth day of January, one thousand eight hundred and thirty-five. £20000 Sterling granted.

II. Money to be paid in discharge of warrants, and to be accounted for, &c.

III. *And be it further enacted by the authority aforesaid*, That when any person having a claim for losses, as aforesaid, shall apply for the same by agent or attorney, it shall and may be lawful for the Receiver General of this Province to require a power of attorney, *of a date not antecedent to the passage of this Act*, as the said Receiver General's authority for the payment of the same to such agent. Authority to pay money to Agents, not to be of a date antecedent to passage of this Act.
(See 7 Wm. IV. Ch. 89, Sec. 2.)

CHAP. XXXVIII.

AN ACT granting a sum of money in support of the Provincial Penitentiary, and for other purposes therein mentioned.

(The Royal Assent promulgated by Proclamation, 29th September, 1836.)

Preamble; A sum not exceeding £5,000 granted for support, and completion of certain parts of Penitentiary. 2. Account in detail of expenditure to be submitted to Legislature, and money to be advanced on warrant, and accounted for through Lords of Treasury.

III. *And be it further enacted by the authority aforesaid*, That from and after the passing of this Act, the Warden or Deputy Warden, under the direction of the Board of Inspectors, shall and may, from time to time, engage suitable persons to perform the duties of Guards or Watchmen, Warden, or Deputy Warden, under direction of Board of Inspectors, may engage guards and watchmen, and dismiss the same, &c.

and to dismiss the same and engage others, as they may see fit, any thing contained in the eighth section of the Act passed in the fourth Session of the eleventh Provincial Parliament, fourth William the Fourth, intituled, "An Act to provide for the maintenance and government of the Provincial Penitentiary, erected near Kingston, in the Midland District," to the contrary hereof in anywise notwithstanding.

CHAP. XXXIX.

AN ACT granting to His Majesty a sum of money for the support of Light-Houses in this Province.

(The Royal Assent promulgated by Proclamation, 29th September, 1836.)

Preamble; £1,000 granted. 2. To be paid on warrant, and accounted for, &c.

CHAP. XL.

AN ACT granting three hundred pounds towards the completion of a Light-House on Bois Blanc Island, in the Western District.

[Royal Assent given by Message to the Legislature, 28th November, 1836.]

Preamble; £300 granted; To be paid by warrant, and accounted for, &c. 2. Account of expenditure to be transmitted to Lieutenant-Governor, and laid before Legislature.

CHAP. XLI.

AN ACT granting to His Majesty the sum of one hundred pounds, for the purpose of repairing the Dwelling House of the Light-House Keeper on Gibraltar Point, in the Home District.

(The Royal Assent to this Bill promulgated by Proclamation, 29th September, 1836.)

Preamble; £100 granted. 2. Commissioner appointed. 3. Money to be paid on warrant, and accounted for, &c. 4. Account in detail to be laid before the Legislature.

CHAP. XLII.

AN ACT to raise a sum of money for the purpose of completing a Steam Dredge, for deepening the several Harbours in this Province.

[Royal Assent given by Message to the Legislature, 28th November, 1836.]

Preamble; £1400 granted. 2. To be paid Commissioners by warrant, and accounted for, &c. 3. Account in detail to be laid before the Legislature. 4. Account of expenditure of previous grant required, &c., with vouchers, &c. 5. Money granted by this Act not to be paid unless sufficient to cover cost of machine.

CHAP. XLIII.

AN ACT to amend an Act passed in the first Session of the present Parliament, intituled, "An Act granting a sum of money for the erection of a Light-House on Gull Island, or such other place as the Commissioners may select."

[Royal Assent given by Message to the Legislature, 28th November, 1836.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLIV.

AN ACT to allow persons indicted for felony a full defence by Counsel, and for other purposes therein mentioned.

[The Royal Assent promulgated by Proclamation, 29th September, 1836.]

WHEREAS nothing is more just and reasonable than that persons prosecuted for felony, whereby their liberties, lives and characters, may be lost and destroyed, should be justly and equally tried, and that persons accused as offenders therein should not be debarred of just and equal means for defence of their innocencies in such cases; in order thereunto, and for the better regulation of trials of persons prosecuted for felony or misdemeanor: *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 any person tried for felony in this Province, to be heard in full defence before the Court and Jury, either personally or by counsel, at his or her election.

Preamble.

(See Statutes of Canada, 4 & 5 Vic. Chap. 24, Secs. 9, 10, 11, 12 & 13.)

Full defence by counsel allowed to prisoners charged with felony.

Copy of indictment to be delivered to prisoner, or payment of certain charges.

II. *And be it further enacted by the authority aforesaid, That whenever any person shall be indicted in any of His Majesty's Courts of this Province for any felony or misdemeanor, and shall apply to such Court for a copy of the said indictment, the same shall, with all convenient expedition, be made out and delivered to the person so applying: Provided nevertheless, that the Clerk or officer shall be entitled to demand and receive for the same of such person the following and no other fee, that is to say: at the rate of nine pence for every hundred words contained in said indictment: Provided always, that such copy shall not be received in evidence upon any trial for a malicious prosecution.*

CHAP. XLV.

AN ACT for the relief of John McMillan.

(Royal Assent given by Message to the Legislature, 28th November, 1836.)

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLVI.

AN ACT for the relief of John Pearse, William Dumble and William Hoar.

(The Royal Assent given by Message to the Legislature, 28th November, 1836.)

Preamble; £766 granted. 2. To be paid on warrant, and accounted for, &c.

CHAP. XLVII.

AN ACT to authorise the payment to the Treasurer of the District of Ottawa, of the appropriation towards the support of Common Schools in said District, for the years one thousand eight hundred and thirty-five, and one thousand eight hundred and thirty-six.

(Royal Assent given by Message to the Legislature, 28th November, 1836.)

Preamble; 5th clause of Act 59th Geo. III. Chap. 7, repealed, so far as to authorise money to be advanced for support of schools in District of Ottawa, for years 1835 and 1836; No sum to be advanced after 1836, unless Treasurer of District accounts for monies advanced under this Act.

CHAP. XLVIII.

AN ACT to provide additional aid in support of Common Schools in the several Districts of this Province.

(Royal Assent given by Message to the Legislature, 28th November, 1836.)

Preamble; £5,650 granted; Distribution of money. 2. Money to be paid in discharge of warrants, and to be accounted for, &c. 3. No money to be paid Teacher unless secured by Trustees in a sum equal to double the amount allotted by Board of Education. 4. Additional allowance of £5 per annum made to Clerks of Boards of Education.

STATUTES OF UPPER CANADA,

PASSED IN THE

FIRST SESSION OF THE THIRTEENTH PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT TORONTO, ON THE EIGHTH DAY OF NOVEMBER, IN THE SEVENTH YEAR OF THE
REIGN OF OUR SOVEREIGN LORD WILLIAM THE FOURTH, AND PROROGUED ON
THE FOURTH DAY OF MARCH FOLLOWING.

SIR FRANCIS BOND HEAD, K. C. H.
LIEUTENANT GOVERNOR.

ANNO DOMINI 1837.

CHAP. I.

AN ACT to increase the present number of Judges of His Majesty's Court of King's Bench in this Province; to alter the Terms for the sitting of the said Court: and for other purposes therein mentioned.

[Passed 4th March, 1837.]

WHEREAS an addition to the number of Judges of the Court of King's Bench in this Province has become indispensable from the great increase of the population, the formation of new Districts, and the necessity of providing for the more frequent delivery of the Gaols: *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 notwithstanding any thing contained in a certain Act of the Parliament of this Province, passed in the thirty-fourth year of the reign of His late Majesty King George the Third, intituled, "An Act to establish a Superior Court of civil and criminal jurisdiction, and to regulate the Court of Appeal," *His Majesty's Court of King's Bench for the Province of Upper Canada,* shall consist of the Chief Justice of the said Province, and of four Puisne Judges, and that the two additional Puisne Judges to be appointed by

Preamble.
(See 4 Wm. IV. Chap. 8;
1 Vic. Chap. 15;
2 Vic. Chap. 1;
Act of Union, Secs. 44 &
47;
Statutes of Canada;
4 & 5 Vic. Chap. 5.)

34 Geo. III. Chap. 2,
revised;

(See 2 Vic. Chap. 1.)
Two additional Judges to
be appointed.

His Majesty under the authority of this Act shall hold their offices during their good behaviour, and subject to the same conditions as the present Judges of the said Court.

The Lieutenant-Governor to appoint;

II. *And be it further enacted by the authority aforesaid,* That the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, shall, as soon as it may be convenient after the passing of this Act, appoint two fit and proper persons to be Judges of the said Court, to hold the said office until His Majesty's pleasure shall be made known.

Until the King's pleasure be known.

Salaries.

III. *And be it further enacted by the authority aforesaid,* That from and out of the rates and duties now levied and collected, or which hereafter may be raised, levied and collected, and remaining in the hands of the Receiver-General, there be granted to His Majesty, His Heirs and Successors, the sum of two thousand pounds annually, to provide for the payment of the salaries of the said two additional Judges, the salary of each to be one thousand pounds.

To be paid by warrants on Receiver-General.

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 this Province, from time to time, to issue his warrant or warrants to the Receiver-General of this Province for the said sums of money by this Act granted, half yearly; 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, in such manner and form as His Majesty, His Heirs and Successors, shall be graciously pleased to direct.

Puisne Judges to sit in rotation;

Not exceeding three;

Unless in the absence of the Chief Justice;

One of the Judges to sit apart for the purposes of special bail, discharging insolvents, &c.

V. *And be it further enacted by the authority aforesaid,* That after such appointments shall be made, the Puisne Judges of the said Court shall sit by rotation in each Term, or otherwise, as they shall agree among themselves, so that no greater number than three of such Puisne Judges shall sit at the same time in Banc for the transaction of business in Term, unless in the absence of the Chief Justice; and that it shall be lawful for any one of the said Judges, when occasion shall require, while the other Judges of the said Courts are sitting in Banc, to sit apart from them for the business of adding and justifying special bail, discharging insolvent debtors, administering oaths, hearing and deciding upon matters on motion, and making rules and orders in causes and business depending in the Court, in the same manner and with the same force and validity as may be done by the Court sitting in Banc.

Law regulating the terms in part repealed.

VI. *And whereas* it is necessary to make a new arrangement of the Terms of sitting of the Court of King's Bench, in order to admit more conveniently of two Circuits in each year: *Be it therefore enacted by the authority aforesaid,* That so much of a certain Act of the Parliament of this Province, passed in the sixth year of the reign of His late Majesty

King George the Fourth, intituled, "An Act to remove certain doubts with respect to the commencement of the Terms of Michaelmas in the last year, and of Hilary in this present year, and to appoint the periods of holding the several Law Terms;" and of a certain other Act of the Parliament of this Province, passed in the second year of the reign of His present Majesty, intituled, "An Act respecting the time and place of sitting of the Court of King's Bench," as appoints the Terms of sitting of the said Court, shall be and the same is hereby repealed: *Provided*, that such repeal shall not take effect until after the termination of next Easter Term, which shall commence and be holden at the same time and in the same manner as if this Act had not been passed.

New arrangement of terms; Trinity term to commence on second Monday in June; Michaelmas term, first Monday in August; Hilary term, first Monday in December; Easter term, first Monday in February.

VII. [Repealed by 1 Vic. Chap. 15.]

VIII. *And be it further enacted by the authority aforesaid*, That the twenty-seventh clause of an Act of the Parliament of this Province, passed in the second year of the reign of His late Majesty King George the Fourth, intituled, "An Act to repeal part of and amend the laws now in force respecting the practise of His Majesty's Court of King's Bench in this Province," shall be and the same is hereby repealed; and that after the end of Trinity Term next, as appointed by this Act, it shall 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 Easter and Trinity Terms, and also in the vacation between Michaelmas and Hilary 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, which, according to the practise of the Court, ought to be tried in such Districts, respectively; and that in like manner Commissions of Oyer and Terminer and General Gaol Delivery shall be issued into the several Districts of this Province twice in the year, within the periods aforesaid: *Provided always nevertheless*, that it shall be in the power of the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, to issue a Special Commission, or Special 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: *And provided also*, that nothing contained in this Act shall render it necessary to hold any Court in any new District of this Province lately organized, or hereafter to be organized, at an earlier period than is or may be provided in the Act erecting such new District.

Sec. 27 of 2 Geo. IV. Ch. 1, repealed;

Commissions of Assize and Nisi Prius may issue twice in each year;

Special Commissions may issue when necessary.

IX. *And whereas* it may happen that from some unforeseen casualty it may be impracticable to open a Court of Assize and Nisi Prius, or of Oyer and Terminer or General Gaol Delivery, on the very day appointed in the Commission or Precept for the opening of the same, and it would be attended with great public inconvenience if such Court could on that account not be opened until Juries were again summoned, and a new day appointed for holding such Court: *Be it further enacted by the*

Provision in case Courts of Assize cannot be opened on the day appointed in Commission.

authority aforesaid, That whenever from illness of the Judge, or from unavoidable detention at the last Assize town, or from other casualty, it may happen that the Judge appointed to hold any Court of Assize and Nisi Prius, Oyer and Terminer or General Gaol Delivery, shall not arrive in time, or shall not be able to open such Court on the day appointed for that purpose, it shall and may be lawful for the Sheriff of the District in which such Court should be holden, or in his absence for his Deputy, after the hour of eight of the clock in the afternoon of such day, to adjourn by proclamation all and every the Courts which shall be appointed to be opened on that day, to an hour on the following day to be by him named, and so from day to day until the Judge shall arrive to open such Court or Courts, or until he shall receive other direction from the Judge in that behalf.

Judges travelling expenses allowed at the rate of £25 for each District, except the Home District;

Fees of Clerks of Assize;

Sheriff of Home District to be paid for attending in Court of King's Bench during term.

X. *And be it further enacted by the authority aforesaid*, That from and out of the said rates and duties, there be granted to His said Majesty, His Heirs and Successors, a sufficient sum annually to enable His Majesty to pay to the Judges of Assize and Nisi Prius, Oyer and Terminer and General Gaol Delivery, the sum of twenty-five pounds for each time that they shall hold any such Court or Courts in any District of this Province, except the Home District, for the purpose of defraying their travelling expenses; and also a sum sufficient to enable His Majesty to pay the Clerks of Assize their usual and accustomed fees, for the duties performed by them as officers of the Courts of Oyer and Terminer and General Gaol Delivery; and also to pay the Sheriff of the Home District the sum of eleven shillings and eight pence per day, for attending the Terms of the Court of King's Bench at the Seat of Government.

CHAP. II.

AN ACT to establish a Court of Chancery in this Province.

[Passed 4th March, 1837.]

Preamble.

(Sec 1 Vic. Chap. 14;
3 Vic. Chap. 1;
Act of Union, Sec. 44.)

FOR the more perfect administration of Justice 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 there be constituted and established, and there is hereby constituted and established a Court of Chan-

Constitution of the Court of Chancery;

cery, to be called and known by the name and style of "The Court of Chancery for the Province of Upper Canada," of which Court the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, shall be Chancellor. And that for the better administration of justice in the said Court, the judicial powers thereof, both legal and equitable, shall be exercised by a Judge, to be appointed by His Majesty under the Great Seal of the Province, and to be called and known as "the Vice Chancellor of Upper Canada;" and who shall hold his office during good behaviour; which said Court shall be holden at the Seat of Government in the said Province, or in such other place as shall be appointed by Proclamation of the Governor, Lieutenant-Governor, or Person Administering the Government of the Province.

Judicial powers to be exercised by a Vice Chancellor;

Court to be held at the Seat of Government.

(See Act of Union, Sec. 44.)

II. *And be it further enacted by the authority aforesaid,* That the said Court shall have jurisdiction, and possess the like power and authority as by the laws of England are possessed by the Court of Chancery in England, in respect of the matters hereinafter enumerated, that is to say: in all cases of fraud; in all matters relating to trusts; in all matters relating to executors and administrators; in all matters relating to mortgages; in dower; in all matters relating to infants, idiots and lunatics, and their estates, except where special provision hath been or may hereafter be made with respect to them or either of them by any law of this Province; in all matters relating to awards; to compel the specific performance of agreements; to compel the discovery of concealed papers or evidence, or such as may be wrongfully withheld from the party claiming the benefit of the same; to prevent multiplicity of suits and to stay proceedings in a Court of Law, prosecuted against equity and good conscience; to decree the issue of Letters Patent from the Crown to rightful claimants; to institute proceedings for the repeal of Letters Patent erroneously or improvidently issued; to stay waste; in all cases of accident; all cases of account; and all cases relating to co-partnership: *Provided always nevertheless,* that nothing in this Act contained shall extend to supersede or interfere with the authority of the Commissioners appointed under the laws of this Province for ascertaining the titles of any person claiming lands as the heir, devisee or assignee, of the original nominee of the Crown, in cases where no patent has issued for such lands, or claiming title under such heir, devisee or assignee.

Jurisdiction and power of the Court;

In cases of fraud;
Trusts;
Executors and administrators;
Mortgages;
Dower;
Infants;
Idiots and lunatics;

Awards;
Specific performance;
Discovery;

To prevent suits at law against conscience;

To decree letters patent;
To repeal patents erroneously issued;
Waste;
Accident;
Account; and
Co-partnership;

Authority of Commissioners under heir and devise Acts not affected by this Act.

III. *And be it further enacted by the authority aforesaid,* That the said Court of Chancery shall have the like power, authority and jurisdiction, in all cases of claim for alimony that is exercised and possessed by any Ecclesiastical or other Court in England.

Authority in cases of alimony.

IV. *And be it further enacted by the authority aforesaid,* That the Vice-Chancellor of the said Court of Chancery hereby constituted and established, shall have full power and authority, from time to time, to settle and declare the form of process, and to define the practice and proceedings

Practice of the Court.

(See 1 Vic. Chap. 14;
3 Vic. Chap. 1.)

to be observed in the said Court of Chancery, in prosecuting or defending suits therein; to regulate the amount of fees and disbursements to be taxed to parties, their Counsel and Solicitors, and to the officers of the said Court; and make such other rules and regulations respecting the practice of the said Court, as in his opinion shall be necessary to facilitate the despatch of business and occasion the least expense.

Witnesses to deliver their testimony vivâ voce, unless otherwise ordered.

V. *Provided always, and be it further enacted by the authority aforesaid,* That all witnesses in any matter pending before the said Court of Chancery, or before any or either of the Masters thereof, shall deliver in their testimony vivâ voce, and be subject to examination by Counsel, in the presence of the Vice Chancellor, or of the said Masters, unless it be otherwise specially ordered by the said Vice Chancellor, or by consent of parties in the suit or controversy to which the testimony of such witnesses or witnesses relates.

Rules of decision to be the same as govern the Court of Chancery in England.
(See 3 Vic. Chap. 1.)

VI. *And be it further enacted by the authority aforesaid,* That the rules of decision, in the Court of Chancery hereby constituted and established, shall be the same as govern the Court of Chancery in England; and it shall possess full power and authority to enforce and compel obedience to its orders, judgments and decrees, to the same extent as is possessed by the Court of Chancery in England, in respect of all matters within its jurisdiction, except when otherwise provided by the laws of this Province.

Investment of monies subject to the direction of the Court.

VII. *And be it further enacted by the authority aforesaid,* That all monies that shall or may from time to time become subject to the control and distribution of the said Court of Chancery, shall be paid into the hands of such person or persons, bodies corporate or politic, as the said Vice Chancellor shall from time to time direct, or be vested in the public funds of the Province, or in such other securities as the said Vice Chancellor shall direct, in the name of the Accountant General of the said Court; and all interest arising from such sums, so deposited or vested, shall be added to the principal sum, and be distributed therewith to the persons entitled to receive the same.

Provisional appointment in the absence or illness of the Vice Chancellor.

VIII. *And be it further enacted by the authority aforesaid,* That in the event of the temporary absence or illness of the said Vice Chancellor, or if from any cause he shall be unable to perform the duties of his office, it shall and may be lawful for the Governor, Lieutenant-Governor, or Person Administering the Government, from time to time, during pleasure, to appoint another fit and proper person to execute the duties of Vice Chancellor.

Officers of the Court;

Registrar,

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, from time to time, under the Great Seal of the Province, to appoint during pleasure, one Register,

two Masters, one Accountant, and a Sergeant-at-Arms, to the said Court of Chancery; who, when appointed, shall, in addition to the duties usually performed by the like officers in England, be liable to perform such other duties as shall be assigned to them by the Vice Chancellor of Upper Canada.

Two Masters;
Accountant;
Sergeant-at-Arms.

X. *And be it further enacted by the authority aforesaid,* That the Vice Chancellor of the said Court, for the time being, 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 as many persons as he shall think fit and necessary, in the several Districts of this Province, to be Masters Extraordinary and Examiners, to take and receive all and every such affidavit and affidavits, deposition and depositions, 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 in any wise concerning any proceedings in the said Court of Chancery.

Masters Extraordinary
and Examiners.
(See 1 Vic. Chap. 14.)

XI. *And whereas* the law of England was at an early period introduced into this Province, and has continued to be the rule of decision in all matters of controversy relative to property and civil rights; while at the same time, from the want of an equitable jurisdiction, it has not been in the power of mortgagees to foreclose, and mortgagors being out of possession have been unable to avail themselves of their equity of redemption; and in consequence of the want of these remedies, the rights of the respective parties, or of their heirs, executors, administrators or assigns, may be found to be attended with peculiar equitable considerations, as well in regard to compensation for improvements, as in respect to the right to redeem, depending on the circumstances of each case, and a strict application of the rules established in England might be attended with injustice: *Be it therefore enacted by the authority aforesaid,* That the Vice Chancellor of the said Court shall have power and authority in all cases of mortgage, where before the passing of this Act the estate has become absolute in law, by failure in performing the condition, to make such order and decree in respect to foreclosure or redemption, and with regard to compensation for improvements, and generally, with respect to the rights and claims of the mortgagor and mortgagee, and their respective heirs, executors, administrators or assigns, as may appear to him just and reasonable under all the circumstances of the case, subject however to the appeal provided by this Act.

Authority of the Court in
cases of mortgage.

XII. *And be it further enacted by the authority aforesaid,* That all barristers and attornies admitted to practise in the Courts of common law in this Province, shall be permitted and have full power and authority to practise in the Court of Chancery in this Province, as counsel or solicitor, respectively.

Barristers and attornies to
be counsel and solicitors
of the Court.

Vice Chancellor to be a member of the Court of Appeals.

XIII. *And be it further enacted by the authority aforesaid, That the Vice Chancellor of Upper Canada shall be, and he is hereby declared to be, a member of the Court of Appeals in this Province.*

Common Gaols to be prisons of the Court of Chancery;

XIV. *And be it further enacted by the authority aforesaid, That His Majesty's Common Gaols in the several Districts of this Province, as well as all other Gaols which may be erected in any District now existing, or which may hereafter be constituted and set apart, shall be prisons of the said Court of Chancery; and that all Sheriffs, Deputy Sheriffs, Gaolers, Constables and other Peace Officers, shall be aiding, assisting and obeying, the said Court in the exercise of its jurisdiction, whenever required so to do by the said Vice Chancellor.*

Sheriffs and other officers to obey orders of the Court.

False swearing to be perjury.

XV. *And be it further enacted by the authority aforesaid, That if any person or persons shall wilfully swear falsely, or make false affirmation, in writing or by parole, in any proceeding pending in the said Court of Chancery, or in any matter in which an oath or affirmation is required by this Act, every such person, being lawfully convicted thereof, shall be deemed guilty of wilful and corrupt perjury, and shall suffer the like punishment as by law may now be inflicted on persons convicted of the crime of perjury.*

Appeals from judgments of the Court.

XVI. *And be it further enacted by the authority aforesaid, That appeals shall lie from the judgments and decrees of the said Vice Chancellor of the said Court of Chancery to the Governor and Council of the Province of Upper Canada; and from the judgments of the said Governor and Council to the King in Council in England, in like manner as appeals now lie from the judgments of the Court of King's Bench in this Province: Provided, that security be given upon such appeal to the satisfaction of the Vice Chancellor, in like manner as is provided with respect to appeals from judgments of the Court of King's Bench.*

Puisne Judges of the Court of King's Bench members of the Court of Appeals.

XVII. *And be it further enacted by the authority aforesaid, That the Puisne Judges of the Court of King's Bench shall be members of the Court of Appeals in this Province, in all cases of appeal from the judgments and decrees of the said Vice Chancellor, in like manner as the Chief Justice is now by law a member of the Court of Appeals.*

Seal of the Court.

XVIII. *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, by and with the advice and consent of the Executive Council, to determine and declare the Seal to be used in the said Court of Chancery, and by which its judgments and proceedings shall be certified and authenticated.*

Duties of officers of the Court to be regulated by Vice Chancellor.

XIX. *And be it further enacted by the authority aforesaid, That the Vice Chancellor, aforesaid, shall have full power and authority from time to time, to make such further and other regulations as to him shall appear*

necessary and expedient, to secure the safe and due performance of the duties required or to be required of the several officers of the said Court of Chancery, appointed under and by virtue of this Act.

XX. *And be it further enacted by the authority aforesaid,* That the said Vice Chancellor, and the other officers created or to be created under or by virtue of this Act, shall take and subscribe the following oath before they enter upon the duties of their respective offices; which oath shall be administered to the Vice Chancellor by the Lieutenant Governor in Council, for the time being, and afterwards by the said Vice Chancellor to the other officers in open Court:—

Oath of office to be taken by the Vice Chancellor and officers of the Court;

“I, A. B. of ———, do hereby solemnly swear, that I will, according to the best of my skill, learning, ability, and judgment, well and faithfully execute and fulfil the duties of the office of Vice Chancellor of Upper Canada; (or of Master, &c. as the case may be,) without favour or affection, prejudice or partiality, to any person or persons whomsoever.—
SO HELP ME GOD.”

Form of oath.

XXI. *And be it further enacted by the authority aforesaid,* That if at any time the Honourable the Legislative Council, and House of Assembly of this Province, shall unite in an Address to His Majesty, or His Successors, to remove the Vice Chancellor of this Province from his office, it shall and may be lawful for His Majesty, or His Successors, to revoke the Commission of such Vice Chancellor, and to appoint another fit and proper person to fill the said office: *Provided always,* that the Vice Chancellor shall have the same right of appeal to His Majesty, in His Privy Council, against such removal, as is by law given to the Judges of His Majesty's Court of King's Bench in this Province.

Removal of the Vice Chancellor, on joint address of the Houses of Parliament;

Saving right of appeal to the King in Council.

XXII. *And whereas* it may be beneficial to facilitate the admission of a limited number of persons experienced in the practice of Courts of Equity in the United Kingdom, to practice as Solicitors in this Province; *Be it therefore enacted by the authority aforesaid,* That it shall and may be lawful for the Vice Chancellor to admit persons to be Solicitors of the said Court, (not exceeding six in number,) upon their producing evidence to his satisfaction of their having been respectively admitted and sworn as Solicitors of the High Court of Chancery in England or Ireland, and of their having been in actual practice in such Court as Solicitors: *Provided always,* that the Vice Chancellor shall not admit any such person to be a Solicitor, until he shall have satisfied himself in respect to his competent knowledge of the law and practice of the High Court of Chancery in England or Ireland, and also in respect to his moral character.

Admission of six solicitors of the Court of Chancery in England or Ireland.

XXIII. *And be it further enacted by the authority aforesaid,* That no higher fees shall be charged for the services hereinafter mentioned than are set down in the following table, nor shall higher fees be charged for any similar services rendered in other cases:

Fees of solicitors, &c. (See 1 Vic. Chap. 14; 3 Vic. Chap. 1)

PLAINTIFF'S COSTS.

In a suit for a specific performance of an agreement, attending, advising on case, and taking instructions to file bill, five shillings; letter of notice to defendant before filing bill, two shillings and sixpence; instructions for bill, seven shillings and sixpence; drawing same, one shilling per folio; engrossing bill, sixpence per folio; paid filing bill, two shillings and sixpence; drawing precipe for subpœna and attending the same, two shillings; paid for subpœna, four shillings and three pence; service thereof, (exclusive of milage, at the rate of six pence per mile,) two shillings; paid for office copy of answer, folio —, six pence per folio; attending for same, one shilling and three pence; perusing and considering same, to see if bill fully answered by defendant, five shillings; paid for certificate of pleadings being filed, two shillings; paid setting down cause for hearing, five shillings; drawing precipe for subpœna, to hear judgment, and attendance for same, two shillings; paid for subpœna, four shillings and three pence; service, (exclusive of milage at the rate of six pence per mile,) two shillings; instructions for brief, five shillings; drawing brief and fair copy, at one shilling per folio; Counsel's fee thereon, two pounds two shillings; making copy title of cause and prayer of bill for the Vice Chancellor, two shillings; attending Court when cause heard and decree made for plaintiff, five shillings; paid Court fees and officers, five shillings; paid for copy minutes of decree, two shillings and six pence; perusing and examining the same, one shilling and three pence; attending the Registrar with same, and to draw up decree, one shilling and three pence; paid for decree, per folio, one shilling; perusing and examining the same, one shilling and three pence; attending passing, decree with Registrar, and leaving same to be entered, five shillings; paid entering same, six pence per folio; postage of letters, ten shillings.

CHAP. III.

AN ACT for the further amendment of the Law, and the better advancement of Justice.

[Passed 4th March, 1837.]

Preamble.

(See 1 Wm. IV. Chap. 1.)

WHEREAS it would greatly contribute to the diminishing of expense in suits in the Court of King's Bench, if the pleadings therein were in some respects altered, and the questions to be tried by the Jury left less at large than they now are, according to the course and practice of pleading in several forms of action; but this cannot be conveniently done otherwise than by rules or orders of the Judges of the said Court, from time to time to be made, and doubts may arise as to the power of the said Judges to make such alterations without the authority of the Legislature:

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 Judges of His Majesty's Court of King's Bench in this Province, or the majority of them, including the Chief Justice, shall and may, by any rule or order to be from time to time by them made, in term or vacation, at any time within five years from the time when this Act shall take effect, make such alterations in the mode of pleading in the said Court, and in the mode of entering and transcribing pleadings, judgments, and other proceedings in actions at law, and such regulations as to the payment of costs, and otherwise for carrying into effect the said alterations, as to them may seem expedient; and all such rules, orders or regulations, shall be laid before both Houses of the Legislature, if they shall be then sitting, immediately upon the making of the same, or if the Legislature be not then sitting, then within five days after the next meeting thereof; and no such rule, order or regulation, shall have effect until six weeks after the same shall have been so laid before both Houses of the Legislature; and any rule or order so made, shall, from and after such time aforesaid, be binding and obligatory on the said Court, and all other Courts of common law in this Province, to which the same shall be made expressly to extend; and on all Courts of Appeal or Courts of Error in this Province, into which the judgments of the said Courts, or any of them, shall be carried by appeal, or by any writ of error, and be of the like force and effect as if the provisions contained therein had been expressly enacted by the Legislature of this Province: *Provided always*, that no such rule or order shall have the effect of depriving any person of the power of pleading the general issue, and giving the special matter in evidence, in any case wherein he is now or hereafter shall be entitled to do so, by virtue of any Act of Parliament now or hereafter to be in force.

Judges of the King's Bench authorised to alter the mode of pleading by rule of Court;

And regulations as to the payment of costs;

Such rules to be laid before Parliament;

Rules not to have effect till six weeks after they shall have been laid before Parliament; Afterwards to be binding on Court;

And on Courts of Appeal and Error;

Rules not to affect pleadings under Acts of Parliament.

II. *And whereas* there is no remedy provided by law for injuries to the real estate of any person deceased, committed in his life time, nor for certain wrongs done by a person deceased in his life time to another, in respect of his property, real or personal; for remedy thereof, *Be it enacted by the authority aforesaid*, That an action of trespass, or trespass on the case, as the case may be, may be maintained by the executors or administrators of any person deceased, for any injury to the real estate of such person, committed in his life time, for which an action might have been maintained by such person, so as such injury shall have been committed within six calendar months before the death of such deceased person: *And provided*, such action shall be brought within one year after the death of such person; and the damages, when recovered, shall be part of the

Executors of any person deceased may maintain actions for injuries done to real estate in testator's life time;

Action to be commenced within one year of the death of the party;

Damages recovered to be part of the personal estate;
 Actions against executors for wrongs committed by deceased;

To be brought within six calendar months;

Damages payable as simple contract debts

Limitation of time for commencement of particular actions;

Actions of debt on demise or covenant, bond or specialty, or scire facias;

Other actions-

Provision in case of disabilities;

personal estate of such person: *And further*, that an action of trespass, or trespass on the case, as the case may be, may be maintained against the executors or administrators of any person deceased, for any wrong committed by him in his life time to another, in respect of his property, real or personal, so as such injury shall have been committed within six calendar months before such person's death, and so as such action shall be brought within six calendar months after such executors or administrators shall have taken upon themselves the administration of the estate and effects of such person; and the damages to be recovered in such action shall be payable in like order of administration as the simple contract debts of such persons.

III. *And be it further enacted by the authority aforesaid*, That all actions of debt for rent, upon an indenture of demise; all actions of covenant or debt, upon any bond or other specialty; and all actions of debt, or scire facias upon any recognizance; and also all actions of debt upon any award, where the submission is not by specialty, or for an escape, or for money levied on any fieri facias; and all actions for penalties, damages, or sums of money given to the party grieved, by any Statute now or hereafter to be in force, that shall be sued or brought at any time after the passing of this Act, shall be commenced and sued within the time and limitation hereinafter expressed, and not after, that is to say: The said actions of debt for rent, upon an indenture of demise or covenant, or debt upon any bond or other specialty, actions of debt, or scire facias upon recognizance, within ten years after the passing of this Act, or within twenty years after the cause of such actions or suits, but not after; the said actions by the party grieved, one year after the passing of this Act, or within two years after the cause of such actions or suits, but not after; and the said other actions, within three years after the passing of this Act, or within six years after the cause of such actions or suits, but not after: *Provided*, that nothing herein contained shall extend to any action given by any Statute, where the time for bringing such action is or shall be by any Statute specially limited.

IV. *And be it further enacted by the authority aforesaid*, That if any person or persons that is or are, or shall be entitled to any such action or suit, or to such scire facias, is or are, or shall be at the time of any such cause of action accruing, within the age of twenty-one years, femme covert, non compos mentis, or without the limits of this Province, then such person or persons shall be at liberty to bring the same actions, so as they commence the same within such times after their coming to or being of full age, discover, of sound memory, or returned to this Province, as other persons having no such impediment should according to the provisions of this Act have done; and that if any person or persons, against whom there shall be any such cause of action, is or are, or shall be, at the time such cause of action accrued, without this Province, the person or persons entitled to any such cause of action shall be at liberty to bring the same against such person or persons within such times as are before

limited, after the return of such person or persons to this Province: *Provided always*, that if any acknowledgment shall have been made, either by writing signed by the party liable, by virtue of such indenture, specialty or recognizance, or his agent, or by part payment, or part satisfaction, on account of any principal or interest being due thereon, it shall and may be lawful for the person or persons entitled to such actions, to bring his or their action for the money remaining unpaid and so acknowledged to be due, within twenty years after such acknowledgment by writing, or part payment, or part satisfaction, as aforesaid; or in case the person or persons entitled to such action shall, at the time of such acknowledgment, be under such disability, as aforesaid, or the party making such acknowledgment be, at the time of making the same, without this Province, then within twenty years after such disability shall have ceased, as aforesaid, or the party shall have returned to this Province, as the case may be; and the plaintiff or plaintiffs in any such action, on any indenture, specialty or recognizance, may, by way of replication, state such acknowledgment, and that such action was brought within the time aforesaid, in answer to a plea of this Statute.

In cases of written acknowledgment or part payment;

Acknowledgment may be pleaded in replication.

V. *And be it further enacted by the authority aforesaid*, That if in any of the said actions judgment be given for the plaintiff, and the same be reversed from error in a Court of Error or Appeal, or if a verdict pass for the plaintiff, and upon matter alleged in arrest of judgment, the judgment be given against the plaintiff, that he take nothing for his plaint, writ or bill, or if in any of the said actions the defendant shall be outlawed, and shall reverse the outlawry, that in all such cases the party plaintiff, his executors or administrators, as the case shall require, may commence a new suit or action, from time to time, within a year after such judgment reversed, or such judgment given against the plaintiff, or outlawry reversed, and not after.

In case Judgment be reversed for error, &c. new action may be commenced within a year.

VI. *And be it further enacted by the authority aforesaid*, That no plea in abatement for the non-joinder of any person as a co-defendant, shall be allowed in any Court of common law, unless it shall be stated in such plea that such person is resident within the jurisdiction of the Court, and unless the place of residence of such person shall be stated with convenient certainty in an affidavit verifying such plea.

Plea in abatement for non-joinder, to state party's residence, and be verified by affidavit.

VII. *And be it further enacted by the authority aforesaid*, That in all cases in which, after such plea in abatement, the plaintiff shall, without having proceeded to trial upon an issue thereon, commence another action against the defendant or defendants, in the action in which such plea in abatement shall have been pleaded, and the person or persons named in such plea in abatement, as joint contractors, if it shall appear by the pleadings in such subsequent action, or on the evidence at the trial thereof, that all the original defendants are liable, but that one or more of the persons named in such plea in abatement, or any subsequent plea in

Under plea in abatement plaintiff may have judgment against defendants who are liable;

Judgment and costs to defendants not liable.

abatement, are not liable as a contracting party or parties, the plaintiff shall nevertheless be entitled to judgment, or to a verdict and judgment, as the case may be, against the other defendant or defendants who shall appear to be liable; and every defendant who is not so liable shall have judgment, and shall be entitled to his costs as against the plaintiff, who shall be allowed the same as costs in the cause against the defendant or defendants who shall have so pleaded in abatement the non-joinder of such person: *Provided*, that any such defendant, who shall have so pleaded in abatement, shall be at liberty on the trial to adduce evidence of the liability of the defendants named by him in such plea in abatement.

Misnomer not to be pleaded in abatement, but to be amended at costs of plaintiff upon Judge's summons.

VIII. *And be it further enacted by the authority aforesaid*, That no plea in abatement for misnomer shall be allowed in any personal action, but that in all cases in which a misnomer would, but for this Act, have been by law pleadable in abatement, in such actions the defendant shall be at liberty to cause the declaration to be amended, at the costs of the plaintiff, by inserting the right name, upon a Judge's summons founded on an affidavit of the right name; and in case such summons shall be discharged, the costs of such application shall be paid by the party applying, if the Judge shall think fit.

In affidavit to hold to bail, initial or contraction of christian name, sufficient.

IX. *And be it further enacted by the authority aforesaid*, That in all actions upon bills of exchange, or promissory notes, or other written instruments, any of the parties to which are designated by the initial letter or letters, or some contraction of the Christian, or first name or names, it shall be sufficient in every affidavit to hold to bail, and in the process or declaration to designate such person by the same initial letter or letters, or contraction of the Christian, or first name or names, instead of stating the Christian or first name or names in full.

Wager of law disallowed.

X. *And be it further enacted by the authority aforesaid*, That no wager of law shall be hereafter allowed.

Action of debt maintainable against executor, &c.

XI. *And be it further enacted by the authority aforesaid*, That an action of debt on simple contract shall be maintainable in any Court of common law against any executor or administrator.

Court empowered to make rules for admission of documentary evidence.

XII. *And whereas* it is expedient to lessen the expense of the proof of written or printed documents, or copies thereof, on the trial of causes: *Be it further enacted by the authority aforesaid*, That it shall and may be lawful for the Judges of His Majesty's Court of King's Bench in this Province, or the major part of them, as aforesaid, at any time within five years after this Act shall take effect, to make regulations by general rules or orders, from time to time, in term or in vacation, touching the voluntary admission, upon an application for that purpose, at a reasonable time before the trial, of one party to the other, of all such written or printed documents, or copies of documents, as are intended to be offered in evi-

dence on the said trial by the party requiring such admission, and touching the inspection thereof before such admission is made, and touching the costs which may be incurred by the proof of such documents or copies on the trial of the cause, in case of the omitting to apply for such admission, or the not producing of such document or copies for the purpose of obtaining admission thereof, or of the refusal to make such admission, as the case may be, and as to the said Judges, or a majority of them, shall seem meet; and all such rules and orders shall be binding and obligatory in the said Court, and of the like force as if the provisions therein contained had been expressly enacted by Parliament.

XIII. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the defendant in all personal actions, (except actions for assault and battery; false imprisonment; libel; slander; malicious arrest or prosecution; criminal conversation or debauching of the plaintiff's daughter or servant,) by leave of any Court of Record where such action is pending, or of a Judge thereof, to pay into Court a sum of money by way of compensation or amends, in such manner and under such regulations as to the payment of costs and the form of pleading as the said Judges of His Majesty's Court of King's Bench, or a majority of them, as aforesaid, by any rules or orders by them to be from time to time made, shall order and direct.

Defendant (except in certain cases) may pay amends into Court.

XIV. *And whereas* unnecessary delay and expense is sometimes occasioned by the trial of local actions in the District where the cause of action has arisen: *be it therefore enacted by the authority aforesaid,* that in any action depending in the Court of King's Bench, the venue in which is by law local, the Court or any Judge thereof may, on application of either party, order the issue to be tried or damages to be assessed in any other District than that in which the venue is laid, and for that purpose the said Court or a Judge thereof may order a suggestion to be entered on the record, that the trial may be more conveniently had or damages assessed in the District where the same is ordered to take place.

Local actions may be tried in another District by suggestion on the record.

XV. *And whereas* great expense is often incurred, and delay or failure of Justice takes place at trials, by reason of variances as to some particular or particulars between the proof and the record, or setting forth on the record on which the trial is had, of contracts, names, and other matters or circumstances not material to the merits of the case, and by the mis-statement of which the opposite party cannot have been prejudiced, and the same cannot in any case be amended at the trial, except where the variance is between any matter in writing or in print produced in evidence and the record: *And whereas* it is expedient to allow such amendments as hereinafter mentioned to be made on the trial of the cause: *be it therefore enacted by the authority aforesaid,* that it shall be lawful for any Court of Record holding plea in civil actions, and for any Judge sitting at Nisi Prius, if such Court or Judge shall see fit so to do, to cause the record, writ or document, on which any trial may be pending

Courts of record may direct pleadings to be amended at the trial in certain actions;

[See 1 Wm. IV. Chap. 2.]

Upon such terms respecting costs as may seem reasonable.

Or allow the record to be withdrawn.

After amendment the trial to proceed as though no such variance had appeared.

On trial at Nisi Prius order for amendment to be endorsed on the postea;

Rolls and records to be amended accordingly;

Party dissatisfied with the amendment may apply for new trial.

Instead of amendment the Judge may direct the Jury to find facts according to the evidence;

And if variance be immaterial, Court may give judgment according to the merits.

before any such Court or Judge in any civil action, or in any information in the nature of a quo warranto, or proceedings on a mandamus, when any variance shall appear between the proof and the recital or setting forth on the record, writ or document, in which the trial is proceeding, of any contract, name or other matter, in any particular or particulars, in the judgment of such Court or Judge not material to the merits of the case, and by which the opposite party cannot have been prejudiced in the conduct of his action, prosecution or defence, to be forthwith amended by some officer of the Court, or otherwise, both in the part of the pleadings where such variance occurs, and in every other part of the pleadings which it may become necessary to amend, on such terms as to payment of costs to the other party, or postponing the trial to be had before the same or another Jury, or both of payment of costs and postponement, as such Court or Judge shall think reasonable; and in case such variance shall be in some particular or particulars in the judgment of such Court or Judge not material to the merits of the case, but such as that the opposite party may have been prejudiced thereby in the conduct of his action, prosecution or defence, then such Court or Judge shall have power to cause the same to be amended, upon payment of costs to the other party, and withdrawing the record or postponing the trial, as aforesaid; as such Court or Judge shall think reasonable; and after any such amendment the trial shall proceed (in case the same shall be proceeded with) in the same manner in all respects, both with regard to the liability of witnesses to be indicted for perjury, and otherwise, as if no such variance had appeared; and in case such trial shall be had at Nisi Prius, the order for the amendment shall be endorsed on the postea, and returned together with the record; and thereupon such papers, rolls and other records of the Court from which such record issued, as it may be necessary to amend, shall be amended accordingly, and the order for amendment shall be entered on the roll or other document upon which the trial shall be had: *Provided*, that it shall be lawful for any party who is dissatisfied with the decision of such Judge at Nisi Prius, respecting his allowance of any such amendment, to apply to the Court from which such record issued for a new trial upon that ground; and in case any such Court shall think such amendment improper, a new trial shall be granted accordingly, on such terms as the Court shall think fit, or the Court shall make such other order as to them may seem meet.

XVI. *And be it further enacted by the authority aforesaid*, That the said Court or Judge shall and may, if they or he think fit, in all such cases of variance, instead of causing the record to be amended, as aforesaid, direct the jury to find the fact or facts according to the evidence, and thereupon such finding shall be stated on such record; and notwithstanding the finding on the issue joined, the Court from which the record issued shall, if they shall think the said variance immaterial to the merits of the case, and the mistatement, such as could not have prejudiced the opposite party in the conduct of the action or defence, give judgment according to the very right and justice of the case.

XVII. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the parties in any action or information after issue joined, by consent and by order of any of the Judges of the Court in which the action is depending, to state the facts of the case, in the form of a special case, for the opinion of the Court, and to agree that a judgment shall be entered for the plaintiff or defendant by confession, or of nolle prosequi, immediately after the decision of the case, or otherwise as the Court may think fit, and judgment shall be entered accordingly.

After issue joined the parties may agree, upon a special case, for the opinion of the Court.

XVIII. *And in order to render the rejection of witnesses on the ground of interest less frequent; be it further enacted by the authority aforesaid,* that if any witness shall be objected to as incompetent, on the ground that the verdict or judgment in the action on which it shall be proposed to examine him would be admissible in evidence for or against him, such witness shall nevertheless be examined; but in that case a verdict or judgment in that action in favour of the party on whose behalf he shall have been examined shall not be admissible in evidence for him, or for any one claiming under him, nor shall a verdict or judgment against the party on whose behalf he shall have been examined be admissible in evidence against him, or any one claiming under him.

Interested witnesses may be examined,

But the verdict or judgment not admissible for or against such witnesses.

XIX. *And be it further enacted by the authority aforesaid,* That the name of every witness objected to as incompetent, on the ground that such verdict or judgment would be admissible in evidence for or against him, shall at the trial be endorsed on the record on which the trial shall be had, together with the name of the party on whose behalf he was examined, by some officer of the Court, at the request of either party, and shall be afterwards entered on the record of the judgment, and such endorsement or entry shall be sufficient evidence that such witness was examined, in any subsequent proceeding on which the verdict or judgment shall be offered in evidence.

Names of interested witnesses to be endorsed on the record,

And the name of the party on whose behalf examined.

XX. *And be it further enacted by the authority aforesaid,* That upon all debts or sums certain, payable at a certain time, or otherwise, the jury on the trial of any issue, or on any assessment of damages, may, if they shall think fit, allow interest to the creditor from the time when such debts or sums certain were payable, if such debts or sums be payable by virtue of some written instrument at a certain time, or if payable otherwise, then from the time when demand of payment shall have been made in writing, so as such demand shall give notice to the debtor that interest will be claimed from the date of such demand until the time of payment; *Provided,* that interest shall be payable in all cases in which it is now payable by law, or in which it has been usual for a jury to allow interest.

The Jury may allow interest on debts in certain cases.

XXI. *And be it further enacted by the authority aforesaid,* That the Jury on the trial of any issue, or on any inquisition of damages, may, if they shall think fit, give interest in the nature of damages over and above the value of the goods at the time of the conversion or seizure, in all actions of trover, or trespass de bonis asportatis, and over and above the

Interest in trover in nature of damages.

money recoverable in all actions on policies of assurance made after the passing of this Act.

Interest when execution delayed by writ of error.

XXII. *And be it further enacted by the authority aforesaid,* That if any person shall sue out any writ of error or appeal upon any judgment whatsoever, given in any Court in any action personal, and the Court of Error or Appeal shall give judgment for the defendant in error, then interest shall be allowed by the Court of Error or Appeal, for such time as execution has been delayed by such writ of error or appeal, for the delaying thereof.

Payment of costs by executors and administrators.

XXIII. *And be it further enacted by the authority aforesaid,* That in every action brought by any executor or administrator in right of the testator or intestate, after the time this Act shall go into effect, such executor or administrator shall, unless the Court in which such action is brought, or a Judge thereof, shall otherwise order, be liable to pay costs to the defendant in case of being non-suited, or a verdict passing against the plaintiff, and in all other cases in which he would be liable if the plaintiff were suing in his own right upon a cause of action accruing to himself, and the defendant shall have judgment for such costs, and they shall be recovered in like manner.

Defendants entitled to costs after a nolle prosequi, unless the Judge shall certify.

XXIV. *And be it further enacted by the authority aforesaid,* That when several persons shall be made defendants in any personal action, and any one or more of them shall have a nolle prosequi entered as to him or them, or upon the trial of such action shall have a verdict pass for him or them, every such person shall have judgment for and recover his reasonable costs, unless, in the case of a trial, the Judge before whom such cause shall be tried shall certify upon the record, under his hand, that there was a reasonable cause for making such person a defendant in such action.

Costs where nolle prosequi entered as to part of declaration.

XXV. *And be it further enacted by the authority aforesaid,* That where any nolle prosequi shall have been entered upon any count, or as to part of any declaration, the defendant shall be entitled to and have judgment for his reasonable costs in that behalf.

Plaintiff allowed costs on scire facias, after judgment by default, &c.

XXVI. *And be it further enacted by the authority aforesaid,* That in all writs of scire facias, the plaintiff obtaining judgment on an award of execution, shall recover his costs of suit upon a judgment by default, as well as upon a judgment after plea pleaded, or demurrer joined; and that where judgment shall be given either for or against a plaintiff or demandant, or for or against a defendant or tenant, upon any demurrer joined in any action whatever, the party in whose favour such judgment shall be given shall also have judgment to recover his costs in that behalf.

Executors and administrators of a lessor may distrain for rent.

XXVII. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the executors or administrators of any lessor or landlord, to distrain upon the lands demised for any term, or at will, for the

arrearages of rent due to such lessor or landlord in his life time, in like manner as such lessor or landlord might have done in his life time.

XXVIII. *And be it further enacted by the authority aforesaid, That* such arrearages may be distrained for after the end or determination of such term; or lease at will, in the same manner as if such term or lease had not been ended or determined: *Provided*, that such distress be made within the space of six calendar months after the determination of such term or lease, and during the continuance of the possession of the tenant from whom such arrears became due: *Provided also*, that all and every the powers and provisions in the several Statutes made relating to distresses for rent, shall be applicable to the distresses so made, as aforesaid.

Such arrearages of rent may be distrained for within six months after determination of the lease.

XXIX. *And whereas* it is expedient to render references to arbitration more effectual: *Be it further enacted by the authority aforesaid, That* the power and authority of any arbitrator or umpire appointed by, or in pursuance of any rule of Court, or Judges' order or orders of Nisi Prius, in any action now brought, or which shall be hereafter brought, or by or in pursuance of any submission to reference, containing an agreement that such submission shall be made a rule of His Majesty's Court of King's Bench, shall not be revocable by any party to such reference, without the leave of the Court by which such rule or order shall be made, or which shall be mentioned in such submission, or by leave of a Judge; and the arbitrator and umpire shall and may, and is hereby required to proceed with the reference notwithstanding any such revocation, and to make an award, although the person making such revocation shall not afterwards attend the reference; and that the Court, or any Judge thereof, may, from time to time, enlarge the term for any such arbitrator making his award.

Submission to arbitration, if agreed to be made a rule of Court, not revocable,

Without leave of Court;

Arbitrator to proceed with reference;

Court may enlarge time for making an award.

XXX. *And be it further enacted by the authority aforesaid, That* when any reference shall have been made by any such rule or order, as aforesaid, or by any submission containing such agreement, as aforesaid, it shall be lawful for the Court by which such rule or order shall be made, or which shall be mentioned in such agreement, or for any Judge, by rule or order to be made for that purpose, to command the attendance and examination of any person to be named, or the production of any documents to be mentioned in such rule or order; and the disobedience of any such rule or order shall be deemed a contempt of Court, if, in addition to the service of such rule or order, an appointment of the time and place of attendance in obedience thereto, signed by one at least of the arbitrators, or by the umpire, before whom the attendance is required, shall also be served, either together with or after the service of such rule or order: *Provided always*, that every person whose attendance shall be so required shall be entitled to the like conduct money and payment of expenses, and for loss of time, as for and upon attendance at any trial: *Provided also*, that the application made to such Court or Judge for such rule or order shall set forth the place where such witness is residing at the time: *Provided also*, that no person shall be compelled to produce,

Witnesses may be compelled to attend arbitrators;

By order of the Court,

On payment of their expenses.

under any such rule or order, any writing or other document that he would not be compelled to produce at a trial, or to attend at more than two consecutive days, to be named in such order.

Witnesses may be sworn upon arbitrations;

XXXI. *And be it further enacted by the authority aforesaid,* That when in any rule or order of reference, or in any submission to arbitration containing an agreement that the submission shall be made a rule of Court, it shall be ordered or agreed that the witnesses upon such reference shall be examined upon oath, it shall be lawful for the arbitrator or umpire, or for any one arbitrator, and he or they are hereby authorised and required to administer an oath to such witnesses, or take their affirmation in cases where affirmation is allowed by law instead of an oath; and if upon such oath or affirmation any person making the same shall wilfully and corruptly give any false evidence, every person so offending shall be deemed and taken to be guilty of perjury, and may be prosecuted and punished accordingly.

False swearing to be deemed perjury.

Sheriffs not entitled to poundage, except upon actual levy made;

XXXII. *And whereas* in cases where writs of execution have been issued into several Districts, upon which writs property, real or personal, may have been seized or advertised, which property has afterwards not been sold on account of satisfaction having been otherwise obtained, or from some other cause, it has been doubted whether a claim to poundage may not be advanced by the Sheriff of each of such Districts, respectively, although no money has been actually levied by them under such writ: *Be it therefore enacted by the authority aforesaid,* That where upon any writ of execution sued out against the estate, real or personal, of the defendant or defendants, no money shall be actually levied, no poundage shall be allowed to the Sheriff; but he shall be allowed his fees for the services which may be actually rendered by him; and it shall be in the power of the Court from whence such execution shall have issued, or for any Judge thereof in vacation, to allow a reasonable charge to the Sheriff for any service rendered in respect to such execution, for which no specific fee or allowance may be assigned in the table of costs.

Allowance of fees for services rendered;

And such further reasonable charge as a Judge may order.

Writ of fieri facias may issue without a testatum *ii. ff.*

XXXIII. *And be it further enacted by the authority aforesaid,* That it shall not be necessary after the time this Act shall take effect, to sue out process of execution into that District in which the venue in any action shall be laid, for the sole purpose of warranting the suing out process of execution into any other District; nor need any writ of execution be a testatum writ, merely because of its being directed to the Sheriff of any other District than that in which the venue may be laid; but it shall be lawful to sue out execution into any District of this Province, without regard to the venue having been laid in any other District: *Provided always,* that where it is now necessary to sue out process of execution against the person into any particular District, in order to charge bail, the same shall still continue to be necessary, notwithstanding any thing contained in this Act.

XXXIV. *And be it further enacted by the authority aforesaid, That* Commencement of this Act. this Statute shall commence and take effect on the first day of June next after the passing thereof.

CHAP. IV.

AN ACT to abolish the distinction between Grand and Petit Larceny, and to enable the Courts of General Quarter Sessions of the Peace to try all cases of simple Larceny, under certain restrictions, and to amend the law respecting the punishment of Larceny.

[Passed 4th March, 1837.]

WHEREAS it is expedient to abolish the distinction between grand and petit larceny, and to allow the Courts of Quarter Sessions of the Peace to entertain jurisdiction in cases of simple larceny, under certain restrictions, by which means persons charged with larceny will be more speedily brought to trial: *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 distinction between grand larceny and petit larceny shall be abolished, and every larceny, whatever may be the value of the property stolen, shall be deemed to be of the same nature, and shall be subject to the same incidents, in all respects, as grand larceny was before the passing of this Act.

Preamble.
(See 40 Geo. III. Ch. 1;
7 Wm. IV. Chaps. 6 & 7;
Statutes of Canada,
4 & 5 Vic. Ch. 25.)

Distinction between grand and petit larceny abolished.

II. *And be it further enacted by the authority aforesaid, That* the Courts of General Quarter Sessions of the Peace in the several Districts of this Province, shall have power to try every case of simple larceny, and also to try all accessories to such larceny: *Provided always,* that unless the Justice presiding in any such Court shall be a barrister, duly admitted to practise at the bar in this Province, then it shall not be lawful for such Court to try any case of larceny, when the goods charged to have been stolen shall exceed in value the sum of twenty pounds.

Courts of Quarter Sessions may try every case of simple larceny;
(See 4 & 5 Vic. Chap. 25, Sec. 2.)

Restriction when presiding Justice is not a barrister.

III. *And be it further enacted by the authority aforesaid, That* no Court whose jurisdiction in cases of larceny is extended by this Act, shall have power to sentence a person convicted of larceny to be transported for

Power of Courts in respect to punishment.
(See 4 & 5 Vic. Chap. 25.)

any period, or to be banished for a longer period than seven years, or to be imprisoned in a Common Gaol for a longer period than eight months, or to be imprisoned and kept to hard labour in any Penitentiary or House of Correction for a longer period than two years.

Banishment.

[See 4 & 5 Vic. Ch. 25.]

IV. *And be it further enacted by the authority aforesaid,* That it shall be lawful for any Court having jurisdiction in cases of larceny, if they shall think fit, to sentence any person convicted thereof to be banished from the Province, for any number of years not exceeding seven, to commence from the expiration of the term for which the same person may, upon the same conviction, be sentenced to be imprisoned in the Common Gaol, or imprisoned and kept to hard labour in a Penitentiary or House of Correction.

Court of Quarter Sessions may leave cases for the Assizes;

V. *And be it further enacted by the authority aforesaid,* That notwithstanding any thing contained in this Act, it shall not be necessary for any Court of Quarter Sessions to deliver the Gaol of all prisoners who may be confined upon charges of simple larceny, but it shall be in the discretion of such Court to leave such case to be tried at the next Court of Oyer and Terminer and General Gaol Delivery, if by reason of the difficulty or importance of the case, or for any cause, it shall appear to them proper so to do.

Value of the goods being above £20, not to affect jurisdiction of the Court.

[See 4 & 5 Vic. Chap. 25.]

VI. *And be it further enacted by the authority aforesaid,* That if upon the trial of any case of larceny, in which the value of the goods stolen shall be stated in the indictment at a sum not exceeding twenty pounds, it shall appear in evidence that the value of such goods was in reality greater than twenty pounds, such trial may nevertheless proceed, and no legal exception to the jurisdiction of the Court shall lie on that account; but the provision of this Act restraining such Court to cases where the value of the goods shall not exceed twenty pounds, shall be deemed and taken merely to be a direction to such Court, but shall not be construed to affect their legal jurisdiction.

CHAP. V.

AN ACT to amend the law respecting Bills of Exchange and Promissory Notes.

[Passed 4th March, 1837.]

Preamble.

WHEREAS the present construction of law in regard to bills of exchange accepted, payable at a particular place, and promissory notes made payable at a particular place, leads to much inconvenience and expense, by rendering it necessary to produce evidence of presentment at such place,

and sometimes subjecting the plaintiff to be non-suited for failure of proof 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 first day of June now next ensuing, if any person shall accept a bill of exchange payable at a Bank, or at any other particular place, without further expression in his acceptance; or if any person shall after that day make a promissory note payable at a Bank, or at any other particular place, without further expression in that respect, such acceptance shall be deemed and taken to be, to all intents and purposes a general acceptance, and such promise shall be deemed and taken to be a promise to pay generally; but if the acceptor shall in his acceptance express that he accepts the bill payable at a Bank, or at any other particular place only, and not otherwise or elsewhere; or if the maker of a promissory note shall in the body of the note express that he promises to pay at a Bank, or at any other particular place only, and not otherwise or elsewhere, then such acceptance or promise shall be deemed and taken to be, respectively, a qualified acceptance or promise; and the acceptor or maker shall not be liable to pay the bill or note, except in default of payment when such payment shall have been first duly demanded at such Bank or other place.

Acceptance of a bill payable at a Bank, or other particular place, to be deemed a general acceptance;

But otherwise if the acceptance be special;

Or if the body of the note express payment at a particular place.

II. *And be it further enacted by the authority aforesaid*, That from and after the said first day of June, no acceptance of any inland bill of exchange shall be sufficient to charge any person, unless such acceptance be in writing on such bill, or if there be more than one part to such bill, on one of the said parts.

Acceptance to be in writing.

III. *And whereas* by law all contracts and assurances whatsoever for payment of money made for an usurious consideration are utterly void; *And whereas* in the course of mercantile transactions negotiable securities often pass into the hands of persons who have discounted the same without any knowledge of the original considerations for which the same were given; and the avoidance of such securities in the hands of such bonâ fide endorsees, without notice, is attended with great hardship and injustice: for remedy thereof, *Be it further enacted by the authority aforesaid*, That no bill of exchange or promissory note that shall be drawn or made after the passing of this Act shall, though it may have been given for an usurious consideration, or upon a usurious contract, be void in the hands of an endorsee, or in the case of a note transferable, by delivery, in the hands of a person who shall have acquired the same as bearer for valuable consideration, unless such endorsee or bearer had, at the time of discounting

Contracts for payment of money not to be affected in the hands of other persons by usurious consideration, without express notice;

or paying such consideration for the same, actual knowledge that such bill of exchange or promissory note had been originally given, for an usurious consideration, or upon an usurious contract.

CHAP. VI.

AN ACT to provide more effectually for the punishment of certain offences, and to enable the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, to commute the sentence of death, in certain cases, for other punishment in this Act mentioned.

[Passed 4th March, 1837.]

Preamble.

[See 3 Wm. IV. Ch. 3;
Statutes of Canada, 4 & 5
Vic. Chs. 21, 25, 26 & 27.]

Larceny and other
offences to be punished
as heretofore;

Or by imprisonment only,
with or without hard
labour;

In the common Gaol or
Penitentiary, &c.

WHEREAS it is expedient to make further provision for the effectual punishment of certain offences hereinafter mentioned: *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 conviction of any person after the passing of this Act of any larceny; or of manslaughter; or of any assault with intent to commit any felony; or of felonious rescue; or of assaulting with any weapon a Sheriff, or other Peace Officer, in the execution of his duty; or of any forgery which before the passing of this Act was not punishable with death, with or without benefit of clergy; or of perjury; or of fraud; or cheating; or conspiracy; or of being accessory, before or after the fact, to larceny or any other felony; or of receiving stolen goods; or of embezzlement; or of uttering or tendering in payment false or counterfeit money, resembling any of the gold or silver coins current in this Province, knowing the same to be false or counterfeit; or of any offence against a certain Statute of this Province, passed in the fiftieth year of the reign of His late Majesty King George the Third, intituled, "An Act for preventing the forging and counterfeiting of foreign bills of exchange, and of foreign notes and orders for the payment of money," or of assisting in or attempting to effect the escape of a prisoner confined for a felony or other crime, before or after conviction—the person convicted of such offence may be sentenced to such punishment as is now provided by law for any such offence; or if the Court which is to pass sentence on such convict shall think fit, may be sentenced to be imprisoned only, or imprisoned and kept to hard labour, or in solitary confinement

in the Common Gaol, or in any Penitentiary or House of Correction that hath been or may be provided in this Province for such purpose, for any term not exceeding seven years: *Provided always*, that where for any of the offences above mentioned a specified term of imprisonment is now assigned by law, no person shall be sentenced for such offence to be imprisoned in a Penitentiary, or other place of confinement, for a longer period than such specified term: *And provided also*, that in case a conviction shall take place of any of the offences hereinbefore enumerated, except the offence of manslaughter, which before the passing of this Act would have subjected the offender to any punishment provided by the Act of the Parliament of this Province, passed in the third year of His present Majesty's reign, intituled, "An Act to reduce the number of cases in which capital punishment may be inflicted; to provide other punishment for offences which shall no longer be capital after the passing of this Act; to abolish the privilege called benefit of clergy; and to make other alterations in certain criminal proceedings before and after conviction"—such punishment shall in no case be altered or affected by this Act.

Term not exceeding seven years;

Convictions for offences (except manslaughter) punishable under 3 Wm. IV. chap. 3, not to be affected by this Act.

II. *And be it further enacted by the authority aforesaid*, That no Court of General Quarter Sessions of the Peace, or Court having the like jurisdiction, shall have power to sentence any person convicted before them to be imprisoned in a Penitentiary for a longer period than two years.

Quarter Sessions not empowered to sentence any person to the Penitentiary for more than two years.

(See 4 & 5 Vic. Chs. 21, 25, 26 & 27.)

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, to commute the sentence of death which may be passed upon any person convicted of a capital crime, other than high treason or murder, and with authority from His Majesty, upon any person convicted of high treason or murder, for transportation for life or term of years, to such place in His Majesty's dominions as may be assigned for the reception of convicts; or for banishment from this Province for life or any term of years; or for solitary confinement; or confinement with or without hard labour in any Penitentiary or House of Correction that may be appointed for such purposes, either during life or for any term of years; and that an instrument under the hand and seal of the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, declaring such commutation of sentence, shall be sufficient authority to any of His Majesty's Judges or Justices in this Province, having jurisdiction in such cases, to make such orders, and give such directions, under his hand and seal, as may be requisite for the change of custody of such convict, and for his conduct to and delivery at any Penitentiary or House of Correction in this Province, and his detention therein, according to the terms on which his sentence may have been commuted.

Sentence of death may be commuted by Governor, &c. except for murder and high treason.

IV. *And be it further enacted by the authority aforesaid*, That the time during which any offender shall have continued in any Common Gaol,

Imprisonment after sentence to be reckoned in the term of transportation.

under sentence of transportation, or under sentence of confinement in the Penitentiary, shall be reckoned in discharge, or part discharge, of the term which shall be appointed by such sentence.

CHAP. VII.

AN ACT respecting the transportation of Convicts

[Passed 4th March, 1837.]

Preamble.

[See 40 Geo. III. Chap. 1;
Statutes of Canada, 4 & 5
Vic. Chs. 24, 25, 26 & 27.]

Transportation may be
substituted for banish-
ment.

WHEREAS it is expedient to facilitate the transportation of offenders to such place or places in His Majesty's dominions as may be assigned for the reception of convicts, and to make further provision in respect to the punishment of transportation: *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 notwithstanding any thing contained in a certain Act of the Parliament of this Province, passed in the fortieth year of the reign of His late Majesty King George the Third, intituled, "An Act for the further introduction of the criminal law of England in this Province, and for the more effectual punishment of certain offenders," it shall be lawful after the passing of this Act, to sentence offenders to transportation, not only in such cases where by any law now in force, or hereafter to be passed, it is expressly provided that such offenders may be transported, but also in every case in which by the provisions of the said Act passed in the fortieth year of the reign of His late Majesty King George the Third, the person convicted would be liable to be banished from this Province: *Provided always nevertheless*, that no offender shall under the authority of this Act be sentenced to be transported, except by such Court, and in such cases, and for such term of time, as the same offender might, according to the said Act, be banished from this Province; and that nothing in this Act contained shall extend, or be construed to take away or affect the power of sentencing offenders to be banished according to the Act hereinbefore recited, when it shall appear proper to pass such sentence.

Punishment for returning
from transportation.

II. *And be it further enacted by the authority aforesaid*, That all and singular the provisions now in force which are contained in the said Act of the Parliament of this Province, passed in the fortieth year of the reign

of His late Majesty King George the Third, respecting persons returning to this Province before the expiration of the period for which they have been banished by sentence of a Court, or have consented to be banished according to the terms of any conditional pardon, granted to a convict sentenced to suffer death, shall equally extend to and be in force with respect to any person returning from transportation after this Act, whether such person shall have been sentenced to be transported, or having been capitally convicted, shall have been pardoned on condition of being transported.

III. *And be it further enacted by the authority aforesaid,* That the sentence in case of transportation shall be, that the offender shall be transported for a time to be mentioned in such sentence, or for life, where that may be lawful, and shall in the opinion of the Court passing such sentence appear proper, to such place as the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, by and with the advice of the Executive Council thereof, shall appoint.

Form of sentence to transportation.

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 this Province, by and with the advice of the Executive Council thereof, to determine, upon reference to His Majesty's Government in England, to what foreign possession of his Majesty convicts shall be transported from this Province under the provisions of this Act.

Place of transportation to be determined by Governor, &c. in Council.

V. *And be it further enacted by the authority aforesaid,* That an instrument under the sign manual of the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, and directed to the Judges of the Court of King's Bench, declaring to what Colony or place it has been determined to transport any convict, shall be sufficient authority for the Judge who passed sentence on such convict, or in his absence, for any other Judge of the said Court, to make his warrant, authorizing any person or persons to carry and secure such convict in and through this Province, towards the sea-port or place from whence he or she is to be transported; and if any person or persons shall rescue such convicts, or any of them, or assist them, or any of them, in making their escape from such person or persons as shall have them in their custody, as aforesaid, such offence shall be punishable in the same manner as if such convict had, at the time it was committed, been confined in a Gaol or Prison, in the custody of the Sheriff or Gaoler, after sentence for the crime of which he shall have been convicted.

Judge's warrant.

VI. *And be it further enacted by the authority aforesaid,* That the time during which any offender shall have continued in Gaol under sentence of transportation, shall be taken and reckoned in part discharge or satisfaction of the term of his transportation.

Imprisonment to be reckoned as part of the term of transportation.

Expenses of removing convicts to be laid before Parliament.

VII. *And be it further enacted by the authority aforesaid,* That the expenses of carrying this Act into execution, so far as respects the removal of convicts in order to their being transported, shall be annually laid before both Houses of the Legislature.

Provision in case sentence of transportation cannot be carried into effect.

VIII. *And be it further enacted by the authority aforesaid,* That if by reason of any difficulty occurring, which may prevent the transportation or reception of any convict in any Colony or possession of His Majesty, the sentence which shall have been passed on any such convict cannot be carried into effect, such convict may be detained in prison, for a period not longer than that for which he shall have been sentenced to be transported, unless it shall appear expedient to pardon such convict; in which case it may be made a condition of such pardon, that the convict shall banish himself from this Province, for a period not exceeding the residue of the time for which he was to have been transported.

CHAP. VIII.

AN ACT to make the remedy in cases of seduction more effectual, and to render the Fathers of illegitimate Children liable for their support.

[Passed 4th March, 1837.]

Preamble.

WHEREAS in some cases the law fails in affording redress to parents whose daughters have been seduced; *And whereas* the law makes no provision in this Province for compelling the fathers of illegitimate children to contribute to their support: *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 father, or in case of his death, the mother of any unmarried female who may be seduced after the passing of this Act, and for whose seduction such father or mother could sustain an action, in case such unmarried female were at the time dwelling under his or her protection, shall be entitled to maintain an action for seduction, notwithstanding such unmarried female was at the time of her seduction serving or residing with any other person, upon hire or otherwise, any former law or statute to the contrary notwithstanding.

Action when maintainable.

II. *And be it further enacted by the authority aforesaid,* That upon the trial of any action for seduction brought by the father or mother, it shall not be necessary to give proof of any act or acts of service performed by the person seduced, but the same shall be in all cases presumed, and no proof shall be received to the contrary: *Provided always nevertheless,* that in case the father or mother of such female who shall be seduced, shall before the seduction have abandoned her, and refused to provide for or retain her as an inmate, then any other person who before the passing of this Act might have maintained an action for such seduction, shall be entitled to such action in the same manner as the father or mother would otherwise have been.

Proof of service not necessary.

III. *And be it further enacted by the authority aforesaid,* That notwithstanding any thing contained in this Act, any person, other than the father or mother, who by reason of the relation of master, or otherwise, would have been entitled, if this Act had not been passed, to maintain an action for the seduction of an unmarried female, shall be entitled to maintain such action notwithstanding this Act, if the father or mother who might sue according to this Act shall not be resident in this Province at the time of the birth of the child which shall take place in consequence of such seduction, or being resident within the Province, shall not bring any action for the seduction within six months from the birth of such child.

Who may maintain the action in the father's or mother's absence.

IV. And in order that some check may be imposed upon the unfeeling conduct of persons who refuse to make provision for the support of their illegitimate children: *Be it therefore enacted by the authority aforesaid,* That any person who shall furnish food, clothing, lodging, or other necessaries, to any child who shall be born after the passing of this Act not in lawful wedlock, shall be entitled to maintain an action for the value thereof against the father of such illegitimate child: *Provided,* such illegitimate child shall have been a minor at the time of such necessaries found, and shall not have been then residing with his or her reputed father, and maintained by him as a member of his family; *And provided also,* that where the person suing for the value of such necessaries shall be the mother of such child, or any person to whom the mother has become accountable for such necessaries, then the fact of the defendant being the father of such child must be proved by other testimony than that of the mother; *And provided also,* that no action shall be sustained under this Act, unless it shall be shewn upon the trial thereof, that while the mother of such child was pregnant, or within six months after the birth of her child, she did voluntarily make an affidavit in writing, before some one of His Majesty's Justices of the Peace for the District in which she shall be residing, declaring that the person who may be afterwards charged in such action is really the father of such child, and unless she has deposited such affidavit, within the time aforesaid, in the office of the Clerk of the Peace of the District, there to remain filed; which affidavit shall nevertheless not be evidence of the fact of the defendant being the father of

The father of an illegitimate child liable to be sued for necessaries;

Evidence in such cases.

such child, but such fact must be proved by legal evidence, independently of such affidavit.

Former remedies not to be affected by this Act.

V. *And be it further enacted by the authority aforesaid,* That this Act shall not be construed to take away or abridge any right of action, or any remedy which without this Act might have been had and maintained against the father of an illegitimate child; but the same may be pursued in the same manner as if this Act had not been passed.

CHAP. IX.

AN ACT to revive, continue and amend, an Act passed in the third year of His present Majesty's reign, intituled, "An Act to facilitate legal remedies against Corporations."

[Passed 4th March, 1837.]

Preamble.

[See 3 Wm. IV. Chap. 1.]

Act revived and continued, except the third clause, which is repealed.

WHEREAS an Act passed in the third year of the reign of His present Majesty, intituled, "An Act to facilitate legal remedies against Corporations," hath expired, and it is expedient to revive and continue 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 the said Act shall be and remain in force, except the third clause thereof, which shall be and is hereby repealed.

CHAP. X.

AN ACT for the more convenient recovery of Estreats.

[Passed 4th March, 1837.]

Preamble.

[See Statutes of Canada, 4 & 5 Vic. Chap. 24, Sec. 49.]

WHEREAS it is expedient to provide for the more summary and convenient collection of fines, issues, amerciaments, and sums due upon recognizances forfeited to His Majesty: *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 June, next ensuing the passing of this Act, all fines, issues, americiaments and forfeited recognizances, save and except such as shall, by virtue of any Act or Acts of the Parliament of this Province, made or to be made, be directed to be otherwise levied, recovered, appropriated or disposed of, which shall be set, imposed, lost or forfeited, by or before any Court of Oyer and Terminer, or General Gaol Delivery, or before any Court of Assize and Nisi Prius, shall, within twenty-one days from the adjournment of such Court, be fairly entered and extracted on a roll, by the Clerk of Assize, or in case of his death or absence, by any other person under the direction of the Judge who presided at such Court; which roll shall be made in duplicate, and shall be signed by the Clerk of Assize, or such Judge, as aforesaid, in case of his death or absence.

Fines, issues and americiaments, and forfeited recognizances, (except such as by law are otherwise to be levied, &c.) imposed &c. by or before any Court of Oyer and Terminer, General Gaol Delivery, Assize and Nisi Prius, within twenty-one days of adjournment, to be entered and extracted on a roll by Clerk of Assize, or in case of his death or absence, by any other person under direction of the Judge who presided at such Court, in duplicate, to be signed by Clerk of Assize, or in case of his death or absence, by the Judge.

II. *And be it further enacted by the authority aforesaid,* That one of the said rolls shall be transmitted to the office of the Clerk of the Crown, on or before the first day of the term next succeeding such Court, and that the other of such rolls shall, so soon as the same shall be prepared, be sent by the Clerk of Assize, or in case of his death or absence, by such Judge, as aforesaid, with a writ of fieri facias and capias, according to the form in the schedule to this Act annexed, marked A., to the Sheriff of the District in or for which such Court was holden; which writ shall be authority to such Sheriff for proceeding to the immediate levying and recovering of such fines, issues, americiaments and forfeited recognizances, or any of them, as remain to be levied and recovered, on the goods and chattels, lands and tenements of such several persons; or for taking into custody the bodies of such persons, in case sufficient goods and chattels, lands or tenements, shall not be found, whereof the same can be made; and every person so taken shall be lodged in the Common Gaol of the District until satisfaction be made, or until the Court of King's Bench shall, upon cause shewn by the party as hereinafter mentioned, make an order in the case, and until such order shall be fully complied with.

One copy of roll to be sent to Clerk of the Crown within time mentioned, &c. the other to Sheriff of the District in which fine, &c. occurred;

Mode of proceeding to levy fine, &c.

Relief of party committed by Court of King's Bench.

III. *And be it further enacted by the authority aforesaid,* That from and after the first day of June, next after the passing of this Act, all fines, issues, americiaments and forfeited recognizances, save and except such as shall, by virtue of any Act or Acts of the Parliament of this Province, made or to be made, be directed to be otherwise levied, recovered, appropriated or disposed of, which shall be set, imposed, lost or forfeited, by or before any Court of General Quarter Sessions of the Peace, shall,

Fines, &c. incurred at General Quarter Sessions, to be entered and extracted on a roll in duplicate.

within twenty-one days after the adjournment of such Court, be fairly entered and extracted on a roll by the Clerk of the Peace, which roll shall be made out in duplicate, and shall be signed by the Clerk of the Peace.

Manner of proceeding to compel payment of fines &c. imposed by Court of General Quarter Sessions;

IV. *And be it further enacted by the authority aforesaid,* That one of the said rolls shall remain deposited in the office of the Clerk of the Peace, and that the other of such rolls shall, so soon as the same shall be prepared, be sent by the Clerk of the Peace, with a writ of fieri facias and capias, according to the form in the schedule to this Act annexed, marked B., to the Sheriff of the District in which such Court of Quarter Sessions shall have been holden; which writ shall be authority to such Sheriff for proceeding to the immediate levying and recovering of such fines, issues, amerciaments and forfeited recognizances, or any of them, as remain to be levied and recovered, on the goods and chattels, lands and tenements, of such several persons, or for taking into custody the bodies of such persons, in case sufficient goods and chattels, lands or tenements, shall not be found, whereof the same can be made; and every person so taken shall be lodged in the Common Gaol of the District until satisfaction be made, or until the Court of General Quarter Sessions of such District shall, upon cause shewn by the party as hereinafter mentioned, make an order in the case, and until such order shall be fully complied with.

Relief by Court of General Quarter Sessions to party fined, &c.

Court may forbear estreating recognizances, under certain circumstances.

V. *And whereas* the estreating indiscriminately of all recognizances for the appearance of persons to prosecute or give evidence, or to answer to criminal charges, would in many instances be productive of hardship: *Be it enacted by the authority aforesaid,* That in every case of default, whereby a recognizance may be forfeited, if the cause of absence be made known to the Court in which the party shall be bound to appear, the Court, on consideration of such cause, and considering also whether by the non-appearance of such person the ends of justice have been defeated or delayed, may forbear to order the recognizance to be estreated; and that with respect to all recognizances which shall be estreated in any Court, and also with respect to all fines which may be imposed by any Court for the non-attendance of any Juror or Constable, or of any public officer, bound to attend at such Court, it shall be in the power of the Judge who presided at such Court, or in the case of proceedings before any Court of General Quarter Sessions of the Peace, for the Chairman and for any two of the Justices who presided at such Court, to make an order directing that the sum forfeited upon such estreated recognizance, or the fine imposed in any such case, as aforesaid, shall not be levied, provided it shall appear to the satisfaction of such Judge, or of the Chairman and Justices, as aforesaid, that the absence of the person for whose appearance any recognizance was entered into, or of any person fined for non-attendance, was owing to circumstances which rendered such absence justifiable; and for such purpose, it shall be necessary for the Clerk of Assize, or Clerk of the Peace, respectively, before sending to the Sheriff any roll,

Court or Justices may direct Sheriff to forbear levying fines, &c. under certain circumstances.

with a writ of fieri facias and capias, as directed by this Act, to submit the same to the Judge who presided at the Assizes, or to the Chairman who presided at the Court of Quarter Sessions, respectively, for his revision; and that the Judge, or the Chairman of the Court of Quarter Sessions, taking to his assistance two of the Justices who presided with him at the Sessions, shall and may make a minute on the said roll and writ of such forfeited recognizance and fines as they may think fit to direct not to be levied; and the Sheriff shall observe the direction in such minute, written upon such roll and writ, or endorsed thereon, and shall forbear accordingly to levy any such forfeited recognizance or fine.

VI. *And be it further enacted by the authority aforesaid.* That if upon any writ to be issued under this Act, the Sheriff shall take lands or tenements in execution, he shall advertise the same in like manner as he is required to do before the sale of lands in execution in other cases; and no sale shall take place in less than twelve calendar months from the time the writ shall come into the hands of the Sheriff.

Mode of proceeding where lands are seized for payment of fines, &c.

VII. *And be it further enacted by the authority aforesaid,* That the Clerk of Assize, or Clerk of the Peace, shall, at the foot of each roll made out as herein directed, make and take an affidavit in the following form, (that is to say:) I, A. B., (describing his office,) make oath that this roll is truly and carefully made up and examined, and that all fines, issues, amerciaments, recognizances and forfeitures, which were set, lost, imposed or forfeited, at or by the Court therein mentioned, and which in right and due course of law ought to be levied and paid, are, to the best of my knowledge and understanding, inserted in the said roll; and that in the said roll are also contained and expressed all such fines as have been paid to or received by me, either in Court or otherwise, without any wilful discharge, omission, misnomer or defect, whatsoever—so help me God: which oath any Justice of the Peace for such District is hereby authorised to administer.

Oath to be taken and subscribed at foot of roll by Clerks of Assize, or Clerk of the Peace.

VIII. *And be it further enacted by the authority aforesaid,* That each and every Justice of the Peace before whom any recognizance shall be entered into or taken, shall give, or cause to be given, at the time of entering into such recognizance, to the person or persons so entering into the same, and to each of his sureties, a written or printed paper or notice, in the form or to the effect stated in the schedule marked C. to this Act annexed, adapting the same to the particular circumstances of the case; and each and every such Justice shall, in such recognizance, state and specify particularly the profession, art or trade, of every person so entering into such recognizance, together with the Christian name and surname, and also the place of his or her residence.

Certificate to be given by Justice of the Peace before whom recognizance is entered into, to the party entering into the same.

IX. *And be it further enacted by the authority aforesaid,* That if any person on whose goods and chattels such Sheriff, Bailiff or other officer, shall be authorised to levy any such forfeited recognizance, shall give

Conditions upon which goods seized by Sheriff, &c may be released.

security to the said Sheriff or other officer, for his appearance at the return day mentioned in the writ, in the Court into which such writ shall be returnable, then and there to abide the decision of such Court, and also to pay such forfeited recognizances, or sum of money to be paid in lieu or satisfaction thereof, together with all such expenses as shall be adjudged and ordered by the Court, it shall be lawful for such Sheriff or officer to discharge such person so giving such security out of custody: *Provided*, that in case such party so giving such security shall not appear in pursuance of his undertaking, it shall be lawful for the Court forthwith to issue a writ of fieri facias and capias, against the surety or sureties of the person so bound, as aforesaid.

Court, under certain circumstances, may discharge forfeited recognizances, &c

X. *And be it further enacted by the authority aforesaid*, That the Court of King's Bench, or Court of General Quarter Sessions, into which any writ of fieri facias and capias, to be issued under this Act, shall be returnable, is authorised by this Act to inquire into the circumstances of the case, and may, in its discretion, order the discharge of the whole of the forfeited recognizance, or sum of money paid or to be paid in lieu or satisfaction thereof, and make such order thereon as may to them appear just; which order shall accordingly be a discharge to the Sheriff, or to the party, according to the circumstances of the case.

Manner of return by Sheriff, &c.

XI. *And be it further enacted by the authority aforesaid*, That the Sheriff to whom any writ shall be directed under this Act, shall return the same on the day on which the same is made returnable, and shall state on the back of the roll attached to such writ, what shall have been done in the execution of such process; which return shall be filed in the Court, respectively, into which such return is made; and that a copy of such roll and return, certified by the Clerk of the Peace, or by the Clerk of the Crown, (as the case may be,) shall be forthwith transmitted to the Receiver-General of this Province, with a minute thereon of any of the sums therein mentioned, which may have been remitted by order of the Court, in the whole or in part, or directed to be forborne, under the authority of this Act.

Copy of roll and return to be sent to Receiver General.

Sheriff to pay over money to Receiver General.

XII. *And be it further enacted by the authority aforesaid*, That the Sheriff shall, without delay, pay over all monies by him collected to the Receiver-General of this Province, for the time being.

SCHEDULE A.

William the Fourth, by the Grace of God, &c. To the Sheriff of ———, Greeting: You are hereby commanded to levy of the goods and chattels, lands and tenements, of all and singular, the persons in the roll or extract to this writ annexed mentioned, all and singular the debts and sums of money upon them severally imposed and charged, as therein is specified; and if any of the said several debts cannot be levied, by reason of no goods or chattels, lands or tenements, being to be found belonging to the

said parties, respectively, then and in all cases, that you take the bodies of the parties, respectively, and keep them safely in the Gaol of your District, there to abide the judgment of our Court of King's Bench, upon any matter to be shewn by them, or otherwise to remain in your custody, as aforesaid, until such debt shall be satisfied, unless any such person shall give sufficient security for his or her appearance at the said Court on the return day hereof, for which you will be held answerable; and what you shall do in the premises make appear before us, in our Court of King's Bench, at Toronto, on the ——— day of ——— term next, and have then there this writ. Witness, &c. A. B., Clerk of Assize, at the last Assizes, for the District of ———, this ——— day of ———, 18—.

SCHEDULE B.

William the Fourth, by the Grace of God, &c. To the Sheriff of ———, Greeting: You are hereby commanded to levy of the goods and chattels, lands and tenements, of all and singular, the persons in the roll or extract to this writ annexed mentioned, all and singular the debts and sums of money upon them respectively imposed and charged, as therein is specified; and if any of the said several debts cannot be levied, by reason of no goods or chattels, lands or tenements, being to be found belonging to the parties, respectively, then and in all cases, that you take the bodies of the parties, respectively, and keep them safely in the Gaol of your District, there to abide the judgment of the Court of General Quarter Sessions for the said District, upon any matter to be shewn by them, or otherwise to remain in your custody, as aforesaid, until such debt shall be satisfied, unless any such person shall give sufficient security for his or her appearance at the said Court on the return day hereof, for which you will be held answerable; and what you shall do in the premises make appear at the next Court of General Quarter Sessions of the Peace for the said District, on the first day of the said Court, and have then there this writ. Witness, C. D., Clerk of the Peace for the District of ———, this ——— day of ———, 18—.

SCHEDULE C.

— District, } Take notice, that you, ———, are bound in the sum of
to wit: } ——— pounds, and your sureties, ———, in the sum
of ——— pounds each, to appear at ———, to be holden at ———, and
unless you personally make your appearance accordingly, the recogni-
zance entered into by yourself and your sureties will be forthwith levied
on you and your bail. Dated this ——— day of ———, 18—. A. B.,
Justice of the Peace, for the ——— District.

CHAP. XI.

AN ACT to appoint the time and place for holding the Court of General Quarter Sessions of the Peace in each of the several Districts of this Province, and to repeal the several laws now in force for that purpose.

[Passed 4th March, 1837.]

Preamble.

[See 1 Vic. Ch. 6;
3 Vic. Ch. 26.]

Repeal of Acts relating to
time and place of holding
General Quarter Sessions
of the Peace in this
Province.

WHEREAS it is expedient to repeal the several enactments contained in the Statutes of this Province respecting the time and place of holding the Courts of General Quarter Sessions of the Peace in and for the several Districts, and to appoint in one Act the time and place for holding the said Courts, respectively: *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 an Act of the Parliament of this Province, passed in the thirty-third year of the reign of His late Majesty King George the Third, 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;" and another Act of the Parliament of this Province, passed in the thirty-sixth year of the reign of His late Majesty King George the Third, intituled, "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;'" and the second and third clauses of a certain other Act of the Parliament of this Province, passed in the forty-first year of the reign of His late Majesty King George the Third, intituled, "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;" and also an Act of the Parliament of this Province, passed in the fifty-fifth year of the reign of His late Majesty King George the Third, intituled, "An Act to amend an Act, intituled, '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 relative 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;'" and also an Act passed in the

Parliament of this Province, in the fifty-sixth year of the reign of His late Majesty King George the Third, intituled, "An Act to alter the time of holding the Courts of General Quarter Sessions of the Peace in the London and Johnstown Districts of this Province;" and also an Act passed in the Parliament of this Province, in the fifty-eighth year of the reign of His late Majesty King George the Third, intituled, "An Act to repeal part of an Act passed in the fifty-sixth year of His Majesty's reign, intituled, 'An Act to alter the time of holding the Courts of General Quarter Sessions of the Peace in the London and Johnstown Districts;'" and so much of the fourth clause of an Act passed in the Parliament of this Province, in the fourth year of the reign of His late Majesty King George the Fourth, intituled, "An Act to provide for the establishment of Courts in the District of Bathurst, and for other purposes therein mentioned," as relates to the Court of General Quarter Sessions of the Peace for the District of Bathurst; and also an Act of the Parliament of this Province, passed in the fourth year of the reign of His late Majesty King George the Fourth, intituled, "An Act for altering the time of holding the General Quarter Sessions of the Peace in the Home District, and further to fix the time of holding the said Quarter Sessions;" and also an Act of the Parliament of this Province, passed in the tenth year of the reign of His late Majesty King George the Fourth, intituled, "An Act to alter the time of holding the Court of General Quarter Sessions of the Peace in the Ottawa District;" and also an Act of the Parliament of this Province, passed in the eleventh year of the reign of His late Majesty King George the Fourth, intituled, "An Act to alter the times of sitting of the General Quarter Sessions in the Niagara District;" and also so much of the fourth clause of an Act of the Parliament of this Province, passed in the first year of the reign of His present Majesty, intituled, "An Act to erect the County of Prince Edward into a separate District," as relates to the holding of the Court of General Quarter Sessions of the Peace for the said County, now called the District of Prince Edward; and also an Act passed in the fifth year of the reign of His present Majesty, intituled, "An Act to alter the times of holding the Court of Quarter Sessions in the District of Niagara;" and also every other Act, or part of an Act, of the Parliament of this Province, which relates to the time or place of holding the Courts of General Quarter Sessions of the Peace in any District of this Province, in so far as the same relates to the time or place of holding such Courts, shall be and the same are hereby repealed: *Provided always nevertheless*, that any prior Acts or enactments repealed by any of the Acts hereinbefore recited, shall be and remain repealed.

II. *And be it further enacted by the authority aforesaid*, That the Courts of General Quarter Sessions of the Peace in and for the several Districts in this Province, shall be holden at the places and times following, that is to say: In the Eastern District, at the Town of Cornwall, on the fourth Tuesday in January and April, and on the second Tuesday in July and October; in the District of Ottawa, in the Village of L'Orignal, on the

Times and places of holding General Quarter Sessions of the Peace in the several Districts.

third Tuesday in January, April, June and September; in the District of Bathurst, at the Town of Perth, on the third Tuesday in March, September and December, and on the second Tuesday in June; in the District of Johnstown, at the Town of Brockville, on the third Tuesday in February and May, and on the second Tuesday in August and November; in the Midland District, at Kingston, on the fourth Tuesday in January, and the second Tuesday in July, on the fourth Tuesday in April, and on the second Tuesday in October; in the District of Prince Edward, at the Town of Picton, on the first Tuesday in January, April, July and October; in the District of Newcastle, at the Town of Amherst, in the Township of Hamilton, on the second Tuesday in January, April, July and October; *in the Home District, at the City of Toronto, on the second Tuesday next following the termination of the terms of sitting of the Court of King's Bench*; in the District of Gore, at the Town of Hamilton, on the second Tuesday in January, April, July and October; *in the District of Niagara, at the Town of Niagara, on the second Tuesday in January, April, July and October*; in the District of London, at the Town of London, on the second Tuesday in January, April, July and October; in the Western District, at the Town of Sandwich, on the second Tuesday in January, April, July and October.

[See 3 Vic. Chap. 26.]

[See 1 Vic. Chap. 5.]

Proceedings heretofore had, not to be considered illegal.

III. *And be it further enacted by the authority aforesaid*, That no proceedings which have been had in any Court of General Quarter Sessions before the passing of this Act, shall be rendered illegal, or in any manner affected by the above recited Acts, or any of them, or any part thereof, being hereby repealed.

In time of war or other exigency, Governor may change the place of holding General Quarter Sessions.

IV. *And be it further enacted by the authority aforesaid*, That in time of war or other exigency, it shall be in the power of the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, by Proclamation under the Great Seal, to authorise the holding the Court of General Quarter Sessions of the Peace in any District of this Province, at some other place in the said District than is appointed by this Act.

CHAP. XII.

AN ACT to amend the Law relating to the Court of Requests.

[Passed 4th March, 1837.]

Preamble.

[See 3 Wm. IV. Chap. 1; Statutes of Canada, 4 & 5 Vic. Chap. 3, which last creates a new jurisdiction.]

WHEREAS it is necessary to alter and amend an Act passed in the third year of His present Majesty's reign, intituled, "An Act to repeal part of, amend and reduce to one Act of Parliament the several laws now in force in this Province for the recovery of small debts, and to

extend the jurisdiction 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, any person having a demand against another, not exceeding the sum of ten pounds, may if he thinks proper summon such person from any part of the District wherein he resides, to appear at the Court of Requests in the Division where the debt was contracted, any thing in the before recited Act to the contrary notwithstanding.

Persons having a demand not exceeding £10, may summon debtor from any part of District to the Division where debt was contracted.

II. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Clerk of each or any Court of Requests for the Division within the limits of which any debt, as aforesaid, shall have been contracted, upon request to him made by the person or persons to whom such debt is due, to issue a summons requiring the debtor or debtors to appear at the Court of Requests to be holden in and for the Division from which such summons shall issue, at a day in such summons to be named; which summons, together with a copy thereof, and the copy of the amount for the recovery of which such action is brought, shall be transmitted to the Bailiff of the Division or Divisions wherein such debtor or debtors reside; and it shall be the duty of such Clerk to deliver the same to a Bailiff to be served, which Bailiff shall and he is hereby required to serve such summons as is now provided by law: *Provided always,* that every such summons shall be served not less than ten days before the return thereof.

Mode of proceeding where debtor summoned from another part of the District to appear in Division where debt was contracted.

III. *And be it further enacted by the authority aforesaid,* That the Bailiff who shall serve any copy of such summons, shall make affidavit of such service, and the necessary mileage,* before some one of the Commissioners of the Division for which he shall be Bailiff, and shall transmit the original summons, together with such affidavit, without delay to the Clerk of the Court from whom he shall have received it, as aforesaid.

Bailiff to make affidavit of service of summons, and transmit same to Clerk of Court from which it issued.

IV. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Commissioners of the Court from which the summons issued, on production of the same, together with the affidavit of service thereof, to hear and determine the cause, in the same manner as if the defendant resided within the Division for which such Commissioners shall hold their Court: *Provided always,* that proof shall be adduced before such Commissioners that the debt so sued for was contracted within the said Division.

Mode of proceeding by Commissioners upon proof of service of summons.

Costs of service of summons, &c. to form part of costs to be allowed by Commissioners, and execution to issue for amount of judgment, to Bailiff within the Division in which defendant lives

V. *And be it further enacted by the authority aforesaid,* That the costs of the service of such summons, affidavit, and the transmission thereof, shall form part of the costs to be allowed by the said Commissioners, and shall be collected and accounted for to the Bailiff making such service, or to such other person as shall be entitled to the same; and if the said Commissioners shall give judgment against any such debtor or debtors, it shall and may be lawful for them to cause and direct execution to be issued for the debt and costs, to be directed to the Bailiff of the Division or Divisions within which such defendant or defendants shall reside, who shall levy the same in the same manner as is by law directed, in respect to executions from the Court of the Division for which he is Bailiff, as aforesaid.

Liability of Bailiff neglecting or refusing to perform duties, or to pay over monies, &c.

VI. *And be it further enacted by the authority aforesaid,* That the Bailiff of any Court of Requests neglecting or refusing to perform any of the duties required by this Act, or to pay over monies collected or levied by him, as aforesaid, shall be liable to the same penalties or punishment as if such neglect or refusal had happened with regard to any duty required to be by him performed in respect to any writ, process or proceeding, issuing from the Court for which he shall be Bailiff, as aforesaid.

Power of Court to issue subpoenas for witnesses, &c.;

VII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Clerk of any Court of Requests, at the request of any plaintiff or defendant, to issue a subpoena or subpoenas for such and so many witnesses as such plaintiff or defendant may desire, commanding the attendance of such witness or witnesses at any Court of Requests where a trial is to take place, in which any such plaintiff or plaintiffs, defendant or defendants, is a party or parties; and every such witness who shall have been duly served with such subpoena, and in the event of being required to travel out of the Division wherein such witness shall reside, shall have his or her reasonable charges, not exceeding one shilling for every five miles necessary travel, paid or tendered to him or her at the time of such service, and who shall, without sufficient cause, neglect or refuse to obey such subpoena, shall be liable to forfeit and pay a sum, in the discretion of the Commissioners, not exceeding forty shillings, to be recovered with costs of suit by the party aggrieved, before the Commissioners of the Court of Requests for the Division within which such witness shall reside; and such sum so recovered shall be paid over to the Commissioners of the Highways within such Division, to be expended on the improvement of the roads.

Witnesses bound to attend, and entitled to payment, &c.;

Liable to fine for non-attendance.

Personal service of summons not required when party absents himself to avoid service, if sum claimed does not exceed £5.

VIII. *And be it further enacted by the authority aforesaid,* That in any case where, by the before recited Act, personal service of a summons is required, the same shall not be deemed necessary, upon the Bailiff entrusted with the service of any summons making oath before one of the Commissioners of his Court, that he left the same at the usual place of residence of the defendant, and that he the said Bailiff verily believes

such defendant absented himself for the purpose of avoiding the service, as aforesaid, provided the sum shall not exceed five pounds.

IX. *And be it further enacted by the authority aforesaid,* That whereas doubts have arisen as to the power of the Magistrates in Quarter Sessions, to vary or change the Divisions of the several Courts of Requests within their respective Districts, after the same have been by them determined: *Be it therefore enacted by the authority aforesaid,* That it shall and may be lawful for the Magistrates, aforesaid, to vary the Division of the Courts of Requests, as to them from time to time may seem necessary.

Magistrates in Quarter Sessions may from time to time, change Divisions of several Courts of Requests.

CHAP. XIII.

AN ACT to protect the public against injury from private Banks.

[Passed 4th March, 1837.]

WHEREAS it is inconsistent with a due regard to the protection of commerce, and to the welfare and security of the inhabitants of this Province, that any individual, or any number of persons, should be allowed, without Legislative authority, to issue bills, notes, or other undertakings for the payment of money intended to form a circulating medium, and to supply the place of specie, whereby great public injury may be sustained from the quantity of such bills, notes or other undertakings, which may be issued by persons of doubtful solvency, and not subject to those checks which it is thought necessary to impose in regard to Banks Chartered by the Legislature: *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 the passing of this Act, (except in the cases hereinafter mentioned,) it shall not be lawful for any person in this Province, or for any number of persons, either associated without Legislative authority, or incorporated for any other purpose than Banking, to make or issue any bill, note, or undertaking of any description, or in any form, in the nature of a Bank bill or note, and intended to pass as money; and that if any bill, note or undertaking, shall be issued or put in circulation contrary to this Act, such bill, note or undertaking, shall be void; and any mortgage, or other deed, bond, note, bill or other security, which may be taken for securing any loan or advance made in such bills, notes or undertakings, shall be absolutely null and void.

Preamble.

(Sec 7 & 8 Wm IV. Ch 1; 1 Vic. Chap. 23.)

All bills, notes, or undertakings in the nature of bank bill or note, and intended to pass as money issued by persons either associated without Legislative authority, or incorporated for any other purpose than banking, declared illegal;

Mortgages, &c taken to secure loans or advances on such bills, &c. void.

Person acting as President, Director, Cashier, or other officer of any Association, acting in violation of this Act, to be deemed guilty of misdemeanor.

(See 7 & 8 Wm. IV. Chap. 1, Sec. 5.)

II. *And be it further enacted by the authority aforesaid,* That if any person, after the passing of this Act, shall act as President, Director, Cashier, or other officer of any association of persons, acting in violation of this Act, such person shall, on conviction thereof before any Court of Oyer and Terminer or General Gaol Delivery, be deemed guilty of a misdemeanor.

After the first of July next, persons knowingly uttering or tendering any bill or note, in nature of bank note, which note, &c. shall not have been issued by parties legally authorised, to be deemed guilty of misdemeanor.

(See 7 & 8 Wm. IV. Ch. 1, Sec. 5.)

III. *And be it further enacted by the authority aforesaid,* That if any person, after the first day of July next after the passing of this Act, shall knowingly utter, or tender in payment or in exchange, any bill or note in the nature of a Bank note, which shall not have been issued by some person, or association of persons, or body corporate, legally authorised to issue such bill or note within this Province, or within the country in which such note or bill shall have first issued, such person shall be deemed guilty of misdemeanor, and liable to be punished as before provided for other persons offending against the provisions of this Act.

Provisions of Act not to apply to Bank of British North America; The Farmer's Joint Stock Banking Company; (See 1 Vic. Chap. 23) The Agricultural Bank; or to the Bank of the People; or to the Niagara Suspension Bridge Bank; Proviso with respect to last mentioned Bank.

IV. *And be it further enacted by the authority aforesaid,* That the prohibitions contained in this Act shall not apply to the Bank of British North America, the Farmers' Joint Stock Banking Company, *the Agricultural Bank*, or to the Bank of the People, or to the Niagara Suspension Bridge Bank: *Provided*, the Directors of the said last mentioned Bank are subjects of His Majesty, and residing within the Province, being Stockholders or co-partners in the said Company; and that the associations or companies of persons who have heretofore issued bills or notes under the names aforesaid, respectively, shall have the same and no other rights and privileges, and be subject to the same liabilities as before the passing of this Act.

CHAP. XIV.

AN ACT to supply by a general law certain forms of enactment in common use, which may render it unnecessary to repeat the same in Acts to be hereafter passed.

[Passed 4th March, 1837.]

Preamble.

WHEREAS it is expedient to prevent, by a general enactment, the necessity of repeating in different Statutes certain forms of expression, and certain clauses and provisions which are in their nature generally applicable to Statutes of a certain description, and which may therefore be conveniently provided for by a general law: *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 whenever in any Act of the Parliament of this Province which shall be hereafter passed, the words "the Governor of this Province," or the words "the Lieutenant-Governor of this Province," shall be used, such words, without further addition, shall be construed to extend to and include the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, for the time being.

1st. Legal signification to attach to the words "Governor of this Province," or the words "Lieutenant Governor of this Province," when introduced into any Act.

II. *And be it further enacted by the authority aforesaid,* That in any Act of the Parliament of this Province to be hereafter passed, the word "person" shall extend to a body politic or corporate, as well as to an individual; and every word importing the singular number only, shall extend and be applied to several persons or things, as well as one person or thing; and every word importing the plural number shall extend and be applied to one person or thing, as well as several persons or things; and every word importing the masculine gender only, shall extend and be applied to a female as well as to a male: *Provided always,* that those words and expressions occurring in this clause to which more than one meaning is to be attached, shall not have the different meanings given to them by this clause, in those cases in which there may be any thing in the subject or context repugnant to such construction, and in which such construction could not reasonably be supposed to have been intended.

2nd. To word "Person;"

Word importing plural number;

Word importing masculine gender;

Proviso, that no construction to be given to words different from meaning expressly intended.

III. *And be it further enacted by the authority aforesaid,* That wherever, by any Act of the Parliament of this Province hereafter to be passed, any sum of money shall be granted, to be paid out of the public revenues of this Province, such money shall be paid by the Receiver-General of this Province, in discharge of such warrant or warrants as shall for that purpose be issued by the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, for the time being.

All monies hereafter to be granted out of public revenues, to be paid by Receiver General, upon warrant of Governor, Lieutenant Governor, or person administering the Government.

IV. *And be it further enacted by the authority aforesaid,* That when any Statute of the Parliament of this Province shall be hereafter passed, by which any sum of money shall be granted, to be paid out of the revenues at the disposal of the Legislature of this Province, or by or under which any sum or sums of money shall come into the hands of the Receiver-General of this Province, or be paid out by him, such sum or sums of money shall be accounted for by the Receiver-General of this Province 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 be graciously pleased to direct, notwithstanding it may be omitted in such Statute to make any provision in that respect.

And to be accounted for through Lords Commissioners of His Majesty's Treasury.

Manner in which fine or penalty shall be accounted for, when no provision is made by Act imposing the same.

V. *And be it further enacted by the authority aforesaid,* That wherever by any Act of the Parliament of this Province to be hereafter passed, it shall be provided that any fine or penalty shall be imposed for the punishment of any offence prohibited by such Act, then if no provision shall be made in such Act for the appropriation of such fine or penalty, the same shall be paid into the hands of His Majesty's Receiver-General of this Province, to and for the public uses of this Province, and shall be accounted for to His Majesty, through the Lords Commissioners of His Majesty's Treasury, in such manner and form as His Majesty, His Heirs and Successors, shall be graciously pleased to direct.

General provisions as to issuing debentures for raising of money;

Upon what fund chargeable;

May be received and taken by Collectors, &c.

VI. *And be it further enacted by the authority aforesaid,* That whenever by any Statute of the Parliament of this Province which shall be hereafter passed, authority shall be given to raise money by way of loan upon Debentures, to be issued by or on behalf of the Government of this Province, then, unless it shall be provided otherwise in such Statute, the Debenture or Debentures to be issued under the authority thereof, shall be signed by the Receiver-General of this Province, for the time being; and all such Debentures, with the interest thereon, and all charges incident to or attending the same, shall be chargeable upon, and shall be repaid or borne by or out of the monies that shall come into the hands of the Receiver-General, to and for the public uses of this Province, and that shall be subject to be appropriated by the Legislature thereof; and the Debentures that shall be lawfully issued by the authority of any such Act, and which shall, from time to time, remain undischarged and uncanceled, shall and may, after the period therein appointed for the payment thereof, be received and taken, and shall pass and be current, to all and every the Receivers and Collectors in this Province of the customs, or of any revenue or tax whatsoever, granted, due or payable, or which may thereafter be granted, due or payable, to His Majesty, His Heirs and Successors, under or by virtue of any Act of the Parliament of Great Britain, or of the United Kingdom of Great Britain and Ireland, or of the Parliament of this Province, or otherwise, and also at the office of the Receiver-General of this Province from the said Collectors and Receivers, or from any person making any payment there to His Majesty, His Heirs or Successors, upon any account, or for any cause whatsoever; and that the same in the hands of such Collectors and Receivers, and in the hands of the Receiver-General of this Province, shall be deemed and taken as cash, and as such shall be charged against, and credited to such Collectors and Receivers, and to such Receiver-General, aforesaid, respectively, in their accounts with each other, and with His Majesty, His Heirs and Successors; and that the interest which shall from time to time be due upon any Debenture which may be so issued, shall be allowed to all persons, bodies corporate and politic, paying the same to any Receiver or Collector of any of His Majesty's revenues in this Province, to the respective days whereupon such respective Debentures shall be so paid: *Provided always,* that no interest shall run or be paid upon or for any such Debenture during the time such Debenture so paid shall remain in the

Interest not to run from time debentures received by Collectors, &c.

hands of any of the said Receivers and Collectors, but for such time the interest on every such debenture shall cease.

VII. And to the end that it may be known for what time such debentures bearing interest shall, from time to time, remain in the hands of such Receivers or Collectors, as aforesaid: *Be it therefore enacted by the authority aforesaid,* That the person or persons who shall pay any such debenture or debentures, so bearing interest, to the Receivers or Collectors of any of His Majesty's revenues or taxes, shall, at the time of making such payment, put his or their name or names, and write thereupon, in words at length, the day of the month and year in which he, she or they, so paid such debenture bearing interest; all which the said Collectors and Receivers, respectively, shall take care to see done and performed accordingly; to which respective days the said Receivers and Collectors shall be allowed again the interest, which he or they shall have allowed or paid upon such respective debenture, upon his or their paying the same into the hands of the Receiver General, as aforesaid.

Persons who shall pay debentures to Receivers or Collectors, to endorse time of payment.

VIII. *And be it further enacted by the authority aforesaid,* That if any person or persons shall forge or counterfeit any debenture, which shall be issued under the authority of any Act of the Parliament of this Province hereafter to be passed, and remaining uncanceled, or any stamp, endorsement, or writing thereon or therein, or tender in payment any such forged or counterfeit debenture, or any debentures with such counterfeited endorsement or writing thereon, or shall demand to have such counterfeited debenture, or any debenture with such counterfeit endorsement or writing thereupon or therein, exchanged for ready money by any person or persons who shall be obliged or required to exchange the same, or by any other person or persons whomsoever, knowing the debenture so tendered in payment, or demanded to be exchanged, or the endorsement or writing thereupon or therein, to be forged or counterfeited, and with intent to defraud His Majesty, His Heirs and Successors, or the persons appointed to pay off the same, or any of them, or any other person or persons, bodies politic or corporate, then every such person or persons so offending, being thereof lawfully convicted, shall be adjudged a felon, and shall be liable to be punished in the manner provided by the twenty-fifth and twenty-sixth clauses of an Act of the Parliament of this Province, passed in the third year of the reign of His present Majesty King William the Fourth, intituled, "An Act to reduce the number of cases in which capital punishment may be inflicted, to provide other punishment for offences which shall no longer be capital after the passing of this Act, to abolish the privilege called benefit of clergy, and to make other alterations in certain criminal proceedings before and after conviction."

Persons forging, or issuing forged or counterfeit debentures, liable to punishment as in other cases of forgery.

IX. *And be it further enacted by the authority aforesaid,* That the Receiver General of this Province, for the time being, shall before each

Receiver General to make a return of debentures he shall issue;

Amount redeemed, and interest thereon ;
 Amount outstanding and unredeemed ;
 Of the expenses attending the issuing of the same, &c. ;
 To be laid before the Legislature.

Session of the Legislature, transmit to the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, a correct account of the numbers, amount and dates, of the different debentures which he shall issue under the authority of any Act which shall be hereafter passed, of the amount of the debentures redeemed by him, and the interest paid thereon, respectively ; and also of the amount of the said debentures outstanding and unredeemed, at the periods aforesaid ; and of the expenses attending the issuing of the same, and of carrying into execution the several Acts for that purpose, to be laid before the Legislature of this Province.

Interest on debentures to be paid half yearly ;

Receiver General to endorse payment of interest on debenture ;

To take receipts for same ;

Governor, on 30th June, and 31st December in each year, to issue warrants for payment of interest.

X. *And be it further enacted by the authority aforesaid,* That except where it shall be otherwise provided, the interest growing due upon debentures that may be issued under any Act or Acts which shall be hereafter passed, shall and may be demandable in half-yearly periods, computing from the date thereof, and shall and may be paid on demand by the Receiver General of this Province, for the time being ; who shall take care to have the same endorsed on each debenture, at the time of payment thereof, expressing the period up to which the said interest shall have been paid ; and shall take receipts for the same from the parties, respectively ; and that the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, shall, after the thirtieth day of June, and thirty-first day of December in each year, issue warrants to the Receiver General for the payment of the amount of interest that shall have been advanced, according to the receipts to be by him taken, as aforesaid.

Separate warrant to be issued for payment of debenture ;

Debenture to be paid to be cancelled.

XI. *And be it further enacted by the authority aforesaid,* That a separate warrant shall be made to the Receiver General by the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, for the time being, for the payment of each debenture, as the same may become due, and be presented in favour of the lawful holder thereof ; and that such debenture as shall from time to time be discharged and paid off, shall be cancelled and made void by the said Receiver-General.

Governor, by notice in Upper Canada Gazette, to call in debentures ;

All interest to stop on debentures called in, after six months shall have expired.

XII. *And be it further enacted by the authority aforesaid,* That at any time after the debentures, or any of them, that shall be issued under the authority of any Act or Acts which shall be hereafter passed, shall respectively become due according to the terms thereof, it shall and may be lawful for the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, if he shall think proper so to do, to direct a notice to be inserted in the Upper Canada Gazette, requiring all holders of the said debentures to present the same for payment, according to the conditions of the Act or Acts under the authority of which the same shall have been issued ; and if after the insertion of the said notice for three months, any debenture then payable shall remain out more than six months from the first publication of such notice, all interest

on such debentures after the expiration of the said six months shall cease, and be no further payable in respect of the time which may elapse between the expiration of the said six months and their presentment for payment.

XIII. *And be it further enacted by the authority aforesaid,* That all monies required to be paid by the authority of any Act or Acts hereafter to be passed, for authorising money to be borrowed upon debenture, shall be paid by the Receiver-General, in discharge of such warrant or warrants as shall for that purpose be issued by the Governor, Lieutenant-Governor, or Person Administering the Government of this Province; and shall be accounted for to His Majesty, by the Receiver-General of this Province, through the Lords Commissioners of His Treasury, for the time being, in such manner and form as His Majesty, His Heirs and Successors, shall be graciously pleased to direct.

All monies required by authority of any Act hereafter to be passed, authorising money to be borrowed on debentures, to be paid by Receiver General, in discharge of warrants;

And to be accounted for through Lords of the Treasury.

XIV. *And be it further enacted by the authority aforesaid,* That wherever by any Act of the Parliament of this Province hereafter to be passed, a corporation shall be created, to consist of individuals who may associate for the purpose of making or amending any highway or railroad, or any harbour, canal, or other navigable channel, or for carrying on any art or manufacture, or for carrying on the business of banking, or of insurance, or for advancing any object of public utility, then and in every such case, unless it shall be otherwise provided in the Act, the persons composing such corporation, and their successors, shall have continued succession, and by the name given to them in the Act shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, answering and being answered unto, in all Courts and places whatsoever, in all manner of actions, suits, complaints, matters and causes whatsoever; and they and their successors may have a common seal, and may change and alter the same at their will and pleasure; and by their corporate name shall be in law capable of purchasing, taking, having and holding, to them and their successors, any estate, real, personal or mixed, to and for the use of such corporation, and of selling, letting, or otherwise disposing of the same, for the benefit and on account of such corporation, from time to time, as they shall deem necessary or expedient: *Provided always,* that the real estate which any such corporation shall be allowed to hold under the provisions of this Act, shall be only such as shall be necessary for carrying into effect the specific object of such corporation.

General powers granted to all corporations hereafter created.

Restrained as to extent of real estate to be held for use of corporation.

XV. *And be it further enacted by the authority aforesaid,* That in case it shall at any time happen, that an election of directors of any such corporation shall not be made on any day, when pursuant to the Act in that behalf it ought to have been made, the corporation shall not for that cause be deemed to be dissolved, but that it shall be lawful on any day thereafter to make an election of directors, in such manner as shall be prescribed by the Act, or by the laws and ordinances of the said corporation.

In case election of Directors of any corporation should not take place on day appointed by Act, corporation not on that account to be deemed to be dissolved.

Directors of corporations, or a major part of them, to have power to make rules, &c.

XVI. *And be it further enacted by the authority aforesaid,* That the directors for the time being of any such corporation, or a major part of them, shall have power to make and subscribe such rules and regulations as to them shall seem needful and proper, touching the management and disposition of the stock, property, estate and effects, of the corporation, and touching the duty and conduct of the officers, clerks, and servants employed by the said company, and all such other matters as appertain to the business of the said company; and shall also have power to appoint as many officers, clerks and servants, for carrying on the said business, and with such salaries and allowances as to them shall seem meet: *Provided,* that such rules and regulations be not repugnant to the laws of this Province.

Corporations not to have power to enter on lands of the Crown, without consent of Governor.

XVII. *And be it further enacted by the authority aforesaid,* That it shall not be lawful for any such corporation, their agents, or servants, or any of them (unless where it is expressly authorised by the Act creating such corporation) to enter upon, hold, use or enjoy, for any purpose, any lands or grounds of or belonging to His Majesty, His Heirs and Successors, without the licence and consent of the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, signified under his hand and seal.

Corporation not to have the power of carrying on banking, unless specially authorised.

XVIII. *And be it further enacted by the authority aforesaid,* That it shall not be lawful for any corporation to carry on the business of banking, unless where such power shall be expressly conferred by the Act creating such corporation.

Actions brought against persons acting in pursuance of powers given to any corporation, to be brought within six months;

XIX. *And be it further enacted by the authority aforesaid,* That when it shall not be otherwise provided in any Act to be hereafter passed, for any of the purposes aforesaid, and whereby powers and authority are given to be exercised over the property, real or personal, or over the person of any individual, for the promoting and securing the objects intended to be advanced by the corporation created by any such Act, then if any action shall be brought against any person or persons, for any thing done in pursuance, or in execution, of the powers and authorities given by such Act, such action shall be commenced within six calendar months next after the fact committed; or in case there shall be a continuation of damage, then within six calendar months after the doing or committing such damage shall cease, and not afterwards; and the defendant or defendants in such action may plead the general issue, and give such Act, and the special matter, in evidence at the trial.

Defendants may give special matter in evidence under general issue.

Legislature to have power to make additions and alterations in any Act of incorporation.

XX. *And be it further enacted by the authority aforesaid,* That notwithstanding the privileges that may be conferred by any Act hereafter to be passed, upon any corporation to be created for the purposes aforesaid, or any of them, the Legislature may, at any time thereafter, in their discretion, make such additions to the Act creating such corporations, or such alteration of any of its provisions, as they may think proper,

for affording just protection to the public, or to any person or persons, body corporate or politic, in respect to their estate, property or rights, or any interest therein, or any advantage, privilege or convenience connected therewith, or in respect to any way, or right of way, public or private, that may be affected by any of the powers given to such corporation; and that unless it shall be otherwise provided in any Act that shall be passed for chartering any bank, it shall be in the discretion of the Legislature, at any time thereafter, to make such provisions, and impose such restrictions, with respect to the amount and description of notes which may be issued by such bank, as may to them appear expedient.

CHAP. XV.

AN ACT to amend the Law for the Admission of Barristers and Attornies, and to provide for the further Relief of William Conway Keele.

[Passed 4th March, 1837.]

WHEREAS an Act was passed in the second year of His late Majesty's reign, intituled, "An Act to repeal part of and amend an Act passed in thirty-seventh year of His late Majesty's reign, intituled, 'An Act for the better regulating the practice of the Law;' and to extend the provisions of the same:" *And whereas* it is amongst other things enacted, that from and after the passing of the said Act, no person shall be admitted by the Court of King's Bench to practice as an Attorney in this Province, unless upon an actual service under articles for five years with some practising Attorney in this Province: *And whereas* it is expedient to amend 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 from and after the passing of this Act, it shall be lawful for the said Court of King's Bench, in its discretion, to admit any duly admitted Attorney or Solicitor of His Majesty's Courts of law or equity in England or Ireland, or any writer to the Signet, or solicitor before the higher Courts in Scotland, to practise as an Attorney of the Court of King's Bench in this Province, upon sufficient proof being given that such Attorney, Solicitor, or writer to the Signet, aforesaid, has served under

Preamble.

(See 37 Geo. IV. Chap. 13.
2 Geo. IV. Ses. 2 Chap. 5.
6 Wm. IV. Chap. 25.
7 Wm. IV. Chap. 2.
Sec. 22.)

English or Irish attorneys, or solicitors, or writers to the Signet, or solicitors of the higher courts of Scotland, may be admitted to practice in this Province, after three year's service; and if a graduate of any university of the United Kingdom, after two years' service.

articles of clerkship, to a practising Attorney in this Province for the space of three years; or if such Attorney, Solicitor, or writer to the Signet, or Solicitor before the higher Courts, shall have taken a degree at any of the Universities in the United Kingdom, then for the period of two years only, any thing in the said recited Act to the contrary notwithstanding.

W. C. Keele, may be admitted to practise as an attorney, after three years service with an attorney in this Province.

II. *And whereas* by an Act passed in the last Session of Parliament, intituled, “An Act for the relief of William Conway Keele,” full power and authority is given to the said Court of King’s Bench, to admit the said William Conway Keele, to practise as an Attorney in this Province, upon the terms and conditions therein expressed: *Be it further enacted by the authority aforesaid*, That any thing in the above recited Acts to the contrary notwithstanding, the said Court of King’s Bench may, at its discretion, admit the said William Conway Keele to practise as an Attorney in this Province, upon its being shewn to the said Court that he has served with an Attorney in this Province, as mentioned in the last recited Act, for the period of three years.

Graduates of any University of the United Kingdom, or of King’s College in this Province, may be admitted as attorneys, after three years’ service.

III. *And whereas* it may happen that persons who have taken or may take the degree of bachelor of arts, or of law, or of master of arts, in either of the Universities of the United Kingdom of Great Britain and Ireland, or who may hereafter take such degree in the University of King’s College in this Province, may be afterwards desirous of becoming Attornies or Solicitors, but may be deterred by the length of service required for that purpose by the said recited Acts, and it is expedient that the admission of such graduates should be facilitated, in consideration of the learning and abilities requisite for the taking such degree: *Be it therefore enacted by the authority aforesaid*, That from and after the passing of this Act, in case any person who shall have taken, or who shall take the degree of bachelor of arts, or bachelor of law, or of master of arts, in either of the Universities of the United Kingdom of Great Britain and Ireland, or who shall take such degree in the University of King’s College in this Province, shall at any time after he shall have taken, or shall take such degree, be bound by contract in writing to serve as a clerk for and during the space of three years, to a practising attorney in this Province, and shall faithfully serve for three years in pursuance of such contract, he shall on due proof of such service, be entitled to be admitted and sworn an Attorney, in the same manner, and of the same Court or Courts, and as fully and effectually to all intents and purposes, as if such person had served under articles for the term of five years.

Any such graduate, who was articled for five years before the passing of this Act, may be admitted as an attorney after a service of three years, upon certain conditions.

IV. *And be it further enacted by the authority aforesaid*, That if any person having heretofore taken such degree as is mentioned in this Act, shall before the passing thereof, have been bound by contract in writing to serve for five years with a practising Attorney in this Province, with a view to his admission according to the above recited Act, then such person upon producing the written assent of the attorney who would otherwise be entitled to his service for the residue of the term, either

endorsed upon the contract or otherwise, may on proof of service for the term of three years be admitted and sworn an Attorney, in the same manner, and as fully and effectually as if he had served the whole term of five years mentioned in the contract.

V. *And be it further enacted by the authority aforesaid, That any person who shall have taken, or who shall at any time hereafter take, the degree of bachelor of arts, or of law, or of master of arts, in either of the Universities aforesaid, and who shall have been, or who shall be entered of and admitted into the Law Society of Upper Canada, as a student of laws, and shall have been standing in the books of the said Society, for and during the space of three years, and shall have conformed himself to the rules and regulations of the said Society, according to the directions of an Act passed in the thirty-seventh year of the reign of King George the Third, intituled, "An Act for better regulating the practice of the Law," or any other Acts for regulating barristers in this Province, such person shall be qualified to be called and admitted to the practice of the law as a Barrister, in any of the Courts of law or equity in this Province, as fully and effectually as any person of five years standing in the books of the said Society is qualified by virtue of the said recited Act, or any other Act for regulating the practice of the law, any thing in the said Acts, or any of them, to the contrary in any wise notwithstanding.*

Any such graduate, after three years' standing on the books of the Law Society, may be called to the bar.

CHAP. XVI.

AN ACT to amend the Charter of the University of King's College.

[Passed 4th March, 1837.]

WHEREAS His late Majesty King George the Fourth, was graciously pleased to issue His Letters Patent, bearing date at Westminster the fifteenth day of March, in the eighth year of His reign, in the words following:—"George the Fourth, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, and so forth: To all to whom these Presents shall come—Greeting: *Whereas* the establishment of a College within our Province of Upper Canada, in North America, for the education of youth in the principles of the Christian religion, and for their instruction in the various branches of science and literature which are taught in our Universities in this Kingdom, would greatly conduce to the welfare of our said Province: *And whereas* humble application hath been made to us by many of our loving subjects in our said Province, that we would be pleased to grant our Royal Charter for the more perfect establishment of a College therein, and for incorporating the members thereof, for the purposes aforesaid: *Now know ye, that we*

Preamble.

(See 2 Vic. Chap. 16.
Statutes of Canada,
4 & 5 Vic. Chap. 19.
Secs 3 & 8.)

Charter of King's College,
recited.

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 Charter of King's College,
 recited.

having taken the premises into our Royal consideration, and duly weighing the great utility and importance of such an Institution, have, of our special grace, certain knowledge, and mere motion, ordained and granted, and do by these Presents, for Us, our Heirs and Successors, ordain and grant, that there shall be established, at or near our Town of York, in our said Province of Upper Canada, from this time, one College, with the style and privileges of an University, as hereinafter directed, for the education and instruction of youth and students in arts and faculties, to continue for ever, to be called 'King's College.' And we do hereby declare and grant, that our trusty and well-beloved, the Right Reverend Father in God, Charles James, Bishop of the Diocese of Quebec, or the Bishop for the time being of the Diocese in which the said Town of York may be situate, on any future division or alteration of the said present Diocese of Quebec, shall, for us, and on our behalf, be Visitor of the said College; and that our trusty and well-beloved Sir Peregrine Maitland, our Lieutenant-Governor of our said Province, or the Governor, Lieutenant-Governor, or Person Administering the Government of our said Province, for the time being, shall be the Chancellor of our said College: And we do hereby declare, ordain and grant, that there shall at all times be one President of our said College, who shall be a clergyman in holy orders, of the United Church of England and Ireland, and that there shall be such and so many Professors in different arts and faculties within our said College, as from time to time shall be deemed necessary or expedient, and as shall be appointed by us or by the Chancellor of our said College, in our behalf and during our pleasure: And we do hereby grant and ordain, that the Reverend John Strachan, Doctor in Divinity, Archdeacon of York, in our said Province of Upper Canada, shall be the first President of our said College; and the Archdeacon of York, in our said Province, for the time being, shall by virtue of such his office, be at all times the President of the said College: And we do hereby for Us, our Heirs and Successors, will, ordain and grant, that the said Chancellor and President, and the said Professors of our said College, and all persons who shall be duly matriculated into and admitted as Scholars of our said College, and their successors, for ever, shall be one distinct and separate body politic and corporate, in deed and in name, by the name and style of 'The Chancellor, President, and Scholars of King's College, at York, in the Province of Upper Canada,' and that by the same name they shall have perpetual succession, and a common seal, and that they and their successors shall, from time to time, have full power to alter, renew or change such common seal, at their will and pleasure and as shall be found convenient; and that by the same name they the said Chancellor, President and Scholars, and their successors, from time to time, and at all times hereafter, shall be able and capable to have, take, receive, purchase, acquire, hold, possess, enjoy and maintain, to and for the use of the said College, any messuages, lands, tenements and hereditaments, of what kind, nature or quality soever, situate and being within our said Province of Upper Canada, so as the same do not exceed in yearly value the sum of fifteen thousand pounds sterling, above all charges; and moreover to take, purchase, acquire, have,

hold, enjoy, receive, possess and retain, all or any goods, chattels, charitable, or other contributions, gifts or benefactions whatsoever: And we do hereby declare and grant that the said Chancellor, President and Scholars, and their successors, by the same name, shall and may be able and capable in law, to sue and be sued, implead and be impleaded, answer and be answered, in all or any Court or Courts of Record within our United Kingdom of Great Britain and Ireland, and our said Province of Upper Canada, and other our dominions, in all and singular actions, causes, pleas, suits, matters and demands whatsoever, of what nature or kind soever, in as large, ample and beneficial a manner and form as any other body politic and corporate, or any other our liege subjects, being persons able and capable in law, may or can sue, implead or answer, or be sued, impleaded or answered, in any manner whatsoever: And we do hereby declare, ordain and grant, that there shall be within our said College or Corporation a Council, to be called and known by the name of 'The College Council,' and we do will and ordain, that the said Council shall consist of the Chancellor and President, for the time being, and of seven of the Professors in arts and faculties, of our said College, and that such seven Professors shall be members of the Established United Church of England and Ireland, and shall previously to their admission into the said College Council, severally sign and subscribe the Thirty-nine Articles of Religion, as declared and set forth in the Book of Common Prayer; and in case at any time there should not be within our said College seven Professors of arts and faculties, being members of the Established Church, aforesaid, then our will and pleasure is, and we do hereby grant and ordain, that the said College Council shall be filled up to the requisite number of seven, exclusive of the Chancellor and President, for the time being, by such persons, being Graduates of our said College, and being members of the Established Church, aforesaid, as shall for that purpose be appointed by the Chancellor, for the time being, of our said College, and which members of Council shall in like manner subscribe the Thirty-nine Articles, aforesaid, previously to their admission into the said College Council. *And whereas* it is necessary to make provision for the completion and filling up of the said Council, at the first institution of our said College, and previously to the appointment of any Professors or the conferring any degrees therein: Now we do further ordain and declare, that the Chancellor of our said College, for the time being, shall, upon or immediately after the first institution thereof, by warrant under his hand, nominate and appoint seven discreet and proper persons, resident within our said Province of Upper Canada, to constitute, jointly with him the said Chancellor and the President of our said College, for the time being, the first or original Council of our said College, which first or original members of the said Council shall in like manner respectively subscribe the Thirty-nine Articles, aforesaid, previously to their admission into the said Council: And we do further declare and grant, that the members of the said College Council, holding within our said College the offices of Chancellor, President, or Professor in any art or faculty, shall respectively hold their

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seats in the said Council, so long as they and each of them shall retain such their offices, as aforesaid, and no longer; and that the members of the said Council not holding offices in our said College, shall from time to time, vacate their seats in the said Council, when and so soon as there shall be an adequate number of Professors in our said College, being members of the Established Church, aforesaid, to fill up the said Council to the requisite number before mentioned: And we do hereby authorise and empower the Chancellor, for the time being, of our said College, to decide in each case what particular member of the said Council, not holding any such office, as aforesaid, shall vacate his seat in the said Council, upon the admission of any new member of Council holding any such office: And we do hereby declare and grant, that the Chancellor, for the time being, of our said College, shall preside at all meetings of the said College Council which he may deem it proper and convenient to attend, and that in his absence the President of our said College shall preside at all such meetings, and that in the absence of the said President, the senior member of the said Council, present at any such meeting, shall preside thereat, and that the seniority of the members of the said Council, other than the Chancellor and President, shall be regulated according to the date of their respective appointments: *Provided always*, that the members of the said Council being Professors in our said College, shall in the said Council take precedence over, and be considered as seniors to the members thereof not being Professors in our said College: And we do ordain and declare, that no meeting of the said Council shall be, or be held to be a lawful meeting thereof, unless five members, at the least, be present during the whole of every such meeting; and that all questions and resolutions proposed for the decision of the said College Council, shall be determined by the majority of the votes of the members of Council present, including the vote of the presiding member; and that in the event of an equal division of such votes the member presiding at any such meeting shall give an additional or casting vote: And we do further declare, that if any member of the said Council shall die, or resign his seat in the said Council, or shall be suspended or removed from the same, or shall, by reason of any bodily or mental infirmity; or by reason of his absence from the said Province, become incapable, for three calendar months, or upwards, of attending the meetings of the said Council, then, and in every such case, a fit and proper person shall be appointed by the said Chancellor, to act as, and be a member of the said Council, in the place and stead of the member so dying or resigning; or so suspended, or removed, or incapacitated, as aforesaid, and such new member succeeding to any member so suspended or incapacitated, shall vacate such his office on the removal of any such suspension, or at the termination of any such incapacity, aforesaid, of his immediate predecessor in the said Council: And we do further ordain and grant, that it shall and may be competent to and for the Chancellor, for the time being, of our said College, to suspend from his seat in the said Council, any member thereof, for any just and reasonable cause to the said Chancellor

appearing: *Provided*, that the grounds of every such suspension shall be entered and recorded, at length, by the said Chancellor, in the books of the said Council, and signed by him; and every person so suspended, shall, thereupon, cease to be a member of the said Council, unless, and until he shall be restored to and re-established in such his station therein by any order to be made in the premises by Us, or by the said Visitor of our said College, acting on our behalf, and in pursuance of any special reference from Us: And we do further declare, that any member of the said Council who, without sufficient cause, to be allowed by the said Chancellor, by an order entered for that purpose on the books of the said Council, shall absent himself from all the meetings thereof which may be held within any six successive calendar months, shall thereupon vacate such his seat in the said Council: And we do by these Presents, for Us, our Heirs and Successors, will, ordain and grant, that the said Council of our said College shall have power and authority to frame and make statutes, rules and ordinances, touching and concerning the good government of the said College; the performance of Divine service therein; the studies, lectures, exercises, degrees in arts and faculties, and all matters regarding the same; the residence and duties of the President of our said College; the number, residence and duties, of the Professors thereof; the management of the revenues and property of our said College; the salaries, stipends, provision and emoluments, of and for the President, Professors, Scholars, Officers and Servants thereof; the number and duties of such Officers and Servants; and also touching and concerning any other matter or thing which to them shall seem good, fit and useful, for the well-being and advancement of our said College, and agreeable to this our Charter; and also, from time to time, by any new statutes, rules or ordinances, to revoke, renew, augment or alter, all, every, or any of the said statutes, rules and ordinances, as to them shall seem meet and expedient: *Provided always*, that the said statutes, rules and ordinances, or any of them, shall not be repugnant to the Laws and Statutes of the United Kingdom of Great Britain and Ireland, or of our said Province of Upper Canada, or to this our Charter: *Provided also*, that the said statutes, rules and ordinances, shall be subject to the approbation of the said Visitor of our said College, for the time being, and shall be forthwith transmitted to the said Visitor for that purpose; and in that case the said Visitor shall, for us and on our behalf, in writing, signify his disapprobation thereof, within two years of the time of their being so made and framed, the same, or such part thereof, as shall be so disapproved of by the said Visitor, shall, from the time of such disapprobation being made known to the said Chancellor of our said College, be utterly void and of no effect, but otherwise shall be and remain in full force and virtue: *Provided nevertheless*, and we do hereby expressly save and reserve to Us, our Heirs and Successors, the power of reviewing, confirming or reversing, by any order or orders to be by us or them made, in our or their Privy Council, all or any of the decisions, sentences or orders, so to be made, as aforesaid, by the said Visitor, for Us

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and on our behalf, in reference to the said statutes, rules and ordinances, or any of them : And we do further ordain and declare, that no statute, rule or ordinance, shall be framed or made by the said College Council, touching the matters aforesaid, or any of them, excepting only such as shall be proposed for the consideration of the said Council by the Chancellor, for the time being, of our said College : And we do require and enjoin the said Chancellor thereof, to consult with the President of our said College, and the next senior member of the said College Council, respecting all statutes, rules and ordinances, to be proposed by him to the said Council for their consideration : And we do hereby, for Us, our Heirs and Successors, charge and command, that the statutes, rules or ordinances, aforesaid, subject to the said provisions, shall be strictly and inviolably observed, kept and performed, from time to time, in full vigour and effect, under the penalties to be thereby or therein imposed or contained : And we do further will, ordain and grant, that the said College shall be deemed and taken to be an University, and shall have and enjoy all such and the like privileges as are enjoyed by our Universities of our United Kingdom of Great Britain and Ireland, as far as the same are capable of being had or enjoyed, by virtue of these our Letters Patent ; and that the students in the said College shall have liberty and faculty of taking the degrees of Bachelor, Master and Doctor, in the several arts and faculties, at the appointed times, and shall have liberty within themselves of performing all Scholastic exercises, for the conferring such degrees, in such manner as shall be directed by the statutes, rules and ordinances of the said College : And we do further will, ordain and appoint, that no religious test or qualification shall be required of or appointed for any persons admitted or matriculated as Scholars within our said College, or of persons admitted to any degree in any art or faculty therein, save only that all persons admitted within our said College to any degree in Divinity, shall make such and the same declarations and subscriptions, and take such and the same oaths as are required of persons admitted to any degree of Divinity in our University of Oxford : And we do further will and direct and ordain, that the Chancellor, President and Professors of our said College, and all persons admitted therein to the degree of Master of Arts, or to any degree in Divinity, Law or Medicine, and who from the time of such their admission to such degree, shall pay the annual sum of twenty shillings, sterling money, for and towards the support and maintenance of the said College, shall be, and be deemed, taken and reputed, to be members of the Convocation of the said University, and as such members of the said Convocation shall have, exercise and enjoy, all such and the like privileges as are enjoyed by the members of the Convocation of our University of Oxford, so far as the same are capable of being had and enjoyed by virtue of these our Letters Patent, and consistently with the provisions thereof : And we will, and by these Presents for Us, our Heirs and Successors, do grant and declare, that these our Letters Patent, or the enrolment or exemplification thereof, shall and may be good, firm, valid, sufficient and effectual, in the law, according to the true intent and meaning of the same, and shall be taken,

construed and adjudged, in the most favourable and beneficial sense, for the best advantage of the said Chancellor, President and Scholars of our said College, as well in our Courts of Record as elsewhere, and by all and singular Judges, Justices, Officers, Ministers and other Subjects whatsoever, of Us, our Heirs, and Successors, any mis-recital, non-recital, omission, imperfection, defect, matter, cause or thing whatsoever, to the contrary thereof in anywise notwithstanding: In witness whereof we have caused these our Letters to be made Patent: Witness Ourselves at Westminster, the fifteenth day of March, in the eighth year of our reign—By writ of Privy Seal.—(Signed)—Bathurst”; *And whereas* certain alterations appear necessary to be made in the same, in order to meet the desire and circumstances of the Colony, and that the said Charter may produce the benefits intended: *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 for and notwithstanding any thing in the said Charter contained, the Judges of His Majesty’s Court of King’s Bench shall, for and on behalf of the King, be Visitors of the said College, in the place and stead of the Lord Bishop of the Diocese of Quebec, for the time being; and that the President of the said University, on any future vacancy, shall be appointed by His Majesty, His Heirs and Successors, without requiring that he should be the incumbent of any Ecclesiastical office; and that the members of the College Council, including the Chancellor and President, shall be twelve in number, of whom the Speakers of the two Houses of the Legislature of the Province, and His Majesty’s Attorney and Solicitor General, for the time being, shall be four, and the remainder shall consist of the five senior Professors of arts and faculties of the said College, and of the Principal of the Minor or Upper Canada College; and in case there shall not at any time be five Professors, as aforesaid, in the said College, and until Professors shall be appointed therein, the Council shall be filled with members to be appointed as in the said Charter is provided, except that it shall not be necessary that any member of the College Council, to be so appointed, or that any member of the said College Council, or any Professor, to be at any time appointed, shall be a member of the Church of England, or subscribe to any articles of religion other than a declaration that they believe in the authenticity and Divine Inspiration of the Old and New Testament, and in the doctrine of the Trinity; and further, that no religious test or qualification be required or appointed for any person admitted or matriculated as Scholars within the said College, or of persons admitted to any degree or faculty therein.

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Judges of King’s Bench shall be Visitors of the said College;

President, on any future vacancy, need not be the incumbent of any Ecclesiastical office;

College Council to consist of twelve members;

No member of the College Council, or Professor of the University, need be a member of the Church of England.

No religious test required of Students.

Upper Canada College incorporated with the University of King's College.

II. *And whereas* it is expedient that the Minor or Upper Canada College, lately erected in the City of Toronto, should be incorporated with, and form an appendage of the University of King's College: *Be it therefore enacted by the authority aforesaid,* That the said Minor or Upper Canada College shall be incorporated with, and form an appendage of the University of King's College, and be subject to its jurisdiction and control.

Principal of Upper Canada College to be appointed by His Majesty, during pleasure.

III. *And be it further enacted by the authority aforesaid,* That the Principal of the said Minor or Upper Canada College, shall be appointed by the King, during His Majesty's pleasure.

Vice-Principal and Tutors of Upper Canada College to be nominated by the Chancellor of King's College, subject to the approval of the College Council.

IV. *And be it further enacted by the authority aforesaid,* That the Vice-Principal and Tutors of the said Minor or Upper Canada College, shall be nominated by the Chancellor of the University of King's College, subject to the approval or disapproval of the Council thereof.

Chancellor of King's College may suspend or remove Vice-Principal or Tutors of U. C. College.

V. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Chancellor of the said University, for the time being, to suspend or remove either the Vice-Principal or Tutors of the said Minor or Upper Canada College: *Provided,* that such suspension or removal be recommended by the Council of the said University, and the grounds of such suspension or removal recorded at length in the books of the said Council.

CHAP. XVII.

AN ACT to prevent the dissolution of the Parliament of this Province, in the event of a demise of the Crown.

[Passed 4th March, 1837.]

Preamble.

(No longer applicable since the Union.)

WHEREAS it is expedient to provide against the great inconvenience which might ensue from the inevitable dissolution of the Provincial Parliament upon a demise of the Crown on any future occasion: *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 Parliament of this Province shall not in any case be deemed to be determined or dissolved by the death or demise

Parliament of this Province not to be dissolved by the demise of the Crown.

of His Majesty, His Heirs or Successors; nor shall any Session of the Parliament of this Province be deemed to be determined, or the proceedings therein pending in any manner abated, interrupted or affected, by the demise of His Majesty, His Heirs or Successors; but notwithstanding such death or demise the Parliament of this Province shall continue, and if sitting, shall proceed to act until dissolved or prorogued in the usual manner, or until the legal expiration of the term of such Parliament.

CHAP. XVIII.

AN ACT to regulate the Expenditure of District Funds within this Province.

[Passed 4th March, 1837.]

WHEREAS it is expedient to provide for a more just and equitable mode of expending the District Funds, and paying the various accounts due by the several Districts 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 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 accounts or demands preferred by any person against the District, shall be delivered to the Clerk of the Peace, on or before the first day of the Session in each Term, to be laid before the Bench.

Preamble.

(See Statutes of *Ontario*, 4 & 5 Vic. Ch. 10)

Accounts against any District to be delivered to the Clerk of the Peace before the first day of the Session.

II. *And be it further enacted by the authority aforesaid*, That no accounts shall be passed or audited at any Court of Quarter Sessions in any District within this Province, unless at least seven Magistrates be present, whose names are to be entered on the record, and that the said accounts shall be taken into consideration on the second day of each Session, and disposed of as soon as practicable, and that all orders or checks signed by the Chairman of Quarter Sessions, shall express the Act of Parliament under which such expenditure is authorised, if the same be made under the provisions of an Act of Parliament, except for the payment of Constables, or services rendered during the sitting of the Court.

No accounts to be audited unless seven Magistrates be present; and accounts to be examined on the second day of each Session, and order for payment to express the Statute authorising the expenditure.

III. *And be it further enacted by the authority aforesaid*, That at the adjournment of each and every Court of Quarter Sessions, it shall be the duty of the Clerk of the Peace, to furnish the Treasurer with a list of the orders passed during such Session, according to their priority; and it

Clerks of the Peace to furnish Treasurers with list of orders in their priority, and Treasurers to pay the same accordingly;

Expenses of prisoners, and accounts of public officers, and officers of the Court, to be first paid;

Treasurers to render accounts each Session.

No order to be rescinded unless by an equal number of Magistrates to those making such order.

No order to be made by Magistrates for the payment of money, except where debts are actually due by the District, unless there are sufficient funds in the Treasurer's hands to pay the same.

shall be the duty of the said District-Treasurer to pay the said orders according to the respective dates and numbers, in which the same were passed at the said Sessions: *Provided always*, that all sums necessary to defray the expenses of the custody and maintenance of prisoners, and the accounts of Public Officers, and Officers of the Court, shall be first paid; and the said Treasurer shall present, on the first day of each Session, a balance sheet of the receipts and expenditures of the District Funds for the preceding quarter, from whatever sources the same may be derived.

IV. *And be it further enacted by the authority aforesaid*, That whenever an order is passed or recorded by any number of Magistrates in any District within this Province, the same shall not be rescinded unless at least the same number be present.

V. *And be it further enacted by the authority aforesaid*, That it shall not be lawful for the Magistrates for any District, except where debts are actually due by such District, to order or direct the payment of any sum of money by the Treasurer of such District, unless it shall appear by the examination of the Treasurer's accounts, that there are sufficient funds in his hands to meet the payment of such order; and that if any such order shall be made contrary to the provisions hereof, the person or persons in whose favour such order shall be made, shall be entitled to recover the same against the Magistrates who shall have sanctioned such order, in any action to be brought for that purpose, as so much money had and received to his or their use and benefit.

CHAP. XIX.

AN ACT to amend the Laws now in force regulating the Sale of Lands for arrear of Taxes, and for other purposes therein mentioned.

[Passed 4th March, 1837.]

Preamble.

(See 59 Geo. III. Ch. 7;
6 Geo. IV. Ch. 7;
9 Geo. IV. Ch. 3;
1 Vic. Chap. 20;
3 Vic. Chap. 46;
Statutes of Canada, 4 & 5
Vic. Chap. 10, Secs. 39,
40, 41.)

WHEREAS it is expedient to afford to the proprietors of land sold to pay assessments in arrear, as much protection as may be consistent with the carrying fully into effect the laws in that behalf: *And whereas* experience has shewn that the provisions hereinafter contained are necessary for that purpose: *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, notwithstanding any thing contained in any former law to the contrary, all sales of land for the payment of assessments, in whatever Township of any District the same may be situated, shall take place in the Town in which the Court of General Quarter Sessions of the Peace shall be holden for such District, on the second day of the sitting of the said Court, and at or near the Court House of the said District; and that every sale shall be advertised accordingly.

All sales of land in any District for assessments shall take place in the town in which Quarter Sessions are hold for such District, on the second day of such Sessions, at or near the Court House

Sales to be advertised accordingly.

II. *And be it further enacted by the authority aforesaid,* That at every such sale, the land shall be put up at an upset price of two shillings and six pence per acre; and only so much of the land shall be exposed to sale, as will at such a price produce the amount to be levied, leaving the quantity of land to be reduced by bidding in the manner now provided by law, according as bidders may appear, who will, for a less quantity of land, pay the amount required; and in case no bidder shall be found who will accept the quantity of land exposed to sale at its valuation, then the Sheriff of the District shall, without any new writ, expose so much of the land for sale, under the provisions of the law now in force, as if this Act had not been passed, as may be necessary for making the amount he is directed to levy, together with lawful interest thereon, from the time the same became due, *at the next Court of General Quarter Sessions, which shall occur after the expiration of the six months' notice required by law.*

Lands to be put up at 2s. 6d. per acre;

If no bidder at that rate, Sheriff shall proceed according to former Act;

At the next Court of Quarter Sessions after the expiration of six months notice.
(See 3 Vic. Chap. 46, Sec. 6.)

III. *And be it further enacted by the authority aforesaid,* That no Treasurer, Sheriff, or Clerk of the Peace, nor any Deputy of any such Officer, shall directly or indirectly purchase any of the lands hereafter to be sold within the District in which he is serving for payment of assessments in arrear, upon pain of forfeiture of office, upon conviction by indictment before a Court of Oyer and Terminer and General Gaol Delivery; and any purchase made contrary to this provision shall be wholly and absolutely void.

No Treasurer, Sheriff, Clerk of the Peace, or any of their Deputies, to purchase lands at such sales within their respective Districts.

IV. And to the end that ready means of reference may be afforded at some one public office, where information respecting all the lands sold for payment of assessments throughout the Province may be acquired, within the period for redemption: *Be it further enacted by the authority aforesaid,* That the several Sheriffs in this Province shall, within one month after each sale of land by him made for the payment of assessments, make out a general return of the lots or parcels of land by him sold; the time of sale; the amount for which the same was sold; and the name of the purchaser thereof; and transmit the same to the Secretary and Registrar of this Province, who shall permit the same to be inspected by any person applying for that purpose.

Sheriff within one month after each sale to make a return of lots sold, &c. and transmit the same to the Secretary of the Province, who shall permit the same to be inspected.

Sheriff on any future sale may adjudge such part of the lot to the purchaser as he shall think best for the interest of the owner.

V. *And be it further enacted by the authority aforesaid, That in all future sales of land for arrear of taxes, it shall be lawful for the Sheriff, or other Officer whose duty it is to offer the same, at his option to put up and adjudge to the purchaser of any part of a lot liable to be sold for such arrears, such part of the said lot as he may, in his discretion, think best for the interest of the proprietor, any thing in any Act of the Parliament of this Province to the contrary notwithstanding.*

CHAP. XX.

AN ACT to amend the laws for the appointment of Parish and Township Officers.

[Passed 4th March, 1837.]

[REPEALED BY 1 VIC. CH. 21.]

CHAP. XXI.

AN ACT to authorise the Members of the Legislative Council and House of Assembly of this Province, to Frank Letters by the General Post, during the Sessions of the Legislature.

[Passed 4th March, 1837.]

[DISALLOWED.]

CHAP. XXII.

AN ACT to compel Vessels to carry a Light during the night, and to make sundry provisions to regulate the Navigation of the Waters of this Province.

[Passed 4th March, 1837.]

Preamble.

WHEREAS many serious accidents have of late occurred on the Lakes and Inland Waters of this Province, by vessels navigating the same running foul of each other during the night, by means whereof many lives have been lost, and much property damaged and destroyed: *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, all steam-boats, schooners, vessels and rafts, that shall be navigated upon the Lakes and Rivers of this Province, and the British Channel of the Saint Lawrence River, between the Port of Kingston and the eastern boundary of the Province, shall have affixed, and the person and persons commanding or having charge of the same are hereby required to affix one or more light or lights on the bow or some conspicuous place of such steam-boat, schooner or other vessel, during every night that such vessel shall be navigating the said Lakes, Rivers and Channel, or either of them.

Steam-boats, &c. required to carry a light during the night.

II. *And be it further enacted by the authority aforesaid,* That for the purposes of this Act, the night shall be construed, deemed and taken to extend, from one hour after the sun set to one hour before sun rise, at all seasons of the year.

Night to be construed to extend from one hour after sun set to one hour before sun rise.

III. *And whereas* many accidents and loss of lives have happened from the insecurity of gang-boards leading from steam-boats and other vessels, to wharves and other landing places, as well as from the darkness and dangerous condition of such wharves: *Be it further enacted by the authority aforesaid,* That every such steam-boat or vessel carrying passengers, shall be provided with a good and sufficient gang-board, or gang-boards, with substantial hand-rails; and the Master thereof shall, on stopping at any wharf or landing place, cause the same to be firmly secured to the said vessel and wharf, or landing place, for the safe and convenient transit of passengers; and shall cause to be affixed to the gangways (in the night time) good and sufficient lights; and the Owners or Occupiers of every such wharf or landing place, shall also (in the night time) cause to be shewn conspicuously, on such wharf or landing place, and at every angle or turn thereof, a good and sufficient light.

Steam-boats or vessel carrying passengers, to be provided with a gang-board.

IV. *And be it further enacted by the authority aforesaid,* That all vessels navigating, as aforesaid, shall be bound to take the starboard or right hand side of every Channel in proceeding up or down the said Lakes, Rivers or Channel, or any or either of them, so as to enable all vessels meeting each other to pass in safety: and that when any two vessels are trying to windward, and there may be a doubt which vessel should pass to windward, the vessel being on the starboard tack shall keep her wind, and the vessel on the larboard tack shall bear up or go to leeward.

All vessels to take the starboard side of any channel;

Vessel on the starboard tack to keep the wind.

No vessel passing a-head of another, or of a raft, to approach nearer in passing than twenty yards.

V. *And be it further enacted by the authority aforesaid,* That whenever any steam-boat, schooner or other vessel, or any raft, as aforesaid, shall be going in the same direction with another steam-boat, schooner or other vessel, or with any raft or rafts ahead of it, it shall not be lawful to navigate the first mentioned boat, schooner, vessel or raft, so as to approach or pass the other boat, vessel or raft, so being ahead, within the distance of twenty yards; and it shall not be lawful so to navigate the boat, schooner, vessel or raft, so being ahead, as unnecessarily to bring it within twenty yards of the steam-boat, schooner, vessel or raft, following it.

Vessels, &c. at anchor in the night to shew a light.

VI. *And be it further enacted by the authority aforesaid,* That all steam-boats, schooners, vessels or rafts, which shall be at anchor in the night time, the Master or person having charge of every such boat, schooner, vessel or raft, shall cause a good and sufficient light to be shewn in some part of her rigging, or in some other conspicuous place of the said boat, schooner, vessel or raft, lying at anchor as aforesaid.

Persons offending liable to a penalty of five pounds;

VII. *And be it further enacted by the authority aforesaid,* That any person commanding or having charge of any steam-boat, schooner, or other vessel, navigating the said Lakes, Rivers or Channel, or any or either of them, offending against the provisions of this Act, shall be liable to a penalty of five pounds, to be recovered upon conviction of such offence, upon the oath of one credible witness, before any two of His Majesty's Justices of the Peace; and on default of payment of such penalty, together with the costs and charges of and incident to conviction, it shall and may be lawful for the said Justice or Justices, to commit such person or persons to the Gaol of the County or District wherein such conviction shall be made, as aforesaid, for any period not exceeding thirty days, as the said Justices in their discretion shall direct.

How recoverable.

Owner of vessels, &c. liable for damages arising from non-compliance with the provisions of this Act.

VIII. *And be it further enacted by the authority aforesaid,* That the owner and owners of all steam-boats, schooners and other vessels, the persons commanding or in charge of which shall neglect to comply with the provisions of this Act, shall be liable for all damages to be sustained by any person or persons from any accident arising from the non-compliance with, or during such time as the provisions of this Act shall not be complied with; such damages to be recoverable by trial at law, before His Majesty's Court of King's Bench in this Province.

CHAP. XXIII.

AN ACT to establish Agricultural Societies, and to encourage Agriculture in the several Districts of this Province.

[Passed 4th March, 1837.]

MOST GRACIOUS SOVEREIGN :

WHEREAS it would greatly tend to the general improvement of this Province, if Agricultural Societies were re-established in every District therein, with a suitable endowment from the Public Funds: We therefore 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 when any Agricultural Society, for the purpose of importing valuable live stock, grain, grass-seeds, useful implements of husbandry, or whatever else might conduce to the improvement of agriculture, shall be constituted in any District in this Province, and shall make it appear by certificate, under the hand of the Treasurer of such District Society, that a sum not less than twenty-five pounds has been actually subscribed and paid to the said Treasurer, by the several Agricultural Societies of said District, and paid into the hands of the said Treasurer, and the President of the said Society shall make application, enclosing the said certificate to the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, for and in support of said Society, it shall and may be lawful for the Governor, Lieutenant Governor, or Person Administering the Government of this Province, to issue his warrant to the Receiver-General in favour of the Treasurer of the said Society, for double the sum that shall have been paid or subscribed in said District, as aforesaid: *Provided always*, that the annual sum to be granted to each District shall not exceed the sum of two hundred pounds.

Preamble.

[See Statutes of Canada, 4 & 5 Vic. Ch. 23.]

When an Agricultural Society shall be formed in any District in this Province, and not less than twenty-five pounds subscribed and paid;

Lieutenant-Governor may issue a warrant in favour of the Treasurer of the said Society, for double the amount so paid;

Not however to exceed two hundred pounds annually.

II. *And be it further enacted by the authority aforesaid*, That in the event of there being County, Riding, or Township Agricultural Societies established, there shall not be more than one Society in each County or Riding of any District within this Province, and a proportion of the District bounty shall and may be granted to each County, Riding, or Township Agricultural Society, and paid to them by the District Society, in proportion to double the money that each County, Riding, or Township

Provision in favour of County, Riding, or Township Agricultural Societies.

VII. *And be it further enacted by the authority aforesaid,* That the monies hereby granted and paid shall be accounted for to His Majesty, through the Lords Commissioners of His Majesty's Treasury, in such manner and form as His Majesty, His Heirs and Successors, shall be graciously pleased to direct. Accounting clause.

VIII. *And be it further enacted by the authority aforesaid,* That if the Treasurer of any Township Society shall, on or before the first day of February in each and every year, pay into the hands of the Treasurer of the District or County Societies, he shall be entitled to receive the same again so soon as the Legislative grant shall have been received, with a proportion of the Legislative grant equal to the amount so paid, or in proportion to what shall fall to their share upon an equal division being made, in proportion to the sums paid in by the several Societies in the District or County. Treasurer of Township Society paying into the hands of Treasurer of the County or District Society, entitled to receive back the sum, with a proportion of the Legislative grant.

IX. *And be it further enacted by the authority aforesaid,* That this Act shall be and continue in force for and during the term of four years, and from thence to the end of the then next ensuing Session of Parliament, and no longer. Act in force four years. (Continued by 4 & 5 Vic. Ch. 23, to November, 1844, and (nd of the following Session.)

C H A P. XXIV.

AN ACT to authorise the erection, and provide for the maintenance of Houses of Industry in the several Districts of this Province.

[Passed 4th March, 1837.]

WHEREAS it is expedient and necessary to provide a House of Industry in the several Districts of this Province, and to provide employment for the indigent and idle: *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 Court of General Quarter Sessions of the Peace, to be holden in each District, after the presentment of three successive Grand Juries recommending the same, it shall be the duty of the Justices of the said District to procure plans and estimates for the erection of suitable buildings for the reception and employment of the poor and indigent, and of the idle and dissolute, and to procure or pur- Preamble. After the presentment of three successive Grand Juries, Justices in Quarter Sessions to procure plans, purchase site, and erect a House of Industry

Not to cost more than one thousand pounds.

chase a suitable site whereon to erect the same, and to contract for the erection thereof: *Provided*, the expense thereof shall not exceed the sum of one thousand pounds; and also to appoint five Inspectors, who shall have the inspection and government of the said House, with full power to appoint a Master, Mistress, and such needful assistance for the immediate care and oversight of the persons received into or employed in that House; which Inspectors, once every month, and at such other times as occasion may require, shall meet for the purpose of determining the best method of discharging the duties of their office, and at such meetings shall have full power to make such needful orders and regulations for the government of the said House, and to alter the same from time to time as they may think expedient, and all such by-laws for the ordering and regulating the said House, and the affairs thereof, as may be necessary, the same not being repugnant to the laws of the land.

Necessary expenditure to be paid by the respective Districts; and ratable property in the District to be taxed therefor;

II. *And be it further enacted by the authority aforesaid*, That the monies requisite and necessary for the building, erecting, keeping and maintaining, the said Houses of Industry in the several Districts of this Province, shall be paid by the several Districts; and all the ratable property of the District shall be taxed in the same way for this purpose, as it is for the purpose of erecting Gaols and Court-Houses; and His Majesty's Justices of the Peace in General Quarter Sessions may declare the amount of such assessment or tax to be levied, which rate, assessment or tax, shall be collected in the same manner as all other District rates and assessments are now by law collected: *Provided always*, that it shall be the duty of such Justices of the Peace to publish in one or more newspapers of the District, if one is published in the District, and if not, then by affixing a copy on the door of the Court-House, the amount of such rate or assessment so to be levied, as aforesaid.

Amount of rate to be published.

Justices of the Peace may commit persons to the House of Industry.

III. *And be it further enacted by the authority aforesaid*, That any two of His Majesty's Justices of the Peace, or of the Inspectors appointed, as aforesaid, are hereby authorised, empowered and directed, to commit to such House, by writing under their hands and seals, to be employed and governed according to the rules, regulations and orders, of said House, any person or persons residing in the District that are by this Act declared liable to be sent thither.

Who may be sent into Houses of Industry,

IV. *And be it further enacted by the authority aforesaid*, That the persons who shall be liable to be sent into, employed and governed, in the said House, to be erected in pursuance of this Act, are all poor and indigent persons, who are incapable of supporting themselves; all persons able of body to work and without any means of maintaining themselves, who refuse or neglect so to do; all persons living a lewd, dissolute, vagrant life, or exercising no ordinary calling, or lawful business sufficient to gain or procure an honest living; all such as spend their time and property in public houses, to the neglect of their lawful calling.

V. *And be it further enacted by the authority aforesaid,* That all Inspectors appointed in pursuance of this Act, shall keep an account of the charges of erecting, keeping, upholding and maintaining, such House, together with an account of all materials found and furnished, together with the names of the persons received into such House, as well as of those discharged therefrom, and also of the earnings; one copy of which shall be presented to the Justices of the Peace of each District once in every year, or oftener when required by such Justices in General Quarter Sessions assembled, and one copy to each Branch of the Legislature.

Inspectors to keep accounts.

VI. *And be it further enacted by the authority aforesaid,* That all and every person committed to such House, if fit and able, shall be kept diligently employed in labour during his or her continuance there; and in case the person so committed or continued shall be idle, and not perform such reasonable task or labour as shall be assigned, or shall be stubborn, disobedient or disorderly, he, she or they, shall be punished according to the rules and regulations made or to be made for ruling, governing and punishing, persons there committed.

Persons sent to House of Industry to be diligently employed in labour.

CHAP. XXV.

AN ACT to amend the Laws relating to the Collection of Duties on Imports from the United States into this Province, and for other purposes therein mentioned.

[Passed 4th March, 1837.]

WHEREAS it is expedient to amend the laws now in force for the collection of duties on imports from the United States of America into 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 the eighth section of an Act passed in the fourth year of the reign of our late Sovereign Lord King George the Fourth, intituled, "An Act to repeal an Act passed in the forty-first year of His late 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,

Preamble.

[See Statutes of Canada, 4 & 5 Vic. Ch. 14.]

4 Geo. IV. Ch. 11, Sec. 8, in part repealed.

as are now paid on goods and merchandize imported from Great Britain and other places'; and also an Act passed in the forty-third year of His late Majesty's reign, intituled, '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,' and to make more effectual provision for the due collection of duties on goods imported into this Province," so far as the same applies to Collectors who shall collect one thousand pounds and upwards of duties, in any one year be and the same is hereby repealed.

Amount of per centage to be retained by Collectors.

II. *And be it further enacted by the authority aforesaid,* That every Collector shall be authorised to retain twelve pounds and ten shillings out of every hundred pounds of duties he shall collect, until such duties shall amount to the sum of one thousand pounds, and the sum of five pounds out of every hundred pounds of duties he shall collect, over and above the said sum of one thousand pounds.

No Collector to retain more than £300 in any year.

III. *Provided always, and be it further enacted by the authority aforesaid,* That no Collector of Customs shall be authorised to retain a sum exceeding three hundred pounds on the amount of duties by him collected in each year, any thing in this Act contained to the contrary notwithstanding.

This Act to take effect from the 1st January, 1837, as to Collectors collecting duties to the amount of £1000.

IV. *And be it further enacted by the authority aforesaid,* That with respect to such Collectors as shall or may collect duties to the amount of one thousand pounds and upwards, annually, this Act shall be taken to be, and is hereby declared to be in force from the first day of January last.

No duties to be levied on any articles of personal baggage, bona fide imported for domestic use.

[See 4 & 5 Vic. Ch. 14; Sec. 10.]

V. *And whereas* doubts are entertained as to the liability to the payment of duties of the personal baggage of persons coming into this Province with the intention to settle and reside therein, or passing through the same: *Be it therefore enacted by the authority aforesaid,* That no duties shall hereafter be levied on any articles of personal baggage imported by any person coming into this Province, or passing through the same from the United States of America, such articles being bona fide imported for domestic use of the person importing the same, or tools used in the trade or business of the party importing the same: *Provided always,* that nothing in this Act contained shall extend or be construed to extend to tea, wine, spirits, sugar, or other articles of goods, wares and merchandize, not made up or prepared for domestic purposes.

VI. *And be it further enacted by the authority aforesaid, That from and after the passing of this Act, it shall not be lawful for any Collector to demand or receive any fees for a permit to land, or an entrance on goods, wares or merchandize, imported from any country, which articles are not subject to the payment of any duty.*

No fees allowed on a permit to land goods, &c. not subject to duty.

CHAP. XXVI.

AN ACT to continue for a limited time an Act intituled, "An Act to promote the public health, and to guard against infectious diseases in this Province."

[Passed 4th March, 1837.]

Preamble; 5 W_M. IV. Chap. 10, continued for one year.—(Made perpetual by 2 Vic. Chap. 21.)

CHAP. XXVII.

AN ACT to continue for a limited time, "An Act to impose an additional duty on Licences to vend Wines, Brandy and Spirituous Liquors."

[Passed 4th March, 1837.]

Preamble; 2 W_M. IV. Chap. 20, continued for four years.—(Note, that 2 W_M. IV. Chap. 20, had been already made permanent by 4 W_M. IV. Chap. 50.)

CHAP. XXVIII.

AN ACT to continue for a limited time an Act for Licencing Ale and Beer Houses.

[Passed 4th March, 1837.]

Preamble; 2 W_M. IV. Chap. 21, continued for four years.

CHAP. XXIX.

AN ACT to revive and continue for a limited time, an Act passed in the third year of His present Majesty's reign, intituled, "An Act to continue an Act passed in the eleventh year of His late Majesty's reign, intituled, 'An Act to authorise the Quarter Sessions of the Home District to provide for the relief of insane destitute persons in that District,' and to extend the provisions of the same to the other Districts of this Province."

[Passed 4th March, 1837.]

Preamble; 11 Geo. IV. Chap. 20, and 3 Wm. IV. Chap. 45, revived and continued for four years. (Further continued by 4 & 5 Vic. Chap. 23, to 1st November, 1844, and end of the following Session.)

CHAP. XXX.

AN ACT to authorise the erection of the County of Oxford into a separate District, by the name of the District of Brock.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXI.

AN ACT to authorise the erection of the County of Hastings into a separate District.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXII.

AN ACT to authorise the erection of the County of Simcoe into a separate District, by the name of the District of Simcoe.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXIII.

AN ACT erecting the County of Norfolk into a separate District, by the name of the District of Talbot.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXIV.

AN ACT to enable the Proprietors or Shareholders of a Company called the Bank of British North America, to sue and be sued in the name of any one of the Local Directors, or Manager, for the time being, of the said Company in this Province, and for other purposes therein mentioned.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXV.

AN ACT to authorise the President, Directors and Company, of the Bank of Montreal, to collect debts due to them in this Province, notwithstanding the expiration of their Charter, under certain restrictions therein mentioned.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXVI.

AN ACT to authorise William Johnson to convey to Trustees a Lot of Land, for purposes therein mentioned.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP.

CHAP. XXXVII.

AN ACT to appoint Trustees to carry into effect the provision of the Will of John White, Esquire, deceased.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXVIII.

AN ACT to authorise His Majesty's Justices, under certain provisions therein mentioned, to hold Courts of Oyer and Terminer, Assize and Nisi Prius, and General Gaol Delivery, in the Ottawa District.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXIX.

AN ACT to alter and amend an Act passed in the fourth year of His Majesty's reign, intituled, "An Act to extend the limits of the Town of York, to erect the said Town into a City, and to incorporate it under the name of the City of Toronto."

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XL.

AN ACT to authorise the Magistrates of the Home Disirict to erect a new Gaol within the said District.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLI.

AN ACT to establish two additional Markets in the City of Toronto.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLII.

AN ACT to establish a Police in the Town of Cobourg, and to define the limits of the said Town.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLIII.

AN ACT authorising the Magistrates of the Midland District to make rules and regulations for the prevention of accidental Fires in the Town of Kingston, and for other purposes therein mentioned.

[Passed 4th March, 1837.]

[REPEALED BY 1 VIC. CHAP. 27.]

CHAP. XLIV.

AN ACT to incorporate the Villages of Hallowell and Picton, by the name of the Town of Picton, and establish a Police therein.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP.

CHAP. XLV.

AN ACT to amend the law for the improvement of the Navigation of the Saint Lawrence.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLVI.

AN ACT to incorporate certain persons under the style and title of the President, Directors and Company, of the Fort Erie Canal Company.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLVII.

AN ACT to incorporate a Joint Stock Company, under the style and title of the President, Directors and Company, of the Grafton Harbour.

[Passed 9th December, 1836.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLVIII.

AN ACT to incorporate sundry persons under the style and title of the President, Directors and Company, of the Colborne Harbour.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLIX.

AN ACT to incorporate sundry persons under the style and title of the President, Directors and Company, of the Port Darlington Harbour.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. L.

AN ACT to enable the Canada Company to erect a Harbour at Goderich, on Lake Huron.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LI.

AN ACT to incorporate sundry persons under the style and title of the Beverly Navigation Company.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LII.

AN ACT granting a Charter to an incorporated Company, under the style and title of the President and Directors of the London and Devenport Rail Road and Harbour Company.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LIII.

AN ACT to amend an Act passed during the last Session, intituled. "An Act to improve the Navigation of the inland waters of the District of Newcastle.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LIV.

AN ACT to incorporate sundry persons under the style and title of "The Lyndhurst Mining and Manufacturing Company."

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LV.

AN ACT to incorporate a Joint Stock Company for the improvement of the Mineral Springs in the Township of Caledonia, in the Ottawa District.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LVI.

AN ACT to incorporate certain persons therein named as a Board of Trustees, for the erection, superintending and management, of a Roman Catholic College at Kingston, to be known by the name of "The College of Regiopolis," and for other purposes therein mentioned.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LVII.

AN ACT to provide for a Survey of the Ottawa River, and the country bordering on it, together with the country and waters lying between that River and Lake Huron.

[Passed 4th March, 1837.]

Preamble; a sum not exceeding £3000 granted. 2. Governor to appoint Commissioners. 3. Commissioners authorised to engage an Engineer and Surveyor, and to pay a salary. 4. Commissioners to report proceedings. 5. Money granted to be accounted for through Lords of the Treasury.

CHAP. LVIII.

AN ACT to establish the Boundary Lines in front of Lots on the River Thames, in the Townships of Chatham and Camden, in the Western District.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LIX.

AN ACT to amend an Act passed in the first year of His present Majesty's reign, intituled, "An Act to provide for settling and determining by Arbitration certain difficulties that have arisen, or may arise, between persons owning land in the Eighth Concession of Saltfleet, and persons owning, or claiming to own, lands in the First Concession of Binbrook, who through mistake may have made improvements on the rear part of the said eighth Concession of Saltfleet."

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LX.

AN ACT granting a loan to the City of Toronto and Lake Huron Rail Road Company, and for other purposes therein mentioned.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LXI.

AN ACT to alter and amend the Act incorporating sundry persons under the name of the London and Gore Rail Road Company, and to grant them a sum of money by way of loan.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LXII.

AN ACT to provide for the payment, in certain cases, of the interest on the loan for the construction of the Great Western Rail Road.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LXIII.

AN ACT to make further provision respecting the affording of public aid to the Great Western Rail Road, and the Toronto and Lake Huron Rail Road, and for other purposes therein mentioned.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LXIV.

AN ACT granting a certain sum of money to complete the improvement of the Harbour at Toronto.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LXV.

AN ACT granting a further loan to complete the Desjardins Canal, and for other purposes therein mentioned.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP.

CHAP. LXVI.

AN ACT granting to His Majesty a sum of money, to be raised by Debenture, for the improvement of the Navigation of the River Trent.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LXVII.

AN ACT granting a loan to the Louth Harbour Company, in the Niagara District.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LXVIII.

AN ACT to loan a sum of money to the Erie and Ontario Rail Road Company.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LXIX.

AN ACT to afford aid, by way of loan, to the Gananoque and Wiltsie Navigation Company, and to amend the Act of Incorporation of the said Company.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LXX.

AN ACT authorising His Majesty to loan a sum of money to the Credit Harbour Company.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LXXI.

AN ACT granting a sum of money to improve a Harbour in the Township of Whitby, in the Home District.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LXXII.

AN ACT granting a sum of money to the Port Burwell Harbour Company, by way of loan.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LXXIII.

AN ACT to loan a certain sum of money to the Grand River Navigation Company.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LXXIV.

AN ACT to authorise a loan to the Cobourg Rail Road Company.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LXXV.

AN ACT granting a sum of money, by way of loan, to the President, Directors and Company, of the Tay Navigation Company.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LXXVI.

AN ACT granting a further sum of money for completing the Macadamization of Yonge Street, and other Roads in the Home District.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LXXVII.

AN ACT granting a sum of money, by way of Loan, to Macadamize Hurontario Street, south of Dundas Street, to the Lake Shore.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LXXVIII.

AN ACT to raise a sum of money to Macadamize the main Road leading from Hamilton to Brantford, in the District of Gore, and for other purposes therein mentioned.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LXXIX.

AN ACT to authorize the construction of a Macadamized Road, from Dundas to Waterloo, in the Gore District.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LXXX.

AN ACT to raise a sum of money to Macadamize the Roads leading from Brockville to Saint Francis, Charleston, Lyndhurst, Beverly and Portland, in the District of Johnstown, and to authorise the erection of Toll-Gates on the said Roads.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LXXXI.

AN ACT to raise a sum of money to Macadamize the Road between the Town of Kingston and the Village of Napanee, in the Midland District, and for other purposes therein mentioned.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LXXXII.

AN ACT to raise a sum of money to Macadamize the main road from Queenston to the West Boundary Line of Grimsby, in the Niagara District, and for other purposes therein mentioned.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LXXXIII.

AN ACT granting a sum of money for the erection of a Toll-Bridge over the River Thames, at Chatham, in the Western District.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LXXXIV.

AN ACT granting pecuniary aid to the Grantham Academy, by way of loan.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LXXXV.

AN ACT to grant the Commissioners of the Dunnville Bridge a certain sum of money to complete the same.

[Passed 4th March, 1837.]

Preamble; £250 granted. 2. How to be paid and accounted for.

[SEE 4 WILLIAM IV. CHAP. 43.]

CHAP. LXXXVI.

AN ACT to grant a loan to the Port Dover Harbour Company, and increase the capital stock of the said Company.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LXXXVII.

AN ACT to amend an Act passed during the last Session, intituled, "An Act granting a sum of money for improving the Hill at the River Rouge, and for other purposes therein mentioned."

[Passed 4th March, 1837.]

Preamble; second and fifth clauses repealed. 2. Trustees appointed to superintend Macadamization of East York Road, to expend money granted by above recited Act; and to remunerate William Weller. 3. Trustees to render accounts.

[SEE 6 Wm. IV. CH. 40.]

CHAP. LXXXVIII.

AN ACT to amend an Act passed during the last Session, intituled, "An Act to amend an Act passed in the first Session of the present Parliament, intituled, 'An Act granting a sum of money for the erection of a Light House on Gull Island, or such other place as the Commissioners may select.'"

[Passed 4th March, 1837.]

Preamble; second, third, fourth and fifth clauses of Act repealed. 2. Governor to appoint Commissioners, in place of former Commissioners. 3. Commissioners to be appointed under this Act, to receive from former Commissioners monies in their hands; less sums advanced by them on contracts. 4. Commissioners appointed under this Act authorised to compound and agree with present Contractors and make new contracts. 5. Present Contractor not to be allowed more than £300. 6. If present Contractor refuses to deliver up materials, &c. action may be brought, &c. 7. Commissioners to render accounts, &c.

[SEE 5 Wm. IV. CH. 41; 6 Wm. IV. CH. 47.]

CHAP. LXXXIX.

AN ACT to authorise the payment of a certain portion of the War Losses.

[Passed 4th March, 1837.]

Preamble.

WHEREAS an Act was passed in the last Session of the Parliament of this Province, intituled, "An Act granting a sum of money to complete the payment of the War Loses," in which Act it is provided, that there shall be granted to His Majesty, out of the revenues of this Province, the sum of twenty thousand pounds sterling, to be applied in satisfaction of the claims of the sufferers by the late War with the United States of America, and to be paid by the Receiver-General of this Province, so soon as he shall have received from His Majesty's Government, the sum necessary to complete the liquidation of the whole of the balance of the said claims, as proposed to be granted, according to the terms of a certain despatch, recited in a message from His Excellency the Lieutenant-Governor of this Province, sent to the House of Assembly on the twenty-sixth day of January, one thousand eight hundred and thirty-five: *And whereas* the directing the payment of the sum of twenty thousand pounds so granted, to be suspended until the Receiver-General shall actually have received from His Majesty's Government the balance of money necessary to complete the payment of the losses in full, has been found to present an obstacle to the payment of the monies which His Majesty's Government has consented to grant, and there is every reason to believe, that by dispensing with that condition, an arrangement will be readily effected for paying the whole remaining balance to the claimants: *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 notwithstanding any thing in the said Act contained, the Receiver-General of this Province shall pay to the claimants, respectively, their proportion of the sum of twenty thousand pounds granted by the said Act, so soon as the necessary warrant or warrants shall be issued to him by the Lieutenant-Governor of this Province, for that purpose.

£20,000 to be advanced,
&c.

Letters of attorney, and
bona fide assignments of
claims for losses to be
recognized by Receiver
General.

II. *And whereas* it is further provided in the said Act, that when any person having a claim for Losses shall apply for the same by agent or attorney, it shall be lawful for the Receiver-General of this Province to require a power of attorney, of a date not antecedent to the passing of the said Act, as his authority for the payment of the same to such agent: *And whercus* there is reason to believe, that in many cases, the claims of

persons for Losses may have been assigned wholly, or in part, in security for debts actually due, or may have been absolutely transferred for a valuable consideration paid to such claimants, respectively, and it would be unjust in such cases to suffer a power of attorney to be revoked which may have been given for carrying any such transaction into effect: *Be it therefore further enacted by the authority aforesaid,* That the provision herein last recited and contained in the said Act, shall not apply in any case in which it shall satisfactorily appear to the Receiver-General of this Province, that the power of attorney which may be produced to him was given for any such purpose aforesaid, or was in any manner coupled with an interest in the monies to be received under such power.

CHAP. XC.

AN ACT providing for the support of the Provincial Penitentiary.

[Passed 4th March, 1837.]

Preamble; Money necessary to be paid by Receiver-General on warrants issued by Governor. 2. Not to exceed £5000 in amount. 3. Accounts in detail to be rendered; and sums advanced to be accounted for through Lords of Treasury.

CHAP. XCI.

AN ACT granting a sum of money to complete the Burlington Bay Canal, and for other purposes therein mentioned.

[Passed 4th March, 1837.]

Preamble; £5000 granted. 2. To be advanced on warrants issued by Governor; and accounted for through Lords of the Treasury. 3. Accounts in detail to be rendered. 4. No money to be advanced until proposed works and improvements have been reported upon by competent Engineer; Governor to appoint two additional Commissioners.

CHAP. XCII.

AN ACT to provide for the permanent completion of the Welland Canal, and for other purposes herein mentioned.

[Passed 4th March, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XCIII.

AN ACT for granting a sum of money to defray a part of the expense to finish the Survey of the River Thames, from Chatham to London.

[Passed 4th March, 1837.]

Preamble; £250 granted. 2. To be paid by warrants on Receiver-General; And accounted for through Lords of Treasury.

CHAP. XCIV.

AN ACT to provide for a Survey of the South Petite Nation River, together with the Country lying between that River and the River Saint Lawrence.

[Passed 4th March, 1837.]

Preamble; £200 granted. 2. Governor to appoint Commissioners. 3. Commissioners authorised to appoint an Engineer. 4. Account to be rendered. 5. Accounting clause.

CHAP. XCV.

AN ACT granting to His Majesty a sum of money for the erection of certain Light-Houses within the Province, and for other purposes therein mentioned.

[Passed 4th March, 1837.]

MOST GRACIOUS SOVEREIGN:

WHEREAS it is necessary for the safety and convenience of navigation in this Province, to provide for the erection of Light-Houses in certain places in 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 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, &c.

Preamble.

[See 2 *7c. Chs.* 22 & 57.]

£3,500 granted and apportioned;
To be paid by Receiver General;
And accounted for, &c.

II. Governor to appoint Commissioners.

III. [Repealed by 2 Vic. Ch. 57.]

Commissioners to account.

IV. [Expired virtually, by 2 Vic. Ch. 22.]

Tonnage duty on Vessels, &c. imposed to pay interest, and principal; Boats under ten tons, exempt.

V. *And be it further enacted by the authority aforesaid, That on payment of the said sum of one shilling per ton, by any owner or master of any boat or vessel, to the Collector or Deputy Collector of any Port in this Province, such Collector or Deputy Collector shall grant a certificate thereof to such owner or master, which certificate shall be effectual to discharge such owner or master from any further payment in respect of such boat or vessel, until the first day of January next after the date of such certificate.*

Certificate of tonnage duty to be granted; (See 2 Vic. Chap. 22, Sec. 2.)

VI. *And be it further enacted by the authority aforesaid, That if any such boat or vessel shall be navigated without such certificate, or if the master or owner thereof shall neglect or refuse to produce the same, on reasonable demand, to any Collector or Deputy Collector of any Port in this Province, where such boat or vessel shall enter, then and in every such case such boat or vessel shall be liable to seizure and forfeiture, and may be proceeded against for condemnation in like manner as for any infraction of the revenue laws of this Province.*

Vessels navigated without certificate, or if master refuse to produce the same, vessel liable to seizure. (See 2 Vic. Chap. 22, Sec. 2.)

VII. *And be it further enacted by the authority aforesaid, That the several Collectors to whom such duties shall be paid, shall quarterly make a return of the same to the Inspector General, and the amount thereof shall be paid by such Collectors to the Receiver General, and shall be applied to the repayment of the interest and principal sum expended in the erection of the said Light-Houses, and for the annual support of the same.*

Collectors to account.

CHAP. XCVI.

AN ACT to provide for the payment of Light-House Keepers in this Province; to maintain Lights in the several Light-Houses, and for other purposes therein mentioned.

[Passed 4th March, 1837.]

WHEREAS it is expedient and necessary to provide for the erection of a Dwelling-House adjoining the Light-House on the Nine Mile Point, near Kingston, in the Midland District, for the use of the Keeper of the said Light-House; and also to make provision for the payment of the Keepers of the several Light-Houses in this Province, and for maintenance of lights in the said Light-Houses: *Be it therefore enacted* by the King's most Excellent Majesty, by and with the advice and consent of

Preamble. (See 2 Vic. Chs. 22, 57 & 59.)

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, &c.

£100 granted to erect dwelling-house for light-house keeper at Nine Mile Point; and £100 to change light on False Ducks to revolving light.

II. A Commissioner to be appointed.

A sum granted sufficient to pay Light-house Keeper.

III. *And be it further enacted by the authority aforesaid,* That a sufficient sum of money be granted to His Majesty, to enable him to pay the salaries or stipend to the Keepers of the several Light-Houses in this Province, in the rates and proportions following, that is to say: to each and every Keeper of any Light-House on the main land, the sum of sixty-five pounds per annum; and to each and every Keeper of a Light-House on any Island, the sum of eighty-five pounds per annum; such salaries to be computed and become payable from the first day of January last past: *Provided always,* that the Light-Houses on Gibraltar Point, in the Home District, and on Point Peters, in the District of Prince Edward, shall be, for the purposes of this Act, considered as erected on Islands; also that the expense of Light-House Keepers at all Pier Harbours, shall be sustained by the said Harbour, whether they are in possession of the public, or private companies.

Inspector General to advertise for tenders for supplies necessary for lighting and maintaining Light-houses.

IV. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Inspector General, for the time being, of this Province, to advertise annually for tenders for supplying all the Light-Houses of this Province with oil, wicks, lamps, glass, tubes and all other necessaries, for maintaining the lights therein, and to enter into contracts with any person or persons for furnishing such supplies, to any or all of the said Light-Houses; and that a sum of money sufficient to defray the necessary expenditure for the supplies before mentioned, for maintaining the said lights, shall be annually granted to His Majesty, His Heirs and Successors.

A sum granted to defray the expenses.

Accounts of expenditure to be rendered.

V. *Provided always, and be it further enacted by the authority aforesaid,* That accounts in detail, with vouchers, of the expenditure of all and every the sums authorised to be expended under this Act, shall be annually laid before both Branches of the Legislature of this Province.

Moneys to be paid by Receiver General;

VI. *And be it further enacted by the authority aforesaid,* That the several sums, that may from time to time be necessary for the purposes aforesaid, shall be paid from and out of the rates and duties now raised, levied and collected, or hereafter to be raised, levied and collected, and remaining in the hands of the Receiver General, unappropriated, in discharge of such warrant or warrants as may be issued for that purpose by the

Governor, Lieutenant-Governor, or Person Administering the Government of this Province, and shall be accounted for to His Majesty, His Heirs or 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 be graciously pleased to direct. And accounted for, &c.

CHAP. XCVII.

AN ACT granting a sum of money in aid of the Toronto Hospital.

[Passed 4th March, 1837.]

Preamble; £250 granted. 2. To be paid by Receiver General; And accounted for.

CHAP. XCVIII.

AN ACT granting a sum of money in aid of the Kingston Hospital.

[Passed 4th March, 1837.]

Preamble; £500 granted. 2. To be paid by Receiver General; And accounted for.

CHAP. XCIX.

AN ACT granting a sum of money for the purpose of purchasing Books for the Library, and for other purposes therein mentioned.

[Passed 4th March, 1837.]

Preamble; £1,000 granted, to be expended in the purchase of books, to be selected by the Speakers of the Legislative Council and House of Assembly.

II. *And be it further enacted by the authority aforesaid*, That after the present year there be granted annually to His Majesty, out of the rates and duties aforesaid, the sum of fifty pounds, to be expended in like manner, by the Speakers of the two Houses, in the purchase of Books for the Library of the Legislature. £50 granted annually, to be expended in like manner. [Not in force since the Union.]

III. *And whereas* it is necessary to provide a small sum annually, for procuring for the more convenient reference of the Members of each House, the Statutes and Journals of the Imperial Parliament, and of other Legislative Bodies, and of other publications and proceedings which it may be necessary frequently to refer to: *Be it therefore enacted by the authority aforesaid*, for the present year, and in every year hereafter, there be £30 granted annually, to provide for purchase of Statutes and Journals of the Imperial Parliament, and other Legislative bodies. [Not in force since the Union.]

granted to His Majesty, out of the rates and duties aforesaid, the further sum of thirty pounds, one half of which sum shall be paid to the Speaker of each House of the Legislature, to be by him expended in the purchase of such books and maps, as may be necessary for the more ready reference within each House, to be kept within the Clerk's office, or some other apartment belonging to each House, respectively.

Money to be paid by
Receiver General.

[Not in force since the
Union.]

And accounted for.

IV. *And be it further enacted by the authority aforesaid,* That the several sums of money hereby granted shall be paid by the Receiver General, in discharge of such warrant or warrants as may be issued for that purpose by the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, in favour of the Speakers, for the time being, of the Houses of the Legislature, respectively, in pursuance of this Act; and shall be accounted for to the Lords Commissioners of His Majesty's Treasury, in such manner and form as His Majesty, His Heirs and Successors, shall be graciously pleased to direct.

CHAP. C.

AN ACT granting to His Majesty a sum of money to remunerate the Arbitrator appointed to ascertain the amount of Revenue to be paid to this Province from Lower Canada.

[Passed 4th March, 1837.]

Preamble; £200 granted. 2. To be paid by Receiver General; And accounted for.

CHAP. CI.

AN ACT to remunerate the Honourable John Henry Dunn, for services rendered to this Province.

[Passed 4th March, 1837.]

Preamble; a sum not exceeding a £1000 granted; to be retained by Receiver-General out of public monies in his hands, and to be accounted for.

CHAP. CII.

AN ACT granting a sum of money to His Majesty, for the remuneration of certain services rendered by the late Hugh C. Thomson, Esq.

[Passed 4th March, 1837.]

Preamble; £100 granted; to be paid by Receiver-General; and accounted for.

CHAP. CIII.

AN ACT authorising the payment of Pensions to Militia Men, disabled during the late War with the United States of America, under certain restrictions.

[Passed 4th March, 1837.]

WHEREAS Ziba Marcus Phillips, James Fortier, Samuel Hodgkinson, Allan McDonell, Joseph Duseau, John Bryant, Nathaniel Bell, Angus McDougall, John Berdan, and Hiram Young, have by their several petitions during the late and present Sessions of the Parliament, prayed to be entered on the Pension List of this Province, on account of disability occasioned by wounds and accidents received during the late war with the United States, and it is expedient to afford the said petitioners relief in the premises: *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 this Province, to nominate and appoint three Surgeons, resident in the several Districts in which the said petitioners respectively reside, and authorised by the Laws of this Province to practice physic and surgery, to examine the said petitioners, respectively; and the decision of the said Surgeons so appointed, or any two of them, shall be final; and if the said Surgeons, or any two of them, shall be satisfied on such examination that the petitioners, or either of them are or is actually disabled from wounds or accident received on service during the late war with the United States, and due proof of the same shall be submitted to the Governor, Lieutenant-Governor, or Person Administering the Government, to cause the name of such petitioners, or such of them as may appear by such certificate and proof to have been so disabled, to be inserted on the Pension List of this Province; and the person or persons who shall be so inserted, shall from thenceforth be entitled to receive a Pension of twenty pounds per annum, in the same manner as other Militia Pensioners.

Preamble.

(See 5 Wm. IV. Chap. 36;
1 Vic. Chaps. 43, 44;
3 Vic. Ch. 27.)

Governor authorised to appoint three Surgeons resident in several Districts, to examine certain petitioners for militia pensions;

When names (being favourably reported upon) may be inserted on militia pension list.

[See 3 Vic. Chap. 27, Sec. 2.]

CHAP. CIV.

AN ACT to grant a certain sum of money for the relief of the Poor and Distressed of the City of Toronto.

[Passed 4th March, 1837.]

Preamble; £250 granted. 2. To be paid by the Receiver-General; and accounted for.

CHAP. CV.

AN ACT granting a sum of money for the support of Common Schools, for the year one thousand eight hundred and thirty-seven:

[Passed 4th March, 1837.]

Preamble; £5650 granted; apportioned among the several Districts. 2. To be paid by the Receiver-General; and accounted for. 3. Teachers not to receive any allowance from public funds unless Trustees of School have made provision for paying such Teacher double the amount allotted by Board of Education. 4. Board of Education in each District to pay their Clerks £5 additional salary.

CHAP. CVI.

AN ACT to repeal part of an Act passed in the fifty-ninth year of the reign of His late Majesty King George the Third, intituled, "An Act to repeal part of and to amend the laws now in force for establishing Public Schools in the several Districts of this Province," and to establish the Public School for the London District in the Town of London.

[Passed 4th March, 1837.]

Preamble.

[See 59 Geo. III. Chap. 4.]

WHEREAS the District School of the London District has been heretofore kept at Vittoria, and it is expedient that the said School should in future be kept in the Town of London, in the District aforesaid: *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 the tenth clause of an Act passed in the fifty-ninth year of the reign of His late Majesty King George the Third, intituled, "An Act to repeal part of and to amend the laws now in force for establishing Public Schools in the several Districts of this Province, and to extend the provisions of the same," as relates to the opening and keeping the Public School for the District of London at Vittoria, in the Township of Charlotteville, be and the same is hereby repealed.

Tenth clause of Act 59 Geo. III. Chap. 4, repealed, so far as relates to opening District School at Vittoria.

District School for District of London to be henceforth held in the Town of London.

II. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, the Public School for the District of London shall be opened and kept in the Town of London, in the Township of London, in the said London District.

CHAP. CVII.

AN ACT to alter and amend an Act passed during the last Session of the Legislature, intituled, "An Act granting to His Majesty a sum of money, for the improvement of the Roads and Bridges in the several Districts of this Province."

[Passed 4th March, 1837.]

Preamble; Act of last Session, granting £50,000 for roads and bridges, in part repealed and amended; Clauses of Act relating to distribution of money on different roads, time for accounting for the same, and appointing Commissioners, repealed. 15. Money to be expended by 15th October next, and be accounted for by 1st December next, by Commissioners. 16. Treasurers of District to demand money unaccounted for; in default of payment, how recovered; money recovered to be applied to improvement of roads in the several Districts.

CHAP. CVIII.

AN ACT to make good certain monies advanced in compliance with the Address of the House of Assembly, during the present Session, for the Contingent expenses of the last Session of the Legislature of this Province.

[Passed 4th March, 1837.]

Preamble; £8496 1s. 7½d. granted. 2. Accounting clause.

CHAP. CIX.

AN ACT to provide a Salary for a Judge in Equity.

[Passed 4th March, 1837.]

MOST GRACIOUS SOVEREIGN:

WHEREAS it is necessary to provide a salary for a Judge in Equity, Preamble. so soon as such Judge shall be appointed in this Province; We Your Majesty's dutiful and loyal Subjects, the Commons of Upper Canada, in Provincial Parliament assembled, therefore 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

[See 7 Wm. IV. Ch. 2.]

£1250 granted annually.

the Government of the said Province," and by the authority of the same, That from and out of the rates and duties now raised, levied and collected, or hereafter to be raised, levied and collected, and in the hands of the Receiver-General, and unappropriated, there be granted to His Majesty, His Heirs and Successors, the sum of one thousand two hundred and fifty pounds, annually, to provide for the payment of the salary of a Judge in Equity in this Province, so soon as His Majesty, His Heirs or Successors, shall be authorised by law to appoint such Judge.

To be paid by warrant on Receiver-General;

And accounted for.

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, from time to time, to issue his warrant or warrants to the Receiver-General of this Province, for the said salary, half-yearly; 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, in such manner and form as His Majesty, His Heirs and Successors, shall be graciously pleased to direct.

CHAP. CX.

AN ACT granting a Salary to the Clerk of the Crown in Chancery, and for other purposes therein mentioned.

[Passed 4th March, 1837.]

MOST GRACIOUS SOVEREIGN:

Preamble.

£52 5s. 1d. granted for past services, and salary of £75.

WHEREAS it is expedient to provide for the payment of a salary to the Clerk of the Crown in Chancery, and to remunerate him for past services; 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 from and out of the rates and duties raised, levied and collected, or hereafter to be raised, levied and collected, to and for the public uses of this Province, and in the hands of the Receiver-General, unappropriated, there be granted to His Majesty, His Heirs and Successors, for the last year, the sum of fifty-two pounds five shillings and one penny; and annually, in each and every year, the

sum of seventy-five pounds; which said sum of fifty-two pounds five shillings and one penny, and seventy-five pounds, shall be appropriated, applied and disposed of as follows, that is to say:—to pay Samuel Peters Jarvis, Esquire, as Clerk of the Crown in Chancery, for past services, the sum of fifty-two pounds five shillings and one penny, and to the Clerk of the Crown in Chancery, for the time being, annually, in each and every year, the sum of seventy-five pounds, to commence and be made payable from the first day of January, one thousand eight hundred and thirty-seven.

II. *And be it further enacted by the authority aforesaid,* That the said sums of fifty-two pounds five shillings and one penny, and seventy-five pounds, respectively, shall be paid by the Receiver-General of this Province, in discharge of such warrant or warrants as shall for that purpose, from time to time, be issued by the Governor, Lieutenant-Governor, or Person Administering the Government of this Province; and 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 be graciously pleased to direct.

To be paid by Receiver-General;

And accounted for.

III. *And be it further enacted by the authority aforesaid,* That this Act shall be and continue in force for and during the term of four years.

Limited to four years duration.

[Made perpetual by 3 Vic. Chap. 69.]

CHAP. CXI.

AN ACT granting to His Majesty a certain sum of money to defray the expenses of the Civil Government for the year one thousand eight hundred and thirty-six, and for other purposes therein mentioned.

[Passed 9th December, 1836.]

Preamble; £9472 8s. 11d. granted, in payment of Officers and charges mentioned. 2. Provision for salary of Attorney and Solicitor-General. 3. Money to be paid by Receiver-General; and be accounted for.

CHAP. CXII.

AN ACT granting a sum of money to His Majesty, to support the Administration of the Civil Government of the Province, for the current year.

[Passed 4th March, 1837.]

Preamble; £10,492 9s. to defray certain salaries and charges. 2. Salaries of Attorney and Solicitor-General. 3. To be paid by Receiver-General; and be accounted for. 4. A detailed statement of expenditure to be submitted to Legislature.

CHAP. CXIII.

AN ACT to amend an Act passed in the fifty-fifth year of the reign of His late Majesty George the Third, intituled, "An Act to incorporate the Midland District School Society."

[Passed 4th March, 1837.]

[Sec Local and Private Acts, in 2nd Volume.]

CHAP. CXIV.

AN ACT better to secure the independence of the Commons House of Assembly of this Province, and for other purposes therein mentioned.

[Royal Assent promulgated by Proclamation, 20th April 1838.]

Preamble.

(Sec 39 Geo. III. Ch. 4; Act of Union, Sec. 27; Statutes of Canada, 4 & 5 Vic. Chap. 3, Sec. 5; Ch. 4, and Ch. 8, Sec. 21; and Ch. 32, Sec. 32.)

Persons who at the time of passing this Act are Members of the House of Assembly, or who shall hereafter be elected, on being appointed to the following offices:—Judge of Court of King's Bench; Judge District Court, or any Court of Record hereafter to be established; Receiver-General; Surveyor-General; Inspector-General; Member of the Executive Council; Collector of Customs; Attorney or Solicitor-General; or Sheriff; to vacate his seat, and Speaker to issue his warrant for new election; Members may be re-elected.

Judge of the Court of King's Bench not eligible to be elected.

WHEREAS it is expedient that the seats of Members of the House of Assembly should be declared to be vacated in certain cases: *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 if any Member of the House of Assembly, now or hereafter to be elected, shall at any time hereafter accept or take any or either of the following Offices under His Majesty's Government of this Province, viz:—Judge of the Court of King's Bench; Judge of the District Court, or of any Court of Record hereafter to be established; the Receiver-General; Surveyor-General; Inspector-General; Member of the Executive Council; Collector of the Customs; Attorney or Solicitor-General, or Sheriff; his seat in the said House of Assembly shall be and is hereby declared to be thereby vacated; and thereupon it shall be lawful for the Speaker to issue his warrant in the usual form for the election of a new Member, in the room of the Member whose seat shall be so vacated: *Provided always nevertheless*, that any such appointment, as aforesaid, shall be no bar or obstruction to the re-election into the House of Assembly of the person so accepting or holding the same.

II. *Provided always, and be it further enacted by the authority aforesaid*, That nothing in this Act contained shall extend, or be construed to extend, to authorise the election of any Judge of the Court of King's Bench as a Member of the Assembly of this Province.

III. *And be it further enacted by the authority aforesaid, That any Member duly elected to represent any town, county or place, in this Province, who shall, after such election, remove from the Province, and make some other country his permanent residence, whereby the constituency whom he was elected to represent may be unrepresented, the seat of every Member so removing shall be declared vacant, and the Speaker shall order a writ to issue for the election of another person to serve in the room and place of the Member so vacating his seat: Provided always, that no writ shall issue for a new election to fill any vacancy so occurring, until the House of Assembly shall be satisfied of its necessity, either by petition of the Freeholders of the county, town or place, to which it relates, praying that a writ may issue, or by the Member about to vacate his seat according to the provisions of this Act stating that fact to the House of Assembly, by a communication to the Speaker.*

Member removing permanently from the Province, to vacate his seat;

Speaker to order a writ for election of another.

[See 4 & 5 Vic. Chap. 4.]

No writ to issue for a new election to fill any vacancy, until House satisfied of necessity, by petition of the Freeholders, or communication by the Member vacating, to the Speaker.

CHAP. CXV.

AN ACT to authorise the erection of certain Townships, and other territory heretofore forming part of the Newcastle District, into a new District, by the name of the District of Colborne, with Peterborough for the District Town.

(Royal Assent promulgated by Proclamation, 20th April, 1838.)

[See Local and Private Acts, in 2nd Volume.]

CHAP. CXVI.

AN ACT erecting certain parts of the Counties of Halton and Simcoe into a new District, by the name of the District of Wellington.

(Royal Assent promulgated by Proclamation, 20th April, 1838.)

[See Local and Private Acts, in 2nd Volume.]

CHAP. CXVII.

AN ACT to Naturalize certain persons therein named.

(Royal Assent promulgated by Proclamation, 20th April, 1838.)

[See Local and Private Acts, in 2nd Volume.]

CHAP. CXVIII.

AN ACT to provide for the disposal of the Public Lands in this Province, and for other purposes therein mentioned.

[Royal Assent promulgated by Proclamation, 17th May, 1838.]

Preamble.

(See 2 Vic. Chap. 14.
And Statutes of Canada,
4 & 5 Vic. Chap. 100,
which repeals this Act.)

No free grant of public lands to be made except to U. E. claimants, or others entitled under orders and regulations now in force.

Party intitled to free grant, or his assignee, to be located on any open lands he may select;

Patent to issue free;

Exception.

Claims allowed in Council to be assignable;

Assignee may locate and obtain patent in his own name.

WHEREAS it is expedient to provide greater facilities for the disposal of the public lands in this Province, and for the issuing of patent deeds for 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, no free grant shall be made of any of the public lands in this Province, to any person or persons whomsoever, except U. E. Loyalists and their children, and such other persons as are now entitled to a free grant of public land, under or by virtue of any Order in Council, or other regulation of Government now in force and effect.

II. And be it further enacted by the authority aforesaid, That it shall be the duty of the Surveyor General, so soon as conveniently may be after an Order in Council shall have been issued for the allowance of any claim for a free grant of land, to locate the party or parties entitled thereto, or the assignee or assignees of such party or parties, his, her or their heirs or assigns, on such lands open for location in any District within this Province, under the authority of the Government, as he, she or they, shall think proper to select, and as shall not have been previously located to any other person or persons, or shall not have been otherwise specially reserved; and the patent deed or patent deeds of the lands so located, shall be issued to the parties free of expense, or upon the payment of such patent fees only as are now payable under any present regulation respecting grants of a similar nature.

III. And be it further enacted by the authority aforesaid, That after the allowance of any such claims, under or by virtue of any Order in Council to be issued in respect thereof, such claims shall be assignable and transferable by the parties entitled thereto, to any purchaser or purchasers thereof; and such purchaser or purchasers, his, her or their heirs or assigns, shall be entitled to locate in respect thereof, and to have the patent deed or patent deeds of the same to be issued in his, her or their name or names.

IV. *And be it further enacted by the authority aforesaid,* That all claims for free grants of public lands shall, after the passing of this Act, be made and set forth by memorial or petition to the Governor, Lieutenant Governor, or Person Administering the Government of this Province, in Council, and shall be accompanied by the requisite documentary proofs and evidence, and shall be signed by the claimant or claimants, his, her or their attorney or agent, and shall be duly considered and disposed of in Council only, and in no other manner, (except as is hereinafter provided.)

Claims for free grant how to be made.

V. *And be it further enacted by the authority aforesaid,* That it shall be the duty of His Majesty's Commissioner for the sale of Crown Lands, for the time being, to keep a book for the entry (at the option of the parties interested) of the particulars of any assignment made by as well the original nominee or locatee, as also by any subsequent assignee or assignees, of any such claims on the lands located in respect thereof, such assignment or assignments being first produced and exhibited to the Commissioner aforesaid, together with an affidavit of the due execution thereof, sworn before any Justice of the Peace, who is hereby fully authorised to administer the oath in this behalf, and such affidavit shall truly express the time of the execution of such assignment or assignments; and thereupon it shall be the duty of the said Commissioner to cause the material parts of every such assignment to be entered or registered in such book of entry or registry, and to endorse on every such assignment a certificate of such entry or registration; and every such assignment so entered and registered, shall be valid against any other of a previous date or execution, but not then entered or registered, except in cases of express notice.

Crown Lands Commissioner to keep a book for entries of assignments of claims;

Assignments to be produced with affidavit of execution;

Assignments to be registered;

Certificate to be endorsed;

Assignment first registered to be valid against others.

VI. *And be it further enacted by the authority aforesaid,* That after any order in Council shall be made in respect to free grants of land, as aforesaid, the party or parties interested therein, or the assignee or assignees of such party or parties, and the heirs or assigns of such assignee or assignees shall, at their option, be entitled to locate lands in respect thereof, or to claim an allowance in lieu thereof, at the rate of four shillings per acre, in the purchase of any other public lands, upon the sale thereof, under the provisions of this Act, and whether the same consist of Crown Lands, Clergy Reserves, School Lands, or other public lands.

After parties obtain the order in Council, they, or their assignees, may locate land, or be allowed four shillings per acre in the purchase of other public lands.

VII. *And be it further enacted by the authority aforesaid,* That any Military or Naval Officer, or other person entitled to an allowance in money in lieu of lands, under any existing order or regulation, shall be entitled to purchase any of the public lands aforesaid, and shall receive credit upon any such purchase to the full extent of the said allowance.

Officers or others entitled to an allowance in money in lieu of land, may receive credit therefor in the purchase of public lands.

If lands specifically appropriated be sold, the amount of the purchase-money shall be credited to the proper fund by the Commissioner of Crown Lands.

VIII. *And be it further enacted by the authority aforesaid,* That in case of the sale of any Clergy Reserves, or other lands, appropriated for a specific public purpose, to any person or persons entitled under the provisions of this Act to purchase the same, in lieu of locating or purchasing other lands, as aforesaid, the proper funds to which the proceeds of the lands so sold shall belong, shall be re-imbursed the full amount of such sale from and out of the proceeds of the sale of Crown Lands, not so appropriated to any specific purpose, and it shall be the duty of the Commissioner of Crown Lands to regulate his accounts accordingly.

Under certain exceptions no public lands to be sold by private sale until they have been offered at public auction; After which they may be sold at the upset price by private contract.

IX. *And be it further enacted by the authority aforesaid,* That except as aforesaid, and as hereinafter is further provided, none of the public lands, aforesaid, shall be sold by private sale, unless the same shall have been first offered at public auction for sale at an upset price; after which it shall be lawful for the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, for the time being, to direct the sale of such lands at the upset price thereof named at such public auction, to any person willing to purchase the same by private contract.

Upset price, conditions, &c. to be fixed by Governor in Council.

X. *And be it further enacted by the authority aforesaid,* That the upset price of such public lands shall be, from time to time, fixed by the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, in Council only, and not otherwise, as also the terms and conditions of sale, and such other regulations respecting the same, not contrary to the provision of this Act, as shall be deemed necessary.

Commissioner of Crown lands to manage sales, subject to orders in Council;

XI. *And be it further enacted by the authority aforesaid,* That the management of such public sales, and the time and place of holding the same, shall be under the control and direction of the Commissioner of Crown Lands, subject to any general or special order in Council that shall from time to time be made to regulate the same; and the proceeds of such sales, as also of sales by private contract, shall be received by the Commissioner of Crown Lands, and be duly accounted for, and paid over by him to the Receiver-General of the Province.

Proceeds of sales to be paid to Receiver-General

Governor may direct reservations of lands adjoining to those intended for immediate sale;

XII. And for the purpose of encouraging actual settlement on the lands purchased from the Crown under the provisions of this Act: *Be it further enacted by the authority aforesaid,* That it shall be lawful for the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, to order and direct reservations to be made of such portions of land adjoining or adjacent to lands intended for immediate sale, as the Governor, Lieutenant-Governor, or the Person Administering the Government of this Province, by and with the advice and consent of the Executive Council, shall deem requisite and advisable to order and direct; and the land so reserved shall, upon application, be granted free of expense to the purchaser or purchasers of the adjoining or adjacent lot so sold: *Provided* the quantity in no case shall exceed fifty acres, upon its appearing, upon inspection and other sufficient proof, that such purchaser

Purchasers may receive a free grant of lands reserved;

Not to exceed fifty acres; On condition of five years actual residence;

or purchasers, his, her or their assignee or assignees, shall have been bona fide settled and resident upon the land so purchased for the space of five years, and shall have made such improvements thereon as shall be required by any order in Council respecting the same: *Provided always*, that such reservation shall not in any case exceed in quantity the lot or parcel of purchased land, in respect of which such reserved land shall have been made; and also, that the whole of such residence shall have been within ten years from the time of such original purchase.

And making improvements;

Reservation so granted not to exceed the quantity purchased;

Whole residence to be within ten years from the time of the purchase.

XIII. *And be it further enacted by the authority aforesaid*, That it shall be lawful for the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, by and with the consent of the Executive Council, to nominate and appoint fit and proper persons in each District in the Province to be resident Agents of the Commissioner of Crown Lands, for the sale of public lands in the manner hereinafter provided; and also to appoint the time and place in each District where such Agents shall keep their offices.

Governor in Council to appoint an agent in each District for the sale of public lands.

XIV. *And be it further enacted by the authority aforesaid*, That it shall be the duty of such resident Agents, and they are hereby authorised and empowered, under the direction of the Commissioner of Crown Lands, to make sales, as well by auction as also by private contract, of the public lands within their respective Divisions, at such upset prices as shall have been, under the provisions of this Act, duly fixed and ascertained.

Duty of such resident agents.

XV. *And be it further enacted by the authority aforesaid*, That every such District Agent shall be furnished by the Commissioner of Crown Lands with correct lists and maps of the lands for sale, from time to time, in his division, and with such other means as may be necessary to enable him to give full and requisite information to purchasers; and the Division allotted to each District Agent shall be assigned and limited by the Commissioner of Crown Lands; and such District Agent shall not have any power to act out of such Division, and shall keep regular accounts of sales, and make the same distinctly to appear on his plan or map.

District agents to be furnished with lists and maps of lands for sale in his Division;

Divisions to be assigned;

No agent to act out of his Division.

XVI. *And be it further enacted by the authority aforesaid*, That no sale of public lands, by auction or otherwise, shall be effected out of the District and Division in which such lands are situate, unless under a special order in Council.

No sale by auction but in the District where the lands lie.

XVII. *And be it further enacted by the authority aforesaid*, That the purchase money upon the sale of any such public lands, shall in the first instance be paid to the resident District Agent, who shall transmit the same to the Commissioner of Crown Lands, whenever the same shall amount to the sum of twenty-five pounds, deducting therefrom his per centage as hereinafter provided; and in default of such remittance, shall be liable to be charged penalty thereon, at the rate of fifteen per cent for the time he shall retain the same in his hands after the amount shall be

Purchase money to be paid to resident agent;

And transmitted to Commissioner of Crown Lands;

Fifteen per cent penalty for not transmitting;

Receipts to be given to purchaser,

Particulars of receipt;

Purchaser may take immediate possession, and may maintain ejectments, &c.

come remittable, as aforesaid; and upon the receipt of any such purchase monies by the District Agent, such District Agent shall give the purchaser or purchasers a receipt for the same, specifying therein the number of the lot, or quantity of land purchased, and otherwise sufficiently describing the same, which receipt shall bear date the day on which it was actually signed; and the receipts so given shall authorise the purchaser to take immediate possession of the lot so sold, and to maintain actions of ejectment or for trespass against any wrongful possessor or trespasser thereon, in his own name, as fully and effectually as if the patent deed had been issued to such purchaser.

Purchasers entitled to receive patent when purchase money paid up, free;

Patent to be transmitted to the resident agent within thirty days after purchase money shall have been paid;

District agent to deliver patent without charge.

XVIII. *And be it further enacted by the authority aforesaid,* That so soon as the purchase money of any particular lot or quantity of land shall have been paid up in the manner aforesaid, the purchaser or purchasers thereof shall thereupon become entitled to have and receive a free grant of the same, by His Majesty's Letters Patent, under the Great Seal of the Province, granting the same to such purchaser or purchasers, his, her or their heirs and assigns, in free and common soccage, and subject only to such reservations as are now usually reserved in Letters Patent of the same description; and such Letters Patent shall be transmitted by the Commissioner of Crown Lands to the District Agent of the Division in which the lands are situate, within the space of thirty days after the whole of the purchase money shall have been paid, and duly notified to the Commissioner of Crown Lands, unless by any unforeseen event or unavoidable necessity the same cannot be transmitted; and it shall be the duty of the District Agent, upon the receipt of such Letters Patent, to deliver the same to the owner or owners, upon demand, without charge.

District agent to have a list of lands open for location in his District;

District agent to receive and transmit applications for location;

And to receive and distribute, free of expense, location tickets, &c.

XIX. *And be it further enacted by the authority aforesaid,* That it shall also be the duty of the Commissioner of Crown Lands to furnish every District Agent with a correct list of all lands which shall be from time to time open for location within his Division, to any claimant or claimants entitled to free grants; and it shall be the duty of such District Agent to afford the requisite information to any such claimant or claimants, and also to receive and transmit to the office of the Commissioner of Crown Lands, any petition or application for location, to be laid before the Executive Government; and such District Agent shall also receive and distribute to the parties concerned, the necessary location tickets, orders in Council, Letters Patent, and other documents relative to grants of land, free of expense.

Governor, with advice of Executive Council, may direct the expenditure of £1000 in any Township;

In the erection of a grist-mill and saw-mill;

XX. *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 Province, by and with the advice and consent of the Executive Council, to authorise and direct the expenditure by the Commissioner of Crown Lands, of any sum not exceeding one thousand pounds, in each Township in which the same shall be considered necessary and advisable, in the erection of one grist-mill, and one

saw-mill, or either of them, at such place in the Township as shall be deemed most advisable and beneficial; and the money expended in the building of the same shall be paid by the Commissioner of Crown Lands, out of the proceeds of the sales of Crown Lands in his hands, and shall be allowed in the accounts of the said Commissioner; and such saw-mill and grist-mill, or either of them, shall afterwards be disposed of and sold, at such time, and upon such terms and conditions, as the Governor, Lieutenant-Governor, or Person Administering the Government, for the time being, shall by and with the advice and consent of the Executive Council authorise and approve; and the proceeds of any such sale shall be paid to the Commissioner of Crown Lands direct, and be accounted for by him in the same manner as the proceeds of sales of Crown Lands.

Money to be paid by Commissioner of Crown Lands;

Grist and saw-mill to be afterwards sold;

Proceeds to be paid to the Commissioner of Crown Lands.

XXI. *And be it further enacted by the authority aforesaid,* That the Commissioner for the sale of Crown Lands, for the time being, as also every District Agent, shall, before entering upon the duties of their respective offices, give good and sufficient security, to the satisfaction of the Executive Government, for the faithful discharge of their respective duties, and for the due payment of all public monies that shall come into their hands, respectively, that is to say—For the payment of such monies that shall come into the hands of the District Agent to the Commissioner for the sale of Crown Lands, and for the payment of such monies that shall be received by such Commissioner of Crown Lands, or the balance remaining unexpended in his hands, to the Receiver General of the Province.

Commissioner of Crown Lands and District agents to give security for discharge of their duties, and for the due payment of public monies.

XXII. *And be it further enacted by the authority aforesaid,* That each of the District Agents shall receive such a per centage on the sale of lands made by them, under the authority of this Act, as the Governor, Lieutenant-Governor, or Person Administering the Government of this Province, for the time being, with the advice of the Executive Council, shall think reasonable for the service so performed.

District agent to receive a per centage.

XXIII. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Commissioner for the sale of Crown Lands, to render his account in writing to the Receiver General every three months, of all public monies in hand, or received or paid by him, in which account shall be included the amount paid to District Agents for their services, and for the inspection and sale of lands, and locating lands; and the said Commissioner shall pay over to the Receiver General the balance of all public monies remaining in his hands at the time of rendering such half-yearly account, after retaining thereout a sufficient amount to meet contingent expenses of the Crown Land Department, not exceeding the sum of five hundred pounds.

Commissioner of Crown Lands to render an account in writing every three months, to the Receiver-General;

And pay over the balance of all public monies, retaining £500 to meet contingent expenses.

XXIV. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the said Commissioner of Crown Lands, once in every year, within ten days after the meeting of any Session of the Le-

Commissioner of Crown Lands to make an annual statement of sales, &c. of public lands.

gislature, to transmit to the Governor, Lieutenant-Governor, or Person Administering the Government of the Province, a true copy or copies of the accounts or lists of all sales and expenditure respecting the public lands of the Province under his control or management, and of all monies in hand; such accounts being brought up to within thirty days of the delivery of the same, in order that such accounts may be laid before Parliament.

List of District agents, and of lands for sale and location, to be published in the U. C. Gazette.

XXV. And be it further enacted by the authority aforesaid, That it shall also be the duty of the said Commissioner of Crown Lands to cause a correct list and description of the names and residences of the District Agents throughout the Districts, as also a list of all lands intended to be offered for sale and location, with the upset prices and conditions of sale, to be published in the Upper Canada Gazette, and in one newspaper of the District in which the lands are situate.

Governor, with advice of Executive Council, may direct Commissioner of Crown Lands to make private sales, under particular circumstances.

XXVI. And be it further enacted by the authority aforesaid, That it shall be lawful for the Governor, Lieutenant-Governor, or other Person Administering the Government of the Province, by and with the advice and consent of the Executive Council, to authorise and direct the Commissioner of Crown Lands, from time to time, to make private sales, at a fair valuation, to any lessee or occupant of Crown Lands, or to other individuals, who, from the peculiar situation of the property applied for, may be liable to injury by the disposal thereof to any other person or persons than such lessees or occupants, or other individuals interested, as aforesaid.

False swearing under this Act perjury.

XXVII. And be it further enacted by the authority aforesaid, That if any person shall make oath or affirmation, under the provisions of this Act, and such oath or affirmation shall be wilfully false, he shall be deemed guilty of wilful and corrupt perjury, and on conviction thereof, shall suffer as in other cases of wilful and corrupt perjury.

Act to continue in force two years.

XXVIII. And be it further enacted by the authority aforesaid, That this Act shall continue in force for two years, and from thence to the end of the then next Session of the Provincial Parliament, and no longer.

STATUTES OF UPPER CANADA,

PASSED IN THE

SECOND SESSION OF THE THIRTEENTH PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT TORONTO, ON THE NINETEENTH DAY OF JUNE, 1837, IN THE SEVENTH YEAR OF
THE REIGN OF WILLIAM THE FOURTH, AND PROROGUED ON THE ELEVENTH DAY OF
JULY FOLLOWING, IN THE FIRST YEAR OF THE REIGN OF VICTORIA.

SIR FRANCIS BOND HEAD, K. C. H.
LIEUTENANT GOVERNOR.

ANNO DOMINI 1837.

CHAP. I.

*AN ACT to afford relief to certain Banking Institutions heretofore carrying on
business in this Province, by enabling them more conveniently to settle their
affairs, and for protecting the interests of persons holding their Notes.*

[Passed 11th July, 1837.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. II.

*AN ACT to authorise the Chartered Banks in this Province, to suspend the re-
demption of their Notes in Specie, under certain regulations, for a limited time,
and for other purposes therein mentioned.*

[Passed 11th July, 1837.]

[EXPIRED]

CHAP. III.

AN ACT to continue the Expiring Laws to the end of the next Session of Parliament.

[Passed 11th July, 1837.]

[EXPIRED]

CHAP. IV.

*AN ACT to facilitate the negotiation of loans of money required for the completion
of the Macadamized Roads, and for other purposes therein mentioned.*

[Passed 11th July, 1837.]

[See Local and Private Acts, in 2nd Volume.]

STATUTES OF UPPER CANADA,

PASSED IN THE

THIRD SESSION OF THE THIRTEENTH PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT TORONTO, ON THE TWENTY-EIGHTH DAY OF DECEMBER, IN THE FIRST YEAR OF
THE REIGN OF OUR SOVEREIGN LADY VICTORIA, AND PROROGUED ON THE
SIXTH DAY OF MARCH FOLLOWING.

SIR FRANCIS BOND HEAD, BART., K. C. H.
LIEUTENANT GOVERNOR.

ANNO DOMINI 1838.

CHAP. I.

*AN ACT to authorise the apprehending and detention of persons suspected of High
Treason, Misprision of Treason, and Treasonable Practices.*

[Passed 12th January, 1838.]

[EXPIRED.]

Preamble; Persons in prison at or after passing this Act, under warrant of the Governor in Council, upon charge of high treason, suspicion of high treason, or treasonable practices, may be detained without bail, and not to be tried without an order from Governor in Council. 2. After Act expires, persons committed to have advantage of laws relating to liberty of subject. 3. Not to interfere with rights and privileges of Members of the Legislature; During sitting of Legislature charges against Members to be communicated to the House to which accused belongs, and assent to his commitment to be obtained. 4. Accused persons to be confined by order of Governor in Council, in any Gaol of the Province; Right to be tried in place where offence committed, or to be bailed, not taken away.— 5. Restrictions relative to the granting the writ of habeas corpus. 6. Limitation of Act.

CHAP. II.

*AN ACT to provide for the more effectual and impartial trial of persons charged
with Treason and Treasonable Practices, committed in this Province.*

[Passed 12th January, 1838.]

[EXPIRED.]

Preamble; Trials for high treason, misprision of high treason, and treasonable practices, may be tried in Court of King's Bench where that Court shall sit, or before Justices of Gaol Delivery, in such District as shall be assigned by the Governor. 2. Jury to be summoned from District where Court of King's Bench sits, or where Commission of Gaol Delivery shall be executed. 3. Chief Justice, and Judges of King's Bench, to be assigned in Commission of Gaol Delivery, and one to be of the quorum. 4. Corruption of blood, &c. to follow attainder of persons convicted of high treason in any District appointed for trial. 5. Limitation of Act.

CHAP. III.

AN ACT to protect the Inhabitants of this Province against Lawless Aggressions from Subjects of Foreign Countries, at peace with Her Majesty.

[Passed 12th January, 1838.]

[REPEALED BY 3 VIC. CHAP. 12.]

CHAP. IV.

AN ACT to continue the Expiring Laws.

[Passed 12th January, 1838.]

[TEMPORARY.]

CHAP. V.

AN ACT to regulate the future erection of Gaols in this Province.

[Passed 12th January, 1838.]

WHEREAS it is expedient that measures should be taken for ascertaining and determining upon the plan of a Gaol, which will be best adapted to insure the health and comfort, as well as the safe custody of the prisoners to be confined therein, in order that by the adoption of such plan in the first instance, the expense of future alterations may be avoided, and much unnecessary suffering prevented: *Be it therefore enacted* by the Queen'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 Lieutenant Governor of this Province, after the passing of this Act, to appoint three Commissioners, who together with the Chief Justice of this Province, the Vice-Chancellor, the Judges of Her Majesty's Court of King's Bench, and the Sheriffs of the several Districts in this Province, shall compose a Board of Commissioners for the purposes of this Act.

Preamble.

(See Chap. 40, of this Session;

See also 32 Geo. III. Chap. 8.)

Governor to appoint three Commissioners, who, with Chief Justice, Vice Chancellor, Judges of King's Bench, and Sheriffs of Districts, to compose a Board for purposes of Act.

Future Gaols to be built according to a plan to be approved by Commissioners, and unless approved, not to be the Gaol of District.

II. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, every Gaol that shall be erected in this Province, shall be made and built according to a plan which shall be approved of by such Commissioners, or a majority of them; and no Gaol that shall be built in any District otherwise than according to a plan prescribed by them, or that shall not after its completion receive their sanction and approbation, shall be deemed to be in law the Gaol of such District.

Manner of disposing of existing contracts for erection of Gaols, &c. and making compensation to contractors.

III. *And be it further enacted by the authority aforesaid,* That if a contract shall before the passing of this Act have been entered into, for the erection of any Gaol in this Province, which contract shall only have been partly carried into effect, or shall not have been to any extent proceeded in, the Justices or other persons superintending or directing the erection of such building, or any who shall have entered into the contract for the same, shall immediately, on having notice of this Act, suspend all proceeding under such contract, and shall forthwith submit their contract, with the plans and specifications, to the consideration of the Board of Commissioners; and the Board shall determine as soon as may be practicable, whether it may be expedient to proceed upon such contract or to abandon the same, or to erect such Gaol wholly or in part upon a different plan; and that in case it shall be determined by the Commissioners not to proceed under the existing contract, then the amount of damages, if any, which the Contractor or Contractors may be justly entitled to receive on account of the abandonment of such contract, shall be ascertained by arbitration, and that the said Board of Commissioners shall appoint two persons, and the Contractor or Contractors two other persons, to be respectively Arbitrators in their behalf, which four persons shall choose a fifth, and the award of such five Arbitrators, or a majority of them, shall be final; *Provided always,* that the proceedings of such Arbitrators shall be governed by the same rules, and the Arbitrators shall have the same power as in ordinary cases of arbitration, and the award to be made by them shall be subject to be set aside by the Court of King's Bench, in like manner as awards made in other cases.

How sum awarded to contractor to be paid.

IV. *And be it further enacted by the authority aforesaid,* That the sum which may be awarded in any case shall be paid out of the funds of the District in which such Gaol was to have been built, by order of the Justices of the Peace for such District.

Manner in which Commissioners are to proceed, before deciding on plan of Gaol, &c. and considerations by which they are to be guided;

V. *And be it further enacted by the authority aforesaid,* That the Board of Commissioners appointed under the authority of this Act, before deciding in any case upon the plan of a Gaol most proper to be adopted, shall take into their consideration the nature and extent of the ground on which such Gaol is to be built; its relative situation to streets and buildings, and to any river or other water; its comparative elevation and capability of being drained; the materials of which it is to be composed; the necessity of guarding against cold and damp, and of providing properly for ventilation; the proper classification of prisoners, having respect to

Description of Prisons, &c.

their age, sex, and the cause of their confinement; the best means of ensuring their safe custody, without the necessity of resorting to severe treatment; the due accommodation of the Keeper of the Gaol, so that he may have ready access to the prisoners, and may conveniently oversee them; the exclusion of any intercourse with persons without the walls of the building; the prevention of unwholesome nuisances from whatever cause; the combining provision for the reformation of convicts, so far as may be practicable, and for their employment, in order that the common Gaols may really serve for places of correction according to the intention of the law; the admission of prisoners to air and exercise without the walls of the building, when that may be proper; and the enclosure of the yards and premises with a secure wall; and that regard shall also be had to the ability of the District to meet the expense of any proposed building, and to the expediency of adopting such a plan as may most conveniently and properly admit of the erection of additional cells and apartments, when the same may be required.

VI. *And be it further enacted by the authority aforesaid,* That the said Board of Commissioners shall, as soon as may be convenient, frame a set of rules and regulations for the government of common Gaols in this Province, extending to the maintenance of the prisoners in regard to diet, clothing, bedding and other necessaries; medical attendance; religious instruction; the conduct of the prisoners, and the restraint and punishment to which they may be subjected; and also to the treatment and custody of the prisoners generally, and to the whole internal economy and management of the Gaol, and all such matters connected therewith, as shall be thought by them expedient; which rules and regulations shall be transmitted to the Lieutenant Governor of this Province, to be laid before each House of the Legislature at their next Session, and shall not take effect until after the termination of such Session.

Commissioners to form rules for government of Common Gaols.

(See 33 Geo. III. Chap. 8, Sec. 16.)

VII. *And be it further enacted by the authority aforesaid,* That the first meeting of the Commissioners to be appointed under this Act, shall be holden on the first Monday in the month of May next, and that they shall at such meeting arrange certain regular days of meeting thereafter, and may meet at such other times as may be thought by them convenient, at the call of the Chairman of such Board, and that a majority of the members present at any such meeting shall be competent to transact business.

First meeting of Commissioners to be first Monday in May next.

VIII. *And be it further enacted by the authority aforesaid,* That a yearly report of the Commissioners shall be made to both branches of the Legislature.

Commissioners to make annual report to Legislature.

CHAP. VI.

AN ACT to repeal part of and amend an Act passed in the seventh year of His late Majesty's reign, intituled, "An Act to appoint the time and place for holding the Court of General Quarter Sessions of the Peace in each of the several Districts of this Province, and to repeal the several laws now in force for that purpose."

[Passed 12th January, 1838.]

Preamble.

(See 7 Wm. IV. Ch. 11.)

Previous Act, appointing time for holding Courts of Quarter Sessions, repealed so far as respects District of Niagara.

Time for holding Session in District of Niagara appointed.

Continuance of Act;

(See Act of Union, Sec. 43.)

WHEREAS from the disturbed state of the Province, more especially in the District of Niagara, it is expedient to alter the time of holding the Courts of General Quarter Sessions in that District: *Be it therefore enacted* by the Queen'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 first Session of the present Parliament, intituled, "An Act to appoint the time and place for holding the Court of General Quarter Sessions of the Peace in each of the several Districts of this Province, and to repeal the several laws now in force for that purpose," as relates to the District of Niagara, be and the same are hereby repealed.

II. *And be it further enacted by the authority aforesaid*, That the Courts of General Quarter Sessions of the Peace in the District of Niagara, shall be holden at the place and times following, viz: at the Town of Niagara, on the second Tuesday in March, June, September and December.

III. *And be it further enacted by the authority aforesaid*, That this Act shall be and continue in force for and during the term of two years, and from thence to the end of the then next ensuing Session of Parliament, and no longer.

CHAP. VII.

AN ACT to amend the law with respect to the liability of the legal Representatives of Joint Contractors, and of Defendants on Joint Judgments.

[Passed 12th January, 1838.]

Preamble.

(See 50 Geo. III. Secs. 2, Chap. 25, and 7 Wm. IV. Chap. 3, Sec. 6)

WHEREAS by the laws of this Province, if one or more of several defendants against whom a joint judgment shall have been entered, or

if one or more of several joint contractors, obligors or partners, shall die, the representative of such defendant, joint contractor, or obligor or partner, is not liable under such judgment, contract, obligation or promise; for the remedy whereof, *Be it therefore enacted* by the Queen'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 Québec, 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 one or more of any joint contractors, obligors or partners, shall die, it shall and may be lawful for the person interested in such contract, obligation or promise, entered into by such joint contractor, obligor or partner, to proceed by action against the representatives of such joint contractor, obligor or partner, in the same manner as if the said contract, obligation or promise, had been joint and several, notwithstanding there may be another person liable under such contract, obligation or promise, still living, and an action pending against such person.

Representatives of deceased Joint Contractor made liable, notwithstanding the other Joint Contractor be living.

II. *And be it further enacted by the authority aforesaid*, That if any one or more of the defendants in any action, against which a joint judgment may have been entered in any Court of Record in this Province, shall die, it shall and may be lawful for the plaintiff or plaintiffs, or the survivor or survivors of them, or the executor or administrator of such survivor, to proceed by writ of scire facias against the representatives of such defendant or defendants, respectively, so dying, notwithstanding there may be another defendant still living, and against whom the said judgment may be in force: *Provided always*, that nothing in this Act contained shall be construed to extend to authorise the collection of a greater sum than the debt or damages justly due, with interest and costs: *Provided always*, that the property and effects of stock holders in Chartered Banks, or the members of other Incorporated Companies, shall not be rendered liable to a greater extent than they would have been if this Act had not been passed.

Proceeding by writ of Scire Facias against Representative of deceased Joint Contractor authorised;

No greater sum to be collected than debt and damages justly due;

Limitation of liability of Stock-holders in Chartered Banks, or Incorporated Companies.

CHAP. VIII.

AN ACT to amend and reduce into one Act, the Militia Laws of this Province.

[Passed 6th March, 1838.]

[REPEALED BY 2 VIC. CHAP. 9.]

CHAP. IX.

AN ACT to provide for the more speedy attainder of persons indicted for High Treason, who have fled from this Province, or remain concealed therein, to escape from Justice.

[Passed 6th March, 1838.]

Preamble.

[See 55 Geo. III. Chap. 2.]

Proceedings to be had against persons indicted for High Treason, &c. against whom process shall have issued, and who may not be apprehended, and upon which the attainder of such persons shall be founded;

Proclamation to issue, calling on person indicted to surrender himself, and in default, to be adjudged attainted of the crime charged in indictment.

WHEREAS a wicked and unnatural Rebellion against Her Majesty hath been raised and carried on within this Province: *And whereas* divers persons who were concerned in such Rebellion have fled from this Province, or remain concealed therein in order to escape from Justice: *And whereas* it is expedient and necessary to provide for the speedy attainder of such persons in order to deter others from the like high crimes and offences: *Be it therefore enacted* by the Queen'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, in case any indictment shall be found by a Grand Jury, at and before any Court of competent jurisdiction in this Province, against any person or persons for High Treason, Misprision of Treason, or Treasonable Practices, and when the Sheriff shall make return to any warrant or capias that may issue thereupon, that such persons, or any of them, is or are not to be found in his District, it shall and may be lawful for the Governor of this Province, by and with the advice of the Executive Council, immediately upon the making of such return, to issue a Proclamation, to be published not less than six weeks in the Upper Canada Gazette, calling upon and requiring the person or persons against whom any such indictment or indictments shall have been found, to surrender himself or themselves to the custody of the Sheriff of the District within which the Court before whom such indictment or indictments were found was held, by a day to be within the said Proclamation named, such day not to be less than three calendar months, from the first publication of such Proclamation in the Gazette; and if such person or persons shall not, by the day in such Proclamation named, surrender themselves to the custody aforesaid, and submit to justice, then and in such case they, and every of them, after the day in such Proclamation named, shall stand and be adjudged attainted of the crime expressed and set forth in such indictment or indictments, and shall suffer and forfeit, as a person attainted of such crime by the laws of the land, ought to suffer and forfeit.

II. *And be it further enacted by the authority aforesaid,* That the Justices of all and every Court of Oyer and Terminer and General Gaol Delivery, at which any such indictment shall be found, as aforesaid, shall, upon the return of the Sheriff that the person or persons named in such indictment is not to be found within the District of such Sheriff, certify the said indictment, and the proceedings thereon, into the Court of King's Bench in this Province; and it shall be the duty of every such Sheriff, at the expiration of the term limited in such Proclamation, to make a return to the said Court of King's Bench, of the names of all and every such person or persons, who being named in any such Proclamation, as aforesaid, shall not have surrendered themselves to the custody of the said Sheriff, pursuant to the exigency of such Proclamation; and the said Court of King's Bench shall, during the Term in or before which such last-mentioned return shall be made, direct Judgment of Attainder against all and every such person or persons to be entered on record.

Justices of Oyer and Terminer to certify indictment and return of Sheriff, that party has not been arrested, into the Court of King's Bench.

III. *Provided always, and be it further enacted by the authority aforesaid,* That if any person against whom any such Judgment of Attainder shall have been entered, shall within three calendar months next after the day of entry of such Judgment, surrender himself to the custody of the Sheriff of the Home District, and by the oath of two credible witnesses shall establish, to the satisfaction of the Court of King's Bench, that such person was actually and bonâ fide prevented from surrendering himself, pursuant to the exigency of such Proclamation, by reason of absence beyond seas, sickness, or other inevitable necessity, then and in such case, it shall and may be lawful for the said Court of King's Bench to reverse the said Judgment of Attainder, and to transmit the indictment or indictments to any Court of Oyer and Terminer, to be held in and for the District wherein such indictment or indictments was or were found; and such person, so surrendering, shall be tried for the offence charged in such indictment in like manner as if no such Judgment of Attainder had been entered.

Persons against whom judgment of attainder shall have been entered, may surrender himself within three months, and upon proof that such person was prevented from surrendering himself, the Court of King's Bench may reverse the attainder, and admit party to be tried, &c.

CHAP. X.

AN ACT to enable the Government of this Province to extend a conditional Pardon, in certain cases, to persons who have been concerned in the late Insurrection.

[Passed 6th March, 1838.]

WHEREAS there is reason to believe that among the persons concerned in the late treasonable insurrection in this Province, there were some to whom the lenity of the Government may not improperly be extended, on account of the artifices used by desperate and unprincipled

Preamble:

persons to seduce them from their allegiance: *Be it therefore enacted* by the Queen'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 upon the petition of any person charged with High Treason committed in this Province, preferred to the Lieutenant Governor before the arraignment of such person, and praying to be pardoned for his offence, it shall and may be lawful for the Lieutenant Governor of this Province, by and with the advice and consent of the Executive Council thereof, to grant, if it shall seem fit, a pardon to such person in Her Majesty's name, upon such terms and conditions as may appear proper; which pardon being granted under the Great Seal of this Province, and reciting in substance the prayer of such petition, shall have the same effect as an attainder of the person therein named for the crime of High Treason, so far as regards the forfeiture of his estate and property, real and personal: *Provided always*, that in case a pardon shall not be granted upon any such petition, no evidence shall be given of any admission or statement therein contained, upon any trial to be afterwards had.

Persons charged with High Treason, petitioning before arraignment to be pardoned, may receive a pardon if Governor and Council see fit, on such conditions as may be prescribed;

Pardon granted under Great Seal, reciting petition, to have same effect as attainder of High Treason, so far as regards forfeiture of estate, real and personal.

Persons pardoned on condition of transportation or banishment, returning without lawful excuse, to suffer death.

This Act not to extend to persons who have fled, &c.

II. *And be it further enacted by the authority aforesaid*, That in case any person shall be pardoned under this Act, upon condition of being transported, or of banishing himself from this Province, either for life or for any term of years, such person, if he shall afterwards voluntarily return to this Province, without lawful excuse, contrary to the condition of his pardon, shall be deemed guilty of felony, and shall suffer death as in cases of felony.

III. *And be it further enacted by the authority aforesaid*, That the provisions of this Act shall not extend, or be construed to extend to such persons as have fled, and are still absent from this Province under a charge of High Treason, and for whose apprehension a reward has been offered.

CHAP. XI.

ACT ACT to prevent the unlawful training of persons to the use of Arms, and to practice Military evolutions and exercises; and to authorise Justices of the Peace to seize and detain Arms collected or kept for purposes dangerous to the public peace.

[Passed 6th March, 1838.]

Preamble.

WHEREAS in some parts of this Province, men clandestinely and unlawfully assembled have practised military training and exercising in

arms, to the great terror and alarm of Her Majesty's loyal subjects, and the imminent danger of the public peace: *Be it therefore enacted* by the Queen'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 meetings and assemblies of persons for the purpose of training or drilling themselves, or of being trained and drilled to the use of arms, or for the purpose of practising military exercises, movements or evolutions, without any lawful authority for so doing, shall be and the same are hereby prohibited, as dangerous to the peace and security of Her Majesty's liege subjects, and of this Province; and every person who shall be present or attend any such meeting or assembling, for the purpose of training and drilling any other person or persons to the use of arms, or to the practice of military exercise, movement or evolution, or who shall train or drill any other person or persons to the use of arms, or to the practice of military exercise, movement or evolution, or who shall aid or assist therein, being legally convicted thereof, shall be liable to be confined in the public Penitentiary of this Province, for any term not exceeding two years, or to be punished by fine and imprisonment in any of the common Gaols in this Province, for a period not exceeding two years, at the discretion of the Court in which such conviction shall be had; and every person who shall attend or be present at any such meeting or assembly, for the purpose of being, or who shall at any such meeting or assembly be trained or drilled to the use of arms, or the practice of military exercise, movements or evolutions, being legally convicted thereof, shall be liable to be punished by fine, and imprisonment not exceeding two years, at the discretion of the Court in which such conviction shall be had.

Meetings of persons for the purpose of being drilled to the use of arms, prohibited;

Punishment of persons engaged in drilling &c.

Punishment of persons present at such drilling, &c.

II. *And be it further enacted by the authority aforesaid*, That it shall be lawful for any Justice of the Peace, or for any Constable or Peace Officer, or for any person acting in their aid or assistance, to disperse any such unlawful meeting or assembly, as aforesaid, and to arrest and detain any person present at, or aiding, assisting or abetting, any such assembly or meeting, as aforesaid; and it shall be lawful for the Justice of the Peace who shall arrest any such person, or before whom any person so arrested shall be brought, to commit such person for trial for such offence under the provisions of this Act, unless such person can and shall give bail for his appearance at the next Assizes, to answer to any indictment which may be preferred against him, for any such offence against this Act.

Justices, &c. authorised to disperse unlawful meetings of persons, and Justices empowered to commit offenders.

Act not to prevent prosecution by indictment, &c.

Justices of the peace authorised to seize and detain arms, &c. upon complaint on oath, that such arms are in the possession of any one, for purposes dangerous to the public peace:

Justices being refused admittance into houses to search for arms, may enter by force, and may detain arms kept for purposes dangerous to the public peace.

Party from whom arms are taken, may apply to General Quarter Sessions for an order for restoration.

Justices of the Peace may seize and authorise the seizure of arms, under particular circumstances; And unless bail be given by persons carrying arms under suspicious circumstances, Justices may commit him for trial.

Concurrent jurisdiction given to Justices of different Districts, in carrying this Act into effect.

Action against Justices, &c. for any thing done under this Act, to be commenced within six months;

Other protection to Justices, &c.

Governor may declare by Proclamation, that this Act is no longer in force in any particular District, and again to declare the same in force.

III. *Provided always, and be it further enacted by the authority aforesaid,* That nothing in this Act contained shall extend to prevent any prosecution, by indictment or otherwise, for any thing that shall be an offence within the intent and meaning of this Act, and which might have been so prosecuted if this Act had not been made, unless the offender shall have been prosecuted for such offence under this Act, and convicted or acquitted of such offence.

IV.)

V.)

VI.)

[Expired.—Sec post Sec. 11.]

VII. *And be it further enacted by the authority aforesaid,* That all Justices of the Peace in and for any District in this Province, shall have concurrent jurisdiction as Justices of the Peace, with the Justices of any other District, in all cases as to the carrying into execution the provisions of this Act, and as to all matters and things relating to the preservation of the public peace, as fully and effectually as if each of such Justices was in the Commission of the Peace for each of such Districts.

VIII. *And be it further enacted by the authority aforesaid,* That any action or suit which shall be brought or commenced against any Justice or Justices of the Peace, Constable, Peace Officer, or other person or persons, for any thing done or acted in pursuance of this Act, shall be commenced within six calendar months next after the fact committed, and not afterwards; and that the venue in every such action or suit shall be laid in the proper District where the fact was committed, and not elsewhere; and the defendant or defendants in every such action or suit, may plead the general issue, and give this Act and the special matter in evidence in any trial to be had thereupon; and if such action shall be brought or commenced after the time limited for bringing the same, or the venue shall be laid in any other place than as aforesaid, then the jury shall find a verdict for the defendant or defendants; and in such case, or if the plaintiff or plaintiffs shall become non-suit, or discontinue his, her or their action, after appearance, or if the jury find a verdict for the defendant or defendants upon the merits, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have double costs, which he or they shall and may recover in such and the same manner as any defendant can by law in other cases.

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, by and with the advice

of the Executive Council, by Proclamation, to declare that this Act shall be no longer in force in any particular District therein specified; and from and after the period specified in any such Proclamation, the powers of this Act shall no longer be in force in such District; *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, upon such advice, as aforesaid, declaring by Proclamation, any such District to be again within the powers of this Act.

X. *Provided always, and be it further enacted by the authority aforesaid*, That no person shall be prosecuted for any offence done or committed contrary to the provisions of this Act, unless such prosecution be commenced within six calendar months after the offence committed. All prosecutions for offences committed against this Act, to be commenced in six months.

XI. *And be it further enacted by the authority aforesaid*, That the fourth, fifth and sixth Clauses of this Act, shall continue in force during the present Parliament, and to the end of the first Session of the next Parliament, and no longer. 4th, 5th and 6th clauses, to continue in force to the end of the first Session of next Parliament.

XII. *Provided also, and be it further enacted by the authority aforesaid*, That this Act may be repealed in the whole or any part thereof, or in any manner altered and amended during the present Session of Parliament. Act may be altered or amended during present Session.

CHAP. XII.

AN ACT for indemnifying persons who since the second of December, one thousand eight hundred and thirty-seven, have acted in apprehending, imprisoning, or detaining in custody, persons suspected of High Treason, or Treasonable Practices, and in the suppression of unlawful assemblies, and for other purposes therein mentioned.

[Passed 6th March, 1838.]

WHEREAS a late armed insurrection of certain subjects of Her Majesty, in this Province, with intent to subvert the Government, and to plunder and destroy the property of the loyal inhabitants, has been happily subdued, but not until the insurgents had committed acts of murder, robbery and arson, and had occasioned much alarm for the peace and security of the Province: *And whereas* immediately before and during the said insurrection, and in consequence thereof, it became necessary for Justices of the Peace, Officers of the Militia, and others, persons in authority in this Province, and for divers loyal subjects of Her Majesty, to take all possible measures for apprehending, securing, detaining, and bringing to justice, persons charged or suspected of joining in the said Preamble.

insurrection, or of aiding and abetting the same, or of other Treasonable Practices dangerous to the peace of this Province, and the security of its Government, and also for the purpose of defeating and putting down the said insurrection, and for maintaining the peace of this Province, and securing the lives and properties of the inhabitants thereof: *And whereas* some of such acts may not have been strictly legal and formal, but it is nevertheless just and necessary that the persons doing or advising the same should be kept harmless, and indemnified against actions at law, or other proceedings, with which they might otherwise be harrassed: *Be it therefore enacted* by the Queen'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 personal actions, suits, indictments and prosecutions, heretofore brought, commenced, preferred or exhibited, or now depending, or to be hereafter brought, commenced, preferred or exhibited, and all judgments thereupon obtained, if any such there be or shall be, and all proceedings whatsoever against any person or persons, for or on account of any act, matter or thing, by him or them done or commanded, ordered or directed, or advised to be done, since the second day of December, in the year of our Lord one thousand eight hundred and thirty-seven, for apprehending, committing, imprisoning, detaining in custody, or discharging any person or persons who hath or have been imprisoned or detained in custody for High Treason, or suspicion of High Treason, or Treasonable Practices, or for apprehending, committing, imprisoning or detaining in custody, any person or persons who hath or have been imprisoned or detained in custody, for having been so tumultuously, unlawfully and traitorously, assembled in arms, as aforesaid, or for dispersing by force of arms any persons so assembled, as aforesaid, or for suppressing the said traitorous insurrection, and discovering and guarding against any other the treasonable proceedings aforesaid, or for the discovering and bringing to Justice the persons concerned therein, or for maintaining the public peace and the security of Her Majesty's subjects in their persons and property, or for supporting the Government and Constitution of this Province against the treasonable practices and proceedings aforesaid, shall be discharged and made void; and that every person by whom any such act, matter or thing, shall have been done, or commanded, ordered, directed or advised to be done, shall be freed, acquitted, discharged and indemnified, as well against the Queen's Majesty, Her Heirs and Successors, as against all and every other person and persons.

All prosecutions heretofore brought, or hereafter to be brought, and all judgments & proceedings for or on account of any Act done since 2d December, 1837, in apprehending, imprisoning, &c. persons charged with High Treason, or for other Acts relating to recent insurrection, to be made void, and parties indemnified.

Parties sued, may plead general issue, and give Act in evidence;

II. *And be it further enacted by the authority aforesaid*, That if any action or suit shall be brought, commenced or had, in any superior Court

in this Province, against any person or persons for and on account of any such act, matter or thing, as aforesaid, he and they may plead the general issue, and give this Act and the special matter in evidence; and if the plaintiff or plaintiffs shall become non-suit, or forbear further prosecution, or suffer discontinuance in any such action or suit, or if a verdict shall pass against the plaintiff or plaintiffs therein, the defendant or defendants therein shall be entitled to double costs, for which he or they shall have the like remedy as in other cases in which costs by law are given to defendants.

And entitled to double costs, &c.

III. *And be it further enacted by the authority aforesaid,* That if any action, suit, indictment, information, prosecution or proceeding, shall be brought, commenced, preferred, exhibited or had, in any Court, against any person or persons, for or on account of any such act, matter or thing, as aforesaid, it shall be lawful for the defendant or defendants in any such action, suit, indictment, information, prosecution or proceeding, or for any of them, to apply by motion, petition or otherwise, in a summary way, to the Court in which the same hath been or shall be brought, commenced, preferred, exhibited or had, or shall be depending, if such Court shall be sitting, and if not sitting, then to any one of the Judges or Justices of such Court, to stay all further proceedings in such action, suit, indictment, information, prosecution or proceeding; and such Court, and any Judge or Justice thereof when the said Court shall not be sitting, is hereby authorised and required to examine the matter of such application, and upon proof by the oath or affidavit of the person or persons making such application, or any of them, or other proof to the satisfaction of such Court, Judge or Justice, that such action, suit, indictment, information, prosecution or proceeding, is brought, commenced, preferred, exhibited or had, for or on account of any such act, matter or thing, as aforesaid, to make an order for staying execution and all other proceedings in such action, suit, indictment, information, prosecution or proceeding, in whatever state the same shall or may then be; and the Court, or the Judge or Justice making such order for stay of proceedings in any action or suit, as aforesaid, shall also order unto the defendant or defendants, and he or they shall have or be entitled to double costs for all such proceedings as shall be had or carried on in any such action or suit after the passing of this Act, and for which costs he and they shall have the like remedy as in cases where costs are by law given to defendants: *Provided always,* that it shall be lawful for any person or persons being a party or parties to any such action, suit, indictment, information, prosecution or other proceeding, to apply by motion, petition or otherwise, in a summary way, to the Court in which the same shall have been brought, commenced, preferred, exhibited or had, or shall be depending, to vacate, discharge or set aside, any order made by any Judge or Justice of that Court for staying proceedings, or for payment of costs, as aforesaid, so as such application be made within the first four days of the Term next ensuing the making of any such order by any Judge or Justice, as aforesaid; and such Court is required to examine the matter of such application, and to make such

Persons prosecuted, may apply to Court in which prosecution commenced, to stay proceedings, or if Court be not sitting, then to any Judge or Justice of such Court;

And to order double costs to be paid defendant;

Prosecutor authorised to apply to Court to discharge order of Judge or Justice for stay of proceedings;—application for such order to be made within first four days of next Term of the Court to which application is made.

order therein, as if the application had been originally made to the said Court: *But nevertheless*, in the mean time, and until such application shall be made to the said Court, and unless the said Court shall think fit to vacate, discharge, set aside, or reverse the order made by any such Judge or Justice, as aforesaid, the same shall continue in full force to all intents and purposes whatsoever.

IV. *And be it further enacted by the authority aforesaid*, That all and every person or persons discharged out of custody, as aforesaid, although he shall not have been discharged according to law, shall be deemed and taken to have been legally discharged out of custody.

Persons committed upon charges, and heretofore discharged, to be deemed legally discharged.

CHAP. XIII.

AN ACT to authorise the appointment of Commissioners to investigate the claims of certain Inhabitants of this Province, for losses sustained during the late unnatural Rebellion.

[Passed 6th March, 1838.]

WHEREAS during the late unnatural Rebellion, certain inhabitants of this Province sustained much loss and damage, by the destruction of their dwellings and other buildings by the Rebels: *And whereas* it is expedient that a diligent and impartial inquiry should be made into the amount of such losses: *Be it therefore enacted* by the Queen'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 Lieutenant Governor of this Province, from time to time, by Commission under the Great Seal of said Province, to appoint three persons as Commissioners, whose duty it shall be to inquire into the losses so sustained by Her Majesty's subjects, during the late unnatural Rebellion.

Preamble.

[See 2 Vic. Ch. 62;
And Statutes of Canada,
4 & 5 Vic. Ch. 39.]

Three Commissioners to be appointed.

Commissioners, before entering on their office, to take an oath, &c.

II. *And be it further enacted by the authority aforesaid*, That the said Commissioners, before they enter upon the execution of their office, shall take an oath before any one of Her Majesty's Justices of the Peace, which he is hereby authorised to administer, to the following effect: "I, A. B. do swear, that according to the best of my skill and knowledge I will faithfully, impartially and truly, execute the duty of Commissioner for

ascertaining the losses sustained by certain inhabitants of this Province during the late unnatural Rebellion. So help me God.”

III. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the said Commissioners, and they are hereby authorised and empowered and required, to examine upon oath all persons whom the said Commissioners shall think fit to examine, and touching all such matters and things as shall be necessary for the execution of the powers vested in the said Commissioners by this Act; and all such persons are hereby directed and required personally to attend the said Commissioners, at such time and place as they shall appoint.

Authority given Commissioners to examine persons on oath, &c.

IV. *And be it further enacted by the authority aforesaid,* That the said Commissioners are hereby authorised to meet and sit from time to time at such place or places as the Lieutenant Governor or Person Administering the Government of the Province may direct, with or without adjournment, and to send their precept or precepts, under their hands and seals, for any person or persons whatsoever, and for such books, papers, writings or records, as they judge necessary for their information, or the execution of the powers vested in the said Commissioners by this Act; and the said Commissioners are hereby authorised to appoint and employ a Clerk and Messenger.

Commissioners to hold their meetings from time to time, and to summon persons to appear before them, and examine books, &c.

V. *And be it further enacted by the authority aforesaid,* That in case any person or persons, upon examination upon oath before the said Commissioners, respectively, as before mentioned, shall wilfully and corruptly give false evidence, every such person so offending, and being duly convicted thereof, shall be and is and are hereby declared to be subject and liable to such pains and penalties, as by any law now in being persons convicted of wilful and corrupt perjury are subject and liable.

Punishment for false swearing before Commissioners.

VI. *And be it further enacted by the authority aforesaid,* That the said Commissioners shall, from time to time, at their discretion, or as often as they shall be thereunto required, and as soon as possible after the determination of their examination and proceedings by virtue of this Act, and without any further requisition, furnish an account of their proceedings in writing to the Lieutenant Governor, and that a copy of such proceedings may be laid before the Legislature of this Province at the then next ensuing Session of Parliament.

Commissioners to furnish account of their proceedings to Governor, to be laid before Legislature.

VII. *And be it further enacted by the authority aforesaid,* That the Clerk to the said Commissioners is hereby required faithfully to execute and perform the trust in him reposed, without taking any thing for such his service, other than such salary or reward as the said Commissioners shall think fit to direct and appoint in that behalf.

Clerk employed by Commissioners to receive no other pay than the salary ordered by Commissioners.

CHAP. XIV.

AN ACT to amend an Act, intituled, "An Act to establish a Court of Chancery in this Province."

[Passed 6th March, 1838.]

Preamble.

[See 7 Wm. IV. Ch. 2;
3 Vic. Ch. 1.]

Vice Chancellor and
Judges of Court of King's
Bench, to settle fees to be
taken.

WHEREAS by an Act passed in the seventh year of the reign of His late Majesty, intituled, "An Act to establish a Court of Chancery in this Province," it is provided, that certain fees may be charged for services rendered in the said Court: *And whereas* it has been ascertained that the fees, according to the table in the said Act mentioned, have in some cases been found to be excessive: *And whereas* the said table of fees is in many instances defective: *Be it therefore enacted* by the Queen'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 Trinity Term next, it shall and may be lawful to and for the Vice-Chancellor, and the Judges of Her Majesty's Court of King's Bench, and they are hereby required, by order or rule, or orders or rules, to be made during the said Term of Trinity, or during any subsequent Term or Terms, from time to time, to ascertain, determine, declare and adjudge, all and singular, the fees which shall and may be taken, or be allowed to be taken, by any Registrar of the said Court of Chancery, Council, Solicitor or other Officer of the said Court, for or in respect of any business, after the first day of July next, to be done or transacted in the said Court of Chancery, in all matters and things, causes and proceedings, which hereafter shall or may be depending in the said Court, any former law to the contrary notwithstanding.

Fees in no instance to
exceed fees mentioned
in schedule to former Act.

II. *And be it further enacted by the authority aforesaid,* That in no case shall the item of fees exceed any of the items of fees mentioned in the Schedule annexed to the Act intituled, "An Act to establish a Court of Chancery in this Province."

Vice Chancellor may
authorise Judges of
District Courts to admin-
ister oath of office to
Masters Extraordinary.

III. *And be it further enacted by the authority aforesaid,* That when it may not be convenient to a person appointed a Master Extraordinary, to attend at Toronto, to take the oath of office, it shall and may be lawful for the Vice-Chancellor to direct such oath to be taken before the District Judge of the District wherein such Master Extraordinary may reside, the same to be returned and filed in the Office of the Registrar.

C H A P. X V.

AN ACT to amend so much of an Act passed in the seventh year of His late Majesty's reign, intituled, "An Act to increase the present number of the Judges of His Majesty's Court of King's Bench in this Province, to alter the Terms for the sitting of the said Court, and for other purposes therein mentioned," as relates to Hilary Term.

[Passed 6th March, 1838.]

WHEREAS it is expedient to repeal so much of an Act passed in the seventh year of His late Majesty's reign, intituled; "An Act to increase the present number of the Judges of His Majesty's Court of King's Bench in this Province, to alter the Terms for the sitting of the said Court, and for other purposes therein mentioned," as relates to the sitting of Hilary Term: *Be it therefore enacted* by the Queen'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 seventh clause of the said recited Act, passed in the seventh year of His late Majesty's reign, be and the same is hereby repealed.

Preamble.

[7 Wm. IV. Chap. 1.]

Seventh clause of Act repealed.

II. *And be it further enacted by the authority aforesaid*, That from and after the passing of this Act, the times of sitting of the said Court of King's Bench, shall be as follows, that is to say: Trinity Term shall begin on the second Monday in June, and end on the Saturday of the following week: Michaelmas Term shall begin on the first Monday in August, and end on the Saturday of the following week: Hilary Term shall begin on the first Monday in November, and end on Saturday of the ensuing week: and Easter Term shall begin on the first Monday in February, and end on Saturday of the following week.

Times at which the several terms shall hereafter commence and end.

C H A P. X V I.

AN ACT to regulate the costs of levying Distresses for small Rents and Penalties.

[Passed 6th March, 1838.]

WHEREAS divers persons acting as Brokers, Constables or Bailiffs, and distraining on the goods and chattels of others, or employed in the course of such distresses, are not limited by law in the amount of their

Preamble.

fees: *And whereas* it is proper to prevent unreasonable fees being levied on poor tenants and others: *Be it enacted* by the Queen'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 whatsoever making any distress, either for rent or for any penalty imposed by the laws of this Province, when the sum demanded and due shall not exceed the sum of twenty pounds, for and in respect of such rent or penalty, nor any person whatsoever employed in any manner in making such distress, or doing any act whatsoever in the course of such distress, or for carrying the same into effect, shall have, take or receive, out of the produce of the goods or chattels distrained upon and sold, or from the tenant or other person distrained, or from the landlord, or from any other person whatsoever, any other or more costs and charges, for and in respect of such distress, or any matter or thing done therein, than such as are fixed and set forth in the Schedule hereunto annexed, and appropriated to each act, which shall have been done in the course of such distress; and no person or persons whatsoever shall make any charge whatsoever, for any act, matter or thing, mentioned in the said Schedule, unless such act shall have been really done.

Fees hereafter to be charged, and services for which the same may be charged.

Punishment of persons who shall exact greater fees than are authorised by this Act.

II. *And be it further enacted by the authority aforesaid*, That if any person or persons whatsoever shall in any manner levy, take or receive, from any person or persons whatsoever, or retain or take from the produce of any goods sold for the payment or satisfaction of any such rent or penalty, any other or greater costs and charges than are mentioned and set down in the said Schedule, or make any charge whatsoever for any acts, matter or thing, mentioned in the said Schedule, and not really done, it shall be lawful for the party or parties aggrieved by any such practice, to apply to any one Justice of the Peace for the District, City or Town, where such distress shall have been made, or in any manner proceeded in, for the redress of his, her or their grievance, so occasioned, whereupon such Justice shall summon the person or persons complained of to appear before him, at a reasonable time to be fixed in such summons, and such Justice shall examine into the matter of such complaint by all legal ways and means, and also hear in like manner the defence of the person or persons complained of; and if it shall appear to such Justice that the person or persons complained of shall have levied, taken or received, or had other and greater costs and charges than are mentioned and fixed in the Schedule hereunto annexed, or made any charge for any matter or thing mentioned in the said Schedule, such act, matter or thing, not having been really done, such Justice shall order and adjudge

treble the amount of the monies so unlawfully taken, to be paid by the person or persons so having acted, to the person or persons who shall have thus preferred his, her or their complaint thereof, together with full costs; and in case of non-payment of any monies or costs so ordered and adjudged to be paid, such Justice shall forthwith issue his warrant to levy the same by distress and sale of the goods and chattels of the party or parties ordered to pay such monies or costs, rendering the over-plus, if any, to the owner or owners, after payment of the charges of such distress or sale; and in case no sufficient distress can be had, such Justice shall, by warrant under his hand, commit the party or parties to the common Gaol within the limits of the jurisdiction of such Justice, there to remain until such order or judgment be satisfied.

III. *And be it further enacted by the authority aforesaid,* That it shall be lawful for such Justice, at the request of the party complaining or complained against, to summon all persons as witnesses, and to administer an oath to them, touching the matter of such complaint, or the defence against it; and if any person or persons so summoned shall not obey such summons, without any reasonable or lawful excuse, or refuse to be examined upon oath or affirmation (being a person by the laws of this Province entitled to affirm), then every such person so offending shall forfeit and pay a sum not exceeding forty shillings, to be ordered, levied and paid, in such manner, and by such means, and with such power of commitment, as is herein-before directed as to such orders and judgment to be given the party or parties in the original complaint, excepting so far as regards the form of the order, as hereinafter provided for.

Power given to Justices before whom complaints are made, to summon witnesses, &c.

Punishment of persons refusing to obey summons.

IV. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for such Justice, if he shall find that the complaint of the party or parties aggrieved is not well founded, to order and adjudge costs, not exceeding twenty shillings, to be paid to the party or parties complained against, which order shall be carried into effect and levied and paid in such manner as is herein-before directed as to the order and judgment founded on such original complaint: *Provided always,* that nothing herein contained shall empower such Justice to make any order or judgment against the landlord for whose benefit any such distress shall have been made, unless such landlord shall have personally levied such distress: *And provided further,* that no person or persons who shall have been aggrieved by any distress for any rents or penalty, or by any proceedings had in the course thereof, or by any costs or charges levied upon them in respect of the same, shall be barred from any legal or other suit or remedy which he, she or they, might have had before the passing of this Act, excepting so far as any complaint to be preferred by this Act shall have been determined by the order and judgment of the Justice before whom it shall have been heard and determined, and which order and judgment shall and may be given in evidence, under the plea of the general issue, in all cases where the matter of such complaint shall be made the subject of any action.

Penalty for preferring unfounded complaints;

Justices not authorised to make order against landlord, unless the latter shall have personally levied distress;

Party aggrieved by distress for rent, not barred of his action, unless complaint made shall have been determined by Justice;

Order of Justice may be given in evidence, under general issue.

Orders and judgments to be made according to schedule annexed;

Manner of proving such orders, &c.

Orders regarding witnesses to be in such form as Justice may direct.

V. *And be it further enacted by the authority aforesaid,* That such orders and judgments on such complaints shall be made in the form in the Schedule hereunto annexed; and may be proved before any Court, by proof of the signature of the Justice to such orders and judgment; and such orders as regard persons who may have been summoned as witnesses, shall be made in such form as to such Justice shall seem fit and convenient.

Persons levying distress to give copy of charges to party distrained upon.

VI. *And be it further enacted by the authority aforesaid,* That every Broker, Constable, Bailiff or other person, who shall make and levy any distress whatsoever, shall give a copy of his charges, and of all the costs and charges of any distress whatsoever, signed by him, to the person or persons on whose goods and chattels any distress shall be levied, although the amount of the rent or penalty demanded shall exceed the said sum of twenty pounds.

SCHEDULE REFERRED TO IN THIS ACT.

Form of the Order and Judgment of the Justice before whom complaint is preferred when the Order and Judgment is for the complaint :

Schedules.

In the matter of complaint of A. B. against C. D. for the breach of the provisions of an Act passed in the _____ year of the reign of Her Majesty Queen Victoria, intituled, "An Act [insert the title of this Act]. I, E. F. a Justice of the Peace for the _____, do order and adjudge, that the said C. D. shall pay to A. B. the sum of _____, as a compensation and satisfaction for unlawful charges and costs levied and taken from the said A. B. under a distress for [as the case may be], and the further sum of _____ for costs in this complaint.

(Signed) E. F.

Form of the Order and Judgment of the Justice when he dismisses the complaint as unfounded, with or without costs, as the case may be :

In the matter of complaint of A. B. against C. D. for the breach of the provisions of an Act passed in the _____ year of the reign of Her Majesty Queen Victoria, intituled, "An Act [insert the title of this Act]. I, E. F. a Justice of the Peace in and for the _____ do order and adjudge, that the complaint of the said A. B. is unfounded; [if costs are given] and I do further order and adjudge, that the said A. B. shall pay unto the said C. D. the sum of _____.

(Signed) E. F.

Schedule of Costs and Charges on Distresses for small Rents and Penalties :

Levying distresses under ten pounds: five shillings.

Man keeping possession, per diem: three shillings and nine-pence.

Appraisalment, whether by one Appraiser or more: four-pence in the pound on the value of the goods.

If any printed advertisement: not to exceed in all five shillings.
 Catalogues, sale and Commission, and delivery of goods: one shilling
 in the pound on the net produce of the sale.

C H A P. XVII.

*AN ACT to alter the mode of payment of Wages to Members of the
 House of Assembly.*

[Passed 6th March, 1838.]

WHEREAS the present mode of remunerating Members of the House of Assembly is on several accounts inexpedient: *Be it therefore enacted* by the Queen'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 each and every Member of the House of Assembly attending his duty in Parliament, and not absenting himself twenty days during a Session without leave of the House, or unless prevented by sickness, or other reasonable excuse, to the satisfaction of the Speaker, from attending, shall be entitled to obtain at the close of each Session, a warrant from the Speaker of his attendance, and on production of such warrant to receive the sum of fifty pounds, together with ten shillings for every twenty miles such Member may have to travel from his place of residence to the seat of Government, and to return: *Provided nevertheless*, that if from any cause whatever, any Session shall not continue for more than thirty days, then each of the said Members shall not be entitled to receive more than twenty-five pounds for his said attendance: *Provided also*, that any Member absenting himself from his duty in Parliament for one half of a Session, unless prevented by sickness or other reasonable excuse, as aforesaid, from attending, shall forfeit all claim to receive any thing for such Session; and any Member absenting himself in like manner for twenty successive days, during any one Session, shall only be entitled to receive one half the sum he would have been entitled to if he had attended the whole Session.

Preamble.

[See 43 Geo. III. Ch. 11;
 and 4 & 5 Vic. Ch. 55,
 Sec. 2.]

[This Act not in force
 since the Union.]

Allowance hereafter to be
 made to Members, and
 manner of obtaining same.

Deduction to be made
 from Members who do not
 attend their duty.

II. *And be it further enacted by the authority aforesaid*, That the several sums of money to which the Members of the House of Assembly shall be respectively entitled under this Act, shall be paid by the Treasurers of the several Districts, respectively, and shall be levied by assess-

Wages to be paid by
 Treasurers of District, &c.

ment in the manner directed by the laws now in force for that purpose; and that the amount of all monies which shall be levied by assessment for the payment of Wages to Members of the House of Assembly, shall be applied by the Treasurer of each District to that purpose only, and shall not be advanced or expended for any other object whatsoever.

CHAP. XVIII.

AN ACT to protect the Public against accidental injury from Machinery used in Mills, and for other purposes.

[Passed 6th March, 1838.]

Preamble.

WHEREAS many fatal accidents have occurred, and it is necessary for the protection of the lives of the inhabitants of, and travellers in this Province, that proper and safe guards be erected in all steam-boats, steam-cars and carriages, mills, machinery and other buildings, where machinery is at present or may hereafter be used, so that persons conveyed in or upon said steam-boats, steam-cars or carriages, or entering said mills or other buildings where machinery is used, should not come in contact with the machinery when in operation: *Be it therefore enacted* by the Queen'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 August next, the owners of all steam-boats, steam-cars and steam-carriages, mills and other buildings, where machinery now is or may hereafter be used, shall from and after the passing of this Act, erect or cause to be erected, good and substantial guards round the machinery of such steam-boats, steam-cars and steam-carriages, mills and other buildings, so as to prevent passengers and other persons on board of, or entering the same, respectively, from coming in contact with the machinery used therein or attached thereto.

Guards, &c. to be erected about machinery of steam-boats, mills, &c. to prevent accidents to passengers and others.

Collectors of Customs authorised to examine steam-boats, steam-cars and steam-carriages, and to require the erection of necessary guards.

II. *And be it further enacted by the authority aforesaid,* That from and after the said first day of August next, it shall be the duty of the Collector of Customs of any of the Ports within this Province, to enter into or upon all and every steam-boats, steam-cars and steam-carriages, arriving at his port or station, and carefully to examine the guards of the machinery of every steam-boat or steam-carriage entering such port or station; and if the guards be not properly and substantially erected, so as to secure the

safety of persons when such machinery is in operation, the said Collector or his Deputy is to notify the same to the master or person in charge of such steam-boat, steam-car or steam-carriage, and direct him to make the necessary and substantial guards.

III. *And be it further enacted by the authority aforesaid,* That it shall and may be the duty of every Justice of the Peace within this Province, within the District in which he shall reside and usually act as a Justice of the Peace, to enter into or upon all buildings wherein machinery is now or shall hereafter be erected, and inspect and examine the machinery thereof or attached thereto; and if upon such examination, the guards used in and about such machinery shall be found insufficient, such Justice shall notify the same to the owner or occupier of such building, and direct the necessary guards to be erected.

Justices of Peace, &c. to enter mills, &c. and to examine, &c.

IV. *And be it further enacted by the authority aforesaid,* That in case the master, or person in charge of any steam-boat, steam-car or steam-carriage, or the owner or occupier of any building wherein machinery is now or shall hereafter be erected, shall neglect or refuse to comply with the directions of such Collector of Customs, or Justice of the Peace, respecting them, he, she or they, so refusing or neglecting, and being thereof convicted before one or more Justice of the Peace, shall forfeit and pay for every such offence any sum not exceeding one pound; and in default of payment of such sum, with the reasonable costs of conviction, such master, or person in charge, owner or occupier, respectively, shall be sent to the common Gaol of the District, within which such offence shall have been committed, for any period not exceeding thirty days.

Penalty in case of neglect to erect guards by owners or masters, &c.

V. *And be it further enacted by the authority aforesaid,* That upon the inspection of any steam-boat, steam-car or carriage, and of any building wherein or whereto machinery shall be used or attached, as aforesaid, it shall appear to the Collector of Customs, or Justice of the Peace, respectively, inspecting the same, that the guards to be erected in compliance with this Act are sufficiently safe and substantial, such Collector or Justice, respectively, shall deliver to the person in charge of such steam-boat, steam-carriage or car, and to the proprietor or occupier of such building, as aforesaid, a certificate to that effect; and such certificate shall for six calendar months from the date thereof, be a good and sufficient protection to the masters and owners, and occupiers of such steam-boat, steam-carriage or car, and building, respectively, as aforesaid, against any penalty to be incurred under the provisions of this Act: *Provided,* that such safe-guards shall at all times be kept in good and sufficient repair.

Collector or Justice to deliver certificate of sufficiency of guards, &c.

Certificate to afford protection for six months.

CHAP. XIX.

AN ACT to authorise the establishment of Boards of Boundary Line Commissioners within the several Districts of this Province.

[Passed 6th March, 1838.]

WHEREAS the errors or defects in Surveys heretofore made within this Province, are found to occasion disputes and differences between individuals, touching the boundaries of Townships, Concessions and Lots, and to involve parties in expensive litigation: *And whereas* it is expedient to provide a remedy for these evils, by the appointment of Commissioners in every District, with the powers and under the restrictions hereinafter expressed: *Be it therefore enacted* by the Queen'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 Lieutenant Governor of this Province, to nominate and appoint three fit and proper persons in each and every District of this Province (one of whom shall be a licensed Surveyor), to form a Board, to be known by the style and title of "The Boundary Commissioners" of the District for which they shall be so respectively appointed: and the said Commissioners, for the time being, shall have power and authority, and are hereby authorised and required, to hear and determine all matters of dispute touching any line or lines, boundary or boundaries, of any Township, Concession or Lot, and of any part or parts of any Lot or Lots within their respective Districts, and to ascertain, fix and determine, such lines, boundaries or divisions, as shall appear just and reasonable, and to give and pronounce such judgment and decree therein, and to award execution thereupon for such costs as shall, by the said Commissioners, be ascertained to have been reasonably incurred, against the goods and chattels of all and every the person and persons whom they shall decree to pay the same, as to them, or any two of them, shall seem just in law or equity; and that the acts, orders, judgments and decrees, of the said Commissioners, or any two of them, shall be final and conclusive between the parties, their heirs and assigns, except in cases of appeal, to be brought within the time and in the manner hereinafter mentioned: *Provided always*, that the said Commissioners shall be appointed and hold their office during the pleasure of the Lieutenant Governor, and no longer.

Preamble.

(See 38 Geo. III. Ch 1;
59 Geo III. Sess. 1, Ch. 14;
and 3 Vic. Chap. 11.)

A Board to be established
in each District, to be
styled the Boundary
Commissioners;

Its jurisdiction;

(See 3 Vic. Chap. 11;
Secs. 3 & 6.)

Its orders final; subject
to appeal;

The Commissioners to
be appointed during
pleasure.

Commissioners not to Act,
if related to any party
interested;

II. *Provided always, and be it further enacted by the authority aforesaid*, That it shall not be lawful for any Commissioner to be appointed under

the provisions hereinbefore contained, to act in any case that shall be heard and determined under the provisions of this Act, wherein such Commissioner, his father or mother, brother or sister, or child, or any relation of his wife, in the same degree of consanguinity shall be directly or indirectly interested; but then and in such case, the place of such Commissioner so interested, by himself or his relatives, as aforesaid, shall be supplied by a Commissioner to be selected by the Commissioners of the District wherein such case shall arise, and who shall not be interested therein, from the Commissioners appointed for a District adjoining thereto; and such last mentioned Commissioner shall be duly summoned, and shall be bound to attend the sittings of the Board for the District, wherein such case shall arise, and shall have the same powers, in all respects, touching such case, as if he had originally been appointed a Commissioner for such District, instead of a Commissioner for an adjoining District.

Substitute for such Commissioner to be selected, and how,

III. *And be it further enacted by the authority aforesaid,* That in all cases which shall arise touching the boundary line between any two or more Districts, the Commissioners appointed for each of the Districts interested in such case, shall be summoned and required to hear and determine all matters of dispute touching the same; and no decision shall be binding on any District interested therein, unless a majority of the Commissioners to be appointed for each such District shall have been present at every sitting to be holden for the purpose of hearing and determining such dispute; and the acts, orders, judgments and decrees, of such united Board of Commissioners, or the majority of the Commissioners present at such sitting, shall be final and conclusive between the Districts interested in such dispute, except in cases of appeal, to be brought within the time and manner hereinafter mentioned.

Mode in which questions respecting boundary lines between Districts are to be determined;

Appeal.

IV. *And be it further enacted by the authority aforesaid,* That the inhabitants of any Township or Concession, owner or owners of any Lot or Lots, either in fee or for any less estate of freehold, who shall require redress touching the boundary or boundaries thereof, or any part thereof, shall give notice in writing to any one or more of the Boundary Commissioners of the said District, requiring them to hear and determine the questions affecting the same; and the said Commissioners, or any one or more of them, shall within ten days from the receipt of such notice issue a warrant or precept to the person or persons interested in the matter, to attend the said Board, at some place and on some day in the said warrant or precept to be named, not exceeding twenty-one days from the receipt of the said notice, and which said warrant or precept shall be in the words or to the form and effect set forth in the Schedule to this Act annexed.

Form of proceeding to be pursued by owners of freehold seeking redress before the Commissioners;

Commissioners to issue warrant.

(See 3 Vic. Chap. 11, Sec. 5.)

V. *And be it further enacted by the authority aforesaid,* That the said Commissioners shall, in all cases, hold their sittings at the most convenient spot near to the disputed boundary or boundaries, not in any case exceeding the distance of ten miles from the same.

Where their sittings are to be held.

Adjournments;

VI. *And be it further enacted by the authority aforesaid,* That whenever any party interested in the matter shall apply for an adjournment, it shall and may be lawful for the said Commissioners, on sufficient reason being shewn to them, upon oath and upon payment of reasonable costs by the party applying for such adjournment, to adjourn the sitting of the said Board from time to time, and to any day not exceeding twenty days from the day of sitting: *Provided always,* that the decision of every question shall be made within six months from the issuing of the original warrant or precept for hearing the same.

Decision to be made within six months from issuing of warrant.

A view shall be had, if required;

(See 3 *V. C. Ch. 11, Secs. 3, 4 & 6; and 1 & 7 *V. C. Ch. 9.*)*

Survey and map to be filed with judgment.

VII. *And be it further enacted by the authority aforesaid,* That previous to the hearing of any question, under the provisions of this Act, the said Commissioners shall, if required by any of the parties interested, proceed to and view the boundary or boundaries in dispute, in their own proper persons; and it shall be lawful for them, and they are hereby required, to employ a competent Surveyor to make a survey and map thereof, which map shall be annexed to and filed with their judgment and decisions, as hereinafter provided.

Witnesses to be summoned and sworn.

VIII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the said Commissioners, or any one or more of them, to summon any person or persons resident in such District, or in a District immediately adjoining thereto, to give evidence touching any matter upon which they shall be required to adjudge and determine under the provisions of this Act, and to produce any papers or documents in their possession relative thereto; and for the better discovery of the truth, and the more solemn determination thereof, it shall and may be lawful for the said Commissioners assembled at any Board, and they are hereby authorised and empowered, to administer, or cause to be administered, an oath or oaths as well to the party complaining as to the party answering, and to such witness or witnesses as shall be examined or produced by either party; and also to all or any of the persons who shall be employed under the said Board, and to all other persons whomsoever, for or concerning any business relative thereto, and to take the affirmations of all persons whomsoever concerning the same, who are or shall be of the people called Quakers, or such other denomination of Christians as are allowed to give their evidence on affirmation: *Provided* that the said Commissioners shall in no case give judgment on the oath or affirmation alone of any party interested in any matter to be heard by the said Board, unless there shall be sufficient other evidence to warrant such judgment, independent of such oath or affirmation.

No judgment to be given on the evidence of interested party only.

Evidence to be taken in writing, and signed.

IX. *And be it further enacted by the authority aforesaid,* That all evidences to be taken before the Commissioners shall be reduced into writing, and be read over and signed by the persons giving the same, and such persons shall be required to attest the same upon oath or affirmation, as aforesaid, and the same evidence shall be kept by the Commissioners

ready to be produced upon any appeal to be brought against the judgment or decision of the said Commissioners, as hereinafter is provided.

X. *And be it further enacted by the authority aforesaid,* That all copies of plans, descriptions, instructions, field-notes or other evidences of survey, and all other documents of a public character, certified by the Surveyor General, or person in charge of the Office of Surveyor General, for the time being, or by the person in charge, for the time being, of any other public office, in which any such documents may be deposited, shall be admissible in evidence before such Commissioners, or upon any other judicial proceeding under this Act, in the same manner, and no other, as if the same were proved by evidence given vivâ voce: *Provided always,* that it shall be the duty of any person employed in any public office in this Province to answer upon oath, to be administered before any Commissioner for taking affidavits in the Court of King's Bench, any questions which the Commissioners to be appointed under this Act shall in writing require to be answered; and that the evidence obtained in such manner shall be received as if given vivâ voce before the Commissioners: *Provided,* it be made appear to their satisfaction, that the parties interested have had a reasonable opportunity afforded to them of proposing questions by way of cross-examination.

What documentary evidence to be admissible;

Affidavits of persons in public offices to be received, provided opportunity given of cross-examination.

XI. *And be it further enacted by the authority aforesaid,* That if any person shall wilfully and corruptly swear falsely in any matter deposed under this Act, either vivâ voce or by way of answer in any written deposition, such false swearing shall be deemed to be perjury.

False swearing perjury.

XII. *And be it further enacted by the authority aforesaid,* That in case any action or suit shall hereafter be brought in any of the Superior Courts, touching any question which might have been tried and decided before the said Commissioners, it shall and may be lawful for the defendant in such action to apply to the said Court, or to a Judge thereof in vacation, who shall, upon proof of the facts, upon affidavit to be duly sworn and laid before the said Court, or before such Judge, as aforesaid, grant a rule of the said Court for the stay of all proceedings in such action, and for payment of the costs of and attending such rule by the plaintiff in such action or suit, unless it shall appear to the Court or Judge, upon hearing the parties, their counsel or attorney in reply, that from the nature and circumstances of the question in dispute, it shall have been a proper case in the first instance to have been instituted in the Superior Court.

Party sued in superior Court, may apply to Court or Judge to stay proceedings;

Under what circumstances.

XIII. *And be it further enacted by the authority aforesaid,* That if the party at whose instance such warrant or precept shall have been issued, as aforesaid, shall neglect or fail to appear at the sitting thereby directed to be held, as aforesaid, or at any other sitting to be holden under the provisions of this Act, either in person or by counsel, at which his presence shall be required, or shall otherwise make default therein, it shall and may be lawful to and for the said Commissioners, and they are hereby

Party at whose instance warrant issued, making default in appearance, how dealt with;

Costs; authorized and empowered to ascertain the costs incurred therein, as well by such party as by the respondent; and the same costs shall be recoverable from the party making such default, in the manner herein-before directed with respect to costs on judgment or decree.

Respondent making default.

Judgment to be given against him.

XIV. *And be it further enacted by the authority aforesaid,* That if the party respondent shall, in like manner, make default in appearing, either in person or by counsel, after he shall have been served with such warrant or precept, as aforesaid, the same having been served at least four days previous to the day of sitting, and due proof upon oath having been given of such service, it shall and may be lawful to and for the said Commissioners to proceed to judgment and decree, in the matter in dispute, in such and the same manner in all respects as if the respondent were personally present.

Appeal to King's Bench or Court of Chancery, within what time, and how;

Court of King's Bench or Chancery may revise or alter, &c. the decision of the Commissioners;

Or may direct an issue, and order payment of costs;

Decree final.

If appeal frivolous, the Court may order extra costs.

Where no appeal, the judgments of the Commissioners to be filed, together with plan, &c. in the Court of Chancery, and within what time; Judgments, &c. to be filed with Registrar of County, and where; Registrar's fee; Copy of plan, judgment, &c. to be filed in Surveyor-General's office; Final judgment to be published in Gazette, &c.

XV. *And be it further enacted by the authority aforesaid,* That in case any person or District shall be dissatisfied with the judgment of the said Commissioners, it shall and may be lawful for him or them, at any time not exceeding six months from the date of such judgment or decree (upon giving fourteen days notice in writing of his intention to the party in whose favour such judgment shall have been given, and to the said Commissioners, who shall thereupon transmit to the proper officer of the Court, for the use thereof, a copy of their judgment, together with the said plan herein-before directed to be made, and the evidence taken before them the said Commissioners,) to appeal therefrom to the Court of King's Bench, or to the Court of Chancery of this Province, in the option of the parties; and the Vice-Chancellor, or Judges of the said Court of King's Bench, are hereby authorised and empowered to revise, alter, affirm or annul, the decision of the said Commissioners, or to order such farther inquiry to be made, or if he or they shall see fit to direct an issue to be tried at law, touching the matter in dispute, and to make such orders and directions therein for payment of costs and other matters respecting the same, as to him or them shall seem just and reasonable; and the decree of either of the said Courts, to be given on such appeal, shall be binding and conclusive on all parties, their heirs and assigns, and on all Districts, and on all persons claiming or to claim by or under them or any of them.

XVI. *Provided always, and be it further enacted by the authority aforesaid,* That if any appeal appear to either of the said Courts to be frivolous or vexatious, it shall and may be lawful for either of the said Courts to award such extra costs, to be paid by the appellant, as to either of the said Courts shall appear reasonable.

XVII. [Repealed by 3 Vic. Chap. 11.]

XVIII. *And be it further enacted by the authority aforesaid,* That the Commissioners in all surveys made by them, or under their direction, shall express the courses of lines according to the bearing of the compass, and also according to the true meridional line.

Commissioners' surveys, what to express.

XIX. *And be it further enacted by the authority aforesaid,* That as often as any lines or boundaries shall be finally established by the Commissioners under this Act, it shall be their duty to cause sufficient stone monuments to be placed to mark such boundaries; and to award the expense thereof to be paid by the parties, or either of them, as they may think just, and to enforce the payment thereof in the same manner as of costs and other expenses under this Act.

Where boundaries established, Commissioners to place stone monuments;

Expense thereof provided for.

XX. *And be it further enacted by the authority aforesaid,* That the said Commissioners shall be entitled to receive the sum of twenty shillings each, and no more, for every day they shall be occupied in travelling to, or returning from, and sitting at any place, for the purpose of hearing and determining any matter under the provisions of this Act; and every Surveyor who shall be employed by the said Commissioners shall be entitled to receive the sum of twenty shillings for every day he shall be necessarily employed, as aforesaid, and that for the purposes of this Act a day shall be construed to be eight hours, and no less.

Commissioners' fees;

Surveyor's fees.

XXI. *And be it further enacted by the authority aforesaid,* That the costs, charges and expenses, attending the settling any boundary lines between any Towns or Townships in this Province, not being for the mere decision of a dispute between private parties, shall be borne and paid out of the District funds of the District wherein such Towns or Townships lie; and the costs, charges and expenses, attending the settling of any boundary line between any Districts, shall be equally borne and paid out of the District funds of the Districts the boundary lines between which have been settled: *Provided,* that the District shall in no case be liable to the costs of any proceeding or appeal which shall not have been instituted at the instance of the Court of Quarter Sessions in and for the said District; and the said Court of Quarter Sessions are hereby empowered, when they shall see fit, to appoint a proper person to act in behalf of the District before the said Board of Commissioners, and the District which such person shall so represent, shall be bound by his acts, deeds and defaults, in the same manner as he himself, his heirs and assigns, would be bound if personally interested in the premises.

Expenses of settling boundary lines between Towns and Townships;

And between Districts, provided for;

Where District not to be liable for costs;

Quarter Sessions to appoint proper person to act on behalf of District before Commissioners, and to be bound by his acts.

XXII. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the Justices of any District, in Quarter Sessions assembled, to levy by assessment, to be made in the same manner and form as by law any assessment now or hereafter may be levied, for any public purpose in any District of this Province, such sum and sums of money as shall be requisite to pay the costs and charges to arise, touching the disputed boundary or boundaries of such District; and the costs and

Costs of District to be levied by assessment;

Amount of rate.

charges of any appeal that shall be made to the decree of the said Commissioners, pursuant to the provisions herein before contained, so as that the amount of the assessment to be made shall not exceed the one-eighth part of a penny per acre, in any one year.

Commissioners' oath.

XXIII. *And be it further enacted by the authority aforesaid,* That upon entering upon the duties imposed and required by this Act, the said Commissioners, and each of them, shall take and subscribe the following oath, which any Justice of the Peace is hereby authorised and required to administer: I, A. B., do hereby swear, that I will faithfully, and to the best of my skill and understanding, discharge the duties of one of the Boundary Commissioners of the District of —, according to the Statute in such case made and provided.

Form of proceedings.

XXIV. *And be it further enacted by the authority aforesaid,* That in the proceedings of the said Commissioners the annexed forms shall be used.

Act in force four years.

XXV. *And be it further enacted by the authority aforesaid,* That this Act shall be and continue in force for and during the term of four years, and from thence to the end of the then next ensuing Session of Parliament, and no longer.

Form of warrant or precept.—Boundary Commissioners.

Warrant.

District of — } You are hereby summoned and required to be and
 District of — } appear before the Boundary Commissioners of the
 —, at a Board to be held at —, in the Township of
 —, by — of the clock in the forenoon of —, the —
 day of —, to answer the claim of —, touching the line of boundary between lots — and —, belonging to you and the said —. Herein fail not, as judgment will be given against you for default.

Witness my hand this — day of —, eighteen hundred and —.

A. B.

To Mr. —.

Commissioner.

Form of subpoena.—Boundary Commissioners.

Subpoena.

District of —, } Between C. D. claimant, and E. F. respondent.
 } You are hereby summoned and required to be and appear before the Boundary Commissioners of the District of —, at a Board to be held at —, in the Township of —, on the — day of —, at — of the clock in the forenoon, to testify the truth according to your knowledge, in a certain claim then and there to be tried, between —, claimant, and —, respondent, on the part of the —. Herein fail not at your peril. Witness A. B., one of the Commissioners, this — day of —, eighteen hundred and —.

A. B.

To Mr. —.

Commissioner.

Form of warrant to levy.—Boundary Commissioners.

District of _____, } You are hereby authorised and required to make of ^{Warrant to levy.}
the sum of _____, } the goods and chattels of _____, in the said District,
Provincial currency, to satisfy the costs of a judgment
given by the said Commissioners, at a Board held on the _____ day of
_____, at the suit of _____, in the claim heard between the said _____
and _____, and should there be any overplus, after deducting the legal
expense of the seizure and sale, you are to return the same to the said
_____; and you are to certify to the said Commissioners, on the _____
day of _____, what you shall have done in the execution thereof. Herein
fail not.

Witness A. B. }
 G. H. } *Commissioners.*
 J. K. }

To _____,
Our Bailiff.
Costs.....£
Bailiff's fees.....

Form of oath to be administered.

The evidence which you shall give to the Commissioners touching the ^{Oath of witness.}
matter now upon inquiry, shall be the truth, the whole truth, and nothing
but the truth. So help you God.

CHAP. XX.

AN ACT to postpone the sale of Lands in arrear for Taxes.

[Passed 6th March, 1838.]

Preamble; Sales of land now liable for arrear of taxes, postponed till expiration of the year; Same proceedings as though no such postponement.

[TEMPORARY.—SEE 3 VIC. CHAP. 46.]

CHAP. XXI.

*AN ACT to alter and amend sundry Acts regulating the appointment
and duties of Township Officers.*

[Passed 6th March, 1838.]

WHEREAS it is expedient that the several laws now in force relative ^{Preamble.}
to the appointment and duties of Township Officers, and the mode of

[See 2 Vic. Chap. 18, 4 & 5 Vic. Chaps. 2, 10, 18, 42, 43, particularly Ch. 10, which affects many provisions of this Act.]

Laws relating to Township Officers, with certain exceptions, repealed.

[4 Wm. IV. Chap. 12.]

notifying and holding Township meetings, except an Act passed in the fourth year of the reign of King William the Fourth, Chapter twelve, intituled, "An Act to regulate line fences and water courses, and to repeal so much of an Act passed in the thirty-third year of the reign of His late Majesty King George the Third, intituled, 'An Act to provide for the nomination and appointment of Parish and Town Officers within this Province,' as relates to the office of Fence Viewers being discharged by Overseers of Highways and Roads," should be repealed and reduced into one Act of Parliament: *Be it therefore enacted* by the Queen'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 an Act passed in the fifth year of the reign of King William the Fourth, intituled, "An Act to reduce to one Act of Parliament the several laws relative to the appointment and duties of Township Officers in this Province, except an Act passed in the fourth year of the reign of William the Fourth, Chapter twelve, intituled, 'An Act to regulate line fences and water courses, and to repeal so much of an Act passed in the thirty-third year of the reign of His late Majesty King George the Third, intituled, 'An Act to provide for the nomination and appointment of Parish and Town Officers within this Province,' as relates to the office of Fence Viewers being discharged by Overseers of Highways and Roads;" an Act passed in the sixth year of the reign of King William the Fourth, intituled, "An Act to amend and extend the provisions of an Act passed during the last Session of the Provincial Legislature, intituled, 'An Act to reduce to one Act of Parliament the several laws relative to the appointment and duties of Township Officers in this Province, except an Act passed in the fourth year of the reign of William the Fourth, Chapter twelve, intituled, 'An Act to regulate line fences and water courses, and to repeal so much of an Act passed in the thirty-third year of the reign of His late Majesty King George the Third, intituled, 'An Act to provide for the nomination and appointment of Parish and Town Officers within this Province,' as relates to the office of Fence Viewers being discharged by Overseers of Highways and Roads;" and an Act passed in the seventh year of the reign of King William the Fourth, intituled, "An Act to amend the laws for the appointment of Parish and Township Officers:" *Provided always*, that any prior Act or enactment repealed by any of the Acts hereinbefore recited, shall be and remain repealed.

[5 Wm. IV. Chap. 6.]

[6 Wm. IV. Ch. 2.]

[Repealing clause omitted, but 5 Wm. IV. Ch. 8, at all events, expired on 1st December, 1839, (See Secs. 73 & 74, of that Act,) or at the end of the Session of 1840.]

Repealing clauses of Acts repealed, to remain in force.

Two Magistrates may issue warrant, giving ten days notice to Clerk of Township to assemble certain persons for the purpose of choosing Township Officers for one year;

II. *And be it further enacted by the authority aforesaid*, That from and after the passing of this Act, it shall and may be lawful for any two of Her 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 not less than ten days previous notice to the Township Clerk of such Parish, Township, reputed Township or place, authorising him on the first Monday in January in each year, to assemble the inhabitant freeholders and householders, paying or liable to any public assessment or rate of such Parish, Township, reputed Township or place, at such place as may be appointed by the Magistrates in their said warrant, for the purpose of choosing or nominating the Parish or Township Officers hereinafter mentioned, to serve in their respective office one year from the time of their being so chosen; at which meeting the Town Clerk of said Town or Township shall preside, until a chairman be chosen: *Provided always*, that such Township meeting shall be held in the Township Hall, if there be such public building in the Township out of the limits of any Incorporated Town, or Town having Police regulation.

Town Clerk to preside until Chairman be chosen
Meeting to be held in Township Hall.

III. *And be it further enacted by the authority aforesaid*, That in case the Township Clerk of any Parish, Township or reputed Township, shall neglect or refuse to assemble the said inhabitant freeholders and householders at the time and place appointed in the warrant aforesaid, the said inhabitant freeholders and householders may nevertheless lawfully meet and choose a chairman, and transact all such public business as is provided by this Act; and after the Township Officers have been chosen and appointed at said meeting, the Township Clerk then and there chosen shall proceed upon the duties of his office, as provided by this Act.

If Town Clerk neglect to assemble as aforesaid, inhabitants may lawfully meet and transact the business authorised by this Act; and Township Clerk shall proceed upon duties of his office.

Form of Justices' Warrant to assemble the Inhabitants of — District :

“To the Township Clerk of the Township of —, in the said District:”

By virtue of the power for such purposes granted by an Act of the Legislature, made and passed in the —, to us A. B. and C. D. Esquires, two of Her Majesty's Justices of the Peace in and for the said District: These are to authorise and require you, giving at least eight days previous notice, by affixing the same in at least three public places within the said Parish, Township or place, to assemble the inhabitant freeholders and householders living within your Parish or Township, to meet at —, on the first Monday in January next, being the — of January next, at the hour of twelve o'clock noon, for the purpose of choosing and nominating certain fit and proper persons to serve as Township Officers for the ensuing year, according to the directions in the said Act contained.

Form of warrant.

Given under our hands and seals, at —,
on the — day of —, 18—.

“Township Clerk's Notice to assemble the Inhabitants of — District :”

WHEREAS by virtue of a warrant from — and —, Esquires, two of Her Majesty's Justices of the Peace, to assemble the inhabitants of the Township of —, on Monday, the — day of January next, at —, for the purpose of choosing and nominating Township Officers for the ensuing year. Notice is hereby given, that the annual Township meeting, of the

Township Clerk's notice.

Township of _____, will be holden at _____, on Monday, the _____ day of January _____, at the hour of twelve o'clock, noon, accordingly.

Dated _____, _____, Town Clerk.

Freeholders and householders entitled to vote, if of twenty-one years of age;

All questions decided by majority;

Persons offering to vote without authority liable to fine;

Fine to be paid to Town Clerk, and expended on roads;

Complaint to be made within three months.

IV. *And be it further enacted by the authority aforesaid,* That no person shall be qualified to vote at any Township meeting under the provisions of this Act, except he be a freeholder or householder in such Township, of the full age of twenty-one years; and that all public matters and questions at such Township meeting shall be decided by the majority of the inhabitant freeholders and householders of the Township then and there present; that any person voting or offering to vote at any such Township meeting, as aforesaid, not being duly qualified by law to vote, shall be subject and liable to a penalty of not less than five shillings, or more than twenty shillings, to be recovered with costs, on complaint of two witnesses, by a warrant of one Magistrate, the said fine to be paid over to the Town Clerk, and to be expended on the roads in said Township: *Provided,* the complaint shall be made to the Court having jurisdiction of similar offences within three months thereafter, unless it shall appear to the Court that the person so offending shall not have had his vote objected to at the time of his voting, and that the offence was committed through his ignorance of the law upon this subject.

Election of officers;

When officers are not chosen, those of the preceding year to serve;

(See 3 Vic. Chap. 53, Sec. 51; 4 & 5 Vic. Chap. 10, Secs. 5, 7, 8 & 9.)

Magistrates not liable to serve;

Persons not liable to serve out of the Township, except in certain cases, more oftener than once in three years;

Township meetings not to be held in certain Towns.

V. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the inhabitant freeholders and householders at such Township meetings to choose one Clerk of said Town or Township; one Assessor; one Collector; a sufficient number of persons to serve as Pound-keepers, Overseers of Highways, and also three Town Wardens for the said Township: *Provided always,* that should the inhabitant freeholders and householders of any Township within this Province, from any cause whatever, neglect or refuse to assemble and appoint any particular officer or officers for the year, as aforesaid, then and in such case the officers of the Township for the preceding year, or such of them as shall not be relieved by the appointment of other officers as their successors, shall continue and remain in office for the succeeding year, and shall have the same powers, and be subject to the same responsibilities, as if they had been chosen to such office in the usual manner; and that no Magistrate shall be liable without his consent to serve in any Township office: *Provided always,* that no person shall be compelled to serve in any of the aforesaid offices in any Township in which he doth not reside, except in such cases where two Townships are joined in one Township meeting, nor shall be elected to serve in any Township office oftener than once in three years, unless he shall consent thereto: *Provided also,* that where any Town in any Township in this Province shall be incorporated, or have Police regulations established therein, no annual Township meeting for the purpose, among other things, of electing Township Officers shall be held in any such Town, but that the said annual Township meeting shall be holden in such convenient place out of such Town as the Magistrates in their warrant shall appoint.

VI. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the inhabitant freeholders and householders in any newly settled Township, in which no regular Township meeting has been by law hitherto holden, to hold Township meetings for the purpose of appointing persons to serve in the different offices for the Township mentioned in this Act, so soon as such new Township shall contain thirty inhabitant freeholders or householders: *Provided always,* that where a Township doth not contain thirty inhabitant freeholders and householders, such inhabitants shall be taken and reputed as inhabitants of such Township adjacent, which, in the opinion of the Magistrates granting the warrant, may be deemed most convenient for the new Township.

Township containing thirty householders may hold meetings;

Township not containing thirty inhabitant freeholders, to be reputed as belonging to Township adjoining.

VII. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Clerk appointed, as aforesaid, to any Township, to record all such matters as shall be lawfully transacted at such meetings, all other matters relating to the Township which by virtue of his office it shall be his duty to record; which record, together with all other records, papers, monies unexpended, and property, belonging to the Township, which may come into his hands by virtue of his office, shall be faithfully kept and preserved by such Clerk, and by him delivered over to his successor duly appointed.

Clerk to record all matters transacted at such meetings;

Record to be kept by Clerk, and delivered over to successor in office.

VIII. *And be it further enacted by the authority aforesaid,* That it shall be the duty of every Township Clerk appointed agreeably to the provisions of this Act, to make out two copies from his record of the proceedings of the meeting at which he was appointed Clerk for the Township, within twenty days after his appointment, one of which he shall post up in a conspicuous manner at the place where the meeting was held, and deliver the other, with a copy of the account current of the Township for the preceding year, to the Clerk of the Peace for the District; and it shall be the duty of the Clerk of the Peace to file in his office all such copies as may be transmitted or delivered to him by the respective Township Clerks in each and every year, which shall be and remain in his office as a record, and shall be open to the inspection of every person desiring it, on payment of one shilling and three pence to the Clerk of the Peace, as his fee for his trouble in making such search; any Township Clerk who shall be lawfully chosen and appointed at any such Township meeting, and who shall have accepted or taken upon himself the said office, and shall not have delivered to the office of the Clerk of the Peace the documents hereinbefore mentioned, within the said period of twenty days, as aforesaid, such said Township Clerk shall forfeit and pay the same sum as persons refusing to subscribe the declaration in the Clerk's book, as hereinafter provided, to be expended upon the roads in said Township, to be levied by warrant of any Justice of the Peace in the District, upon complaint of the Clerk of the Peace or any other person; and any two Magistrates shall then nominate and appoint a Township Clerk, who shall have the same powers, and be subject to the same responsibilities, as if he had been legally chosen and appointed in the usual manner; that the Township

Clerk to make out two copies of proceedings within twenty days after his appointment. (See 4 & 5 Vic. Chap. 10, Sec. 6.)

How copies disposed of;

Clerk of Peace to file copies of records, to be open to inspection, on payment of one shilling and three pence;

Township Clerk to be fined, if neglectful;

Township Clerk to receive four pounds for his trouble.

Clerk who shall have duly performed the duties assigned him by this Act, at the termination of each year, receive the sum of four pounds for his trouble, and the Treasurer of the District is hereby authorised to pay the same on the certificate of the Clerk of the Peace, that the said Township Clerk hath lodged in the office the several papers required, as aforesaid.

Township Clerk to enter declarations in a book kept for the purpose;

IX. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Township Clerk of any Township, during the continuance of his office, to provide and keep a book wherein shall be entered declarations in the form hereinafter contained, which declarations shall be severally signed by the said Township Clerks, and by all other Township Officers of the Township; and so soon as the annual Township meeting shall have adjourned, the Township Clerk shall put up at some conspicuous place where the said Township meeting was held, a list containing the names of all such persons as have been chosen to any office in such Township; and all and every such officer shall subscribe to the said declaration in the Township Clerk's book within twenty days from his appointment; and every Township Officer making default herein, shall forfeit and pay the sum hereinafter mentioned; and it shall be the duty of the Township Clerk, immediately after the expiration of the said twenty-days, to transmit to a Justice of the Peace of his division, a list of all such Township Officers who have been chosen for the current year, and have not subscribed the declaration, aforesaid; and the said Justice shall proceed against such defaulter, and recover the sum forfeited under this Act; and any two Justices acting within the division may then appoint other Township Officers in lieu of those who shall make default, as aforesaid, who shall subscribe the said declaration in the Clerk's book, and have the same power, and be liable to the same responsibilities, as if they had been elected or appointed in manner hereinbefore pointed out.

List of officers to be put up;

Officers to subscribe declaration, on pain of forfeiture;

Clerk to transmit to Justice of Peace a list of officers chosen who have not subscribed;

How others shall be appointed.

Declaration :

Declaration.

I, ———, do sincerely promise and declare, that I will faithfully and diligently perform the duties of ———, for the Township of ———, for the current year.

Money arising from fines and commutation for militia service, to be paid into the hands of the Township Clerk, to be expended in the improvement of the highways and bridges.

X. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for Her Majesty's Justices of the Peace to pay into the hands of the Township Clerk appointed under this Act, all monies arising from fines, and also the commutation money in lieu of Militia service in said Township, which may have been directed by law to be expended upon the high roads, all which monies shall and may be expended in making and improving the public highways, roads and bridges, accordingly, by the Overseers of Highways, in such division of the roads as the Magistrates may order for the advantage of the inhabitants of said Township, and all monies arising from the wild land assessment and other sources, except specially provided for by law.

XI. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Town or Township Clerk to make out a full and detailed statement of all monies received and expended by him by virtue of this Act during the current year; which statement shall be signed and certified by the said Clerk, a copy of which shall be put up at the place at which the ensuing Town meeting shall be ordered to be held, on or before ten o'clock on the day of meeting; that his accounts of receipts and disbursements for the current year shall be laid before the Township meeting, which accounts shall be examined and approved by the Town Wardens at such meeting, before any other business be transacted; and that every Township Clerk shall give bond for the due performance of his duty, which bond may be in the following form:

Township Clerk to make a detailed statement of all monies received and expended;

To be laid before the Township meeting, and to be approved by Town Wardens;

Township Clerk to give bond;

“Bond” — “Township Clerk:”

Know all men by these presents, that we, K. L., Township Clerk for the Township of _____, in the District of _____, and D. K., of _____, and T. H., of _____, are held and firmly bound to F. B., Treasurer of the District of _____, in the sum of _____, to be well and truly paid to F. B., Treasurer, or his successors in office, for which payment well and truly to be made to the said F. B., we bind ourselves, jointly and severally, our heirs, executors and administrators, firmly by these presents, sealed with our seals, dated, &c. The condition of the above bond is such, that if the above bounden K. L. shall well and truly pay over, according to law, for the use of the Township, all monies coming into his hands by virtue of his office, and applicable to the general uses of the Township, and deliver the remainder, (if any there be,) together with all books, records and papers, belonging to the Township, into the hands of his successors in office as the law directs, then this obligation is null and void, or otherwise to remain in full force.

Bond.

(Signed) A. B., *Township Clerk.*

XII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the inhabitant freeholders and householders of the several Townships in this Province, at such Township meetings assembled, to determine and order in what manner, at what periods, and what description of horned cattle, horses, sheep and other animals, shall be allowed to run at large, or be restrained from so doing, within their respective Townships for the year; and what shall be the fine or forfeiture upon the owner of any animals running at large, contrary to such regulations; and also to make such rules and regulations as the majority may deem necessary relative to pits, precipices and deep waters, or other places dangerous to travellers, or the destroying or suppressing the growth of such weeds as are detrimental to good husbandry; the height and description of lawful fences, and such other matters connected with the Township as may tend to promote the peace and welfare of the Township.

Township meetings to determine what cattle, &c. may run at large, and what restrained; (See 43 Geo. III. Ch. 10, Sec. 4.)

Fines upon owners of cattle running at large contrary to regulations;

Regulations respecting pits, fences, &c.

Reports of insane persons;

XIII. *And be it further enacted by the authority aforesaid,* That it shall and may be the duty of the Town Wardens to report to the Magistrates of the District, any persons who shall be insane or of unsound mind, going out at large to the danger of the peace of the inhabitants of such Township; and also it shall be the duty of the Town Wardens to audit and examine the Township Clerk's accounts, and to approve the same if found correct, and this examination to be the first duty performed at the Township meeting.

Audits of Township Clerk's accounts, &c.

Assessor of Townships to obtain lists of all ratable property;

(See 4 & 5 Vic. Ch. 10.)

XIV. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Assessor of any Township, and he is hereby authorised and required, to demand and receive from every ratable inhabitant resident within the Township, a list of all the ratable personal property in his, her, or their possession in the Province, and of all the lands, tenements, or other real estate, in his, her, or their possession in the Township, specifying the number of the lot or lots, or parts thereof; the number of concession or concessions in which the same is or are situated, or otherwise particularly describing the same; and also the number of acres cultivated or uncultivated in each lot or parcel of land; which list shall be taken between the first Monday in January and the sitting of the Court of General Quarter Sessions of the District, which shall be holden next after the first day of March in every year; and shall make a return within the time aforesaid, duly attested under oath (or affirmation) before the Clerk of the Peace for the District, of all the ratable inhabitants, with a true list of their ratable property, specifying the particulars above mentioned, and shall in like manner insert his own ratable property therein, and shall also extend on said roll the amount on which he, she or they, shall be liable to pay tax, opposite to their respective names, at the foot of which he shall subscribe his name; and shall cause the said return to be delivered to the Clerk of the Peace, on or before the sitting of the said Court of Quarter Sessions, holden next after the first day of March, aforesaid, to be by the said Clerk of the Peace laid before the Court of Quarter Sessions at its said sitting; and shall also, within the time aforesaid, put up a correct copy thereof in some conspicuous place within the Township, for the inspection of the inhabitants; and the said Assessor shall, and he is hereby required to report to a Magistrate of the division, the names of all such persons in the Township as he conceives to have either given in a false list, or have refused or neglected to give any list, as the law directs, of their ratable property, in order that such offenders may be dealt with according to law, at least fourteen days previous to his returning such roll to the Clerk of the Peace.

And make return on oath to the Clerk of the Peace;

Return to be laid before Court of Quarter Sessions;

Copy to be put up in conspicuous place in the Township;

Assessor to report those who neglect to give returns of property, &c.

Species of census required from Assessor;

(See 4 & 5 Vic. Ch. 42.)

XV. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for every Assessor, and he is hereby authorised and required to demand and receive from every inhabitant householder or head of a family in his Township, a true and correct list of the number of persons composing such family, male and female, and their respective ages, also all deaf and dumb and insane persons, including therein all persons

employed by or resident with such householder or head of a family, which list shall specify the different denominations of Christians to which they severally belong, and may be in the following form, to which he shall add the necessary number of columns to define their different religious denominations for such return:

F O R M .

Names of heads of Families.	Number in each Family.				Deaf and Dumb.	Insane.
	Males.		Females.			
	Under 16.	Over 16.	Under 16.	Over 16.		

Form;

And if such householder or head of a family shall refuse or neglect to give a true and correct list to the Assessor, he shall be liable to pay the same penalty as persons are liable to pay who neglect or refuse to give in a true list of their ratable property to the said Assessor, to be levied and collected and expended in the same way; blank books, or forms for taking the assessment, shall be furnished to the Assessors, on their application to the Clerk of the Peace, who shall charge the expense of the same in his account against the District; and the Clerk of the Peace shall report to the Quarter Sessions next after the first day of March, aforesaid, the names of all Assessors belonging to his District, who have not completed and delivered into his office their assessment rolls, for which neglect every such Assessor shall forfeit and pay the same sum as is imposed on officers neglecting to make the declaration of office, which money shall be expended on the roads in said Township; and the Magistrates shall appoint other Assessors for that year, who shall have the same powers and authority, and be liable to the same responsibilities, as they would have been had they been appointed at the Township meeting; which new Assessors so appointed shall be notified by the Clerk of the Peace of their appointment, and shall proceed to take such assessment and make their returns to the Clerk of the Peace, as herein-before provided, in one month after having been so notified, and shall sign the declaration in the Clerk's book; and the Collectors shall lodge their bond, as required by this Act, before the sitting of the Court of General Quarter Sessions next after the first day of July in each year.

Heads of families to be fined who give incorrect lists;

Blank books to be furnished by Clerk of the Peace, for taking assessments;

Clerk of the Peace to report delinquent Assessors;

Magistrates to appoint other Assessors;

Collectors to lodge bond.

XVI. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for each and every Assessor to receive from the Treasurer of their respective Districts, on the certificate of the Clerk of the Peace, that the assessment roll hath been duly delivered according to law,

Fees to be allowed to Assessors.

the following fees :—If the assessment of the rate of one penny in the pound for the year does not amount to fifty pounds, he shall receive a sum equal to seven pounds for every one hundred pounds; if above fifty pounds, and under one hundred pounds, a sum equal to six pounds ten shillings for every one hundred pounds; if above one hundred pounds, and under one hundred and fifty pounds, a sum equal to six pounds for every one hundred pounds; if above one hundred and fifty pounds, and under two hundred pounds, a sum equal to five pounds five shillings for every one hundred pounds; if above two hundred pounds, and under two hundred and fifty pounds, a sum equal to four pounds fifteen shillings for every one hundred pounds; if above two hundred and fifty pounds, and under three hundred pounds, a sum equal to four pounds five shillings for every one hundred pounds; if above three hundred pounds, and under three hundred and fifty pounds, a sum equal to four pounds for every one hundred pounds; if above three hundred and fifty pounds, a sum equal to three pounds ten shillings for every one hundred pounds.

Collector to make application to the Clerk of the Peace for assessment roll; (See 4 & 5 Vic. Chap. 10, Sec. 6.)

Certified by the Clerk of the Peace;

And receive the rates due on such roll;

Collector's bond to be delivered to the Treasurer of the District;

XVII. *And be it further enacted by the authority aforesaid, That it shall be the duty of the Collector appointed for a Township to make application to the Clerk of the Peace (first having lodged with the Treasurer of the District the bond hereinafter mentioned, the securities to which bond shall be freeholders, and as such certified by the Town Clerk to be good and sufficient,) for a certified copy of the assessment roll for the Township, for the year in which he is appointed; which copy, after being duly examined and certified by the Clerk of the Peace, shall be to each and every Collector sufficient authority for collecting the same; and from time to time to demand and receive from the inhabitants of the Township, all such rates and assessments as may be due and payable on such assessment list; and it shall be the duty of all Collectors for any Town, Township or place, to deliver his bond, duly executed according to law, to the Treasurer of the District, and to take up the assessment roll on or before the Quarter Sessions next after the first day of July in each year.*

“BOND”

“COLLECTORS:”

Form of Collector's bond.

Know all men by these presents, that we, A. B., Collector of the rates for the Township or Townships of ———, in the District of ———, and C. D. of ———, and E. F. of ———, are held and firmly bound to J. O., Treasurer of the District of ———, in the sum of ———, currency, to be well and truly paid to the said J. O., Treasurer, as aforesaid, or his successor in office, for which payment well and truly to be made to the said J. O., we bind ourselves, jointly and severally, our heirs, executors and administrators, firmly by these presents, sealed with our seals, and dated this ——— day of ———, in the year of our Lord ———.

The condition of the above bond is such, that if the above-bounden ———, shall collect all rates and assessments of the Town, Township or Townships of ———, for the year eighteen hundred and ———, for which

he has been appointed, and shall pay all monies which he may so collect (except his own per centage) to the Treasurer of the District, on or before the third Monday in December, in the said year eighteen hundred ———, then this obligation shall be null and void, or otherwise to remain in full force and virtue.

XVIII. *And be it further enacted by the authority aforesaid,* That every Collector of a Town, Township or place, shall collect all rates (which can be collected) set forth in the assessment roll, and shall pay over the amount, and finally settle his account with the Treasurer, on or before the third Tuesday in December, in each and every year; and that no Collector who has not so settled his account with the Treasurer, shall be eligible to be elected to any Township office at the next Township meeting, and shall also be proceeded against, as hereinafter provided, for the recovery of the amount then due for that year: *Provided always,* that it shall and may be lawful for every such Collector to reserve for himself the following fees, as a compensation for his services:—If the assessment of the Township for which he is Collector, does not amount to fifty pounds, he shall retain a sum equal to eight pounds for every hundred pounds he collects; if above fifty pounds, and under one hundred pounds, a sum equal to seven pounds ten shillings for every hundred pounds; if above one hundred pounds, and under one hundred and fifty pounds, a sum equal to seven pounds five shillings for every hundred pounds; if above one hundred and fifty pounds, and under two hundred pounds, a sum equal to seven pounds for every hundred pounds; if above two hundred pounds, and under two hundred and fifty pounds, a sum equal to six pounds ten shillings for every hundred pounds; and for all sums over two hundred and fifty pounds, a sum equal to five pounds for every hundred pounds.

Collectors to settle with the Treasurer on or before third Tuesday in December;

On default to be ineligible to be elected to any office at the next Township meeting;

Collector to reserve certain fees;

Fees.

XIX. *And be it further enacted by the authority aforesaid,* That if any person who shall occupy a house, farm or tenement, in any Town, Township or place, in this Province, and shall have been assessed for the same, shall leave the said Town, Township or place, before the said assessed rates have been paid, it shall and may be lawful for the said Collector to ask, claim and recover, the said rates (except such part thereof as shall have been charged on movable property) from the owner of the said house, farm or tenement: *Provided,* the same shall be demanded fourteen days before the second Monday in December in each year, but should the year in which the said rates are due, expire before the said rates be demanded, then and in that case the Collector shall be liable for the amount; nevertheless the said Collector shall be entitled to proceed, by warrant of distress, against any such tenant, although he may have left the Township; and that the Collector may, in like manner, proceed to recover from all other persons residing in his Township, the assessed rates which shall not have been paid by the first Monday in November in each and every year, the same having been demanded fourteen days previous to the date of the Magistrate's warrant of distress.

When a house, &c. is vacated before the assessment rates are collected, Collector to obtain such rates from the owner;

If not demanded before second Monday in December, Collector responsible;

Distress against defaulters.

Overseers of highways to
superintend the same and
keep them in repair;

Authorised by the Magis-
trates;

Notice to persons liable
to perform statute labour;

Hurtful weeds to be
destroyed.

Certificates to such per-
sons as have performed
statute labour.

Township Clerk to obtain
list of persons liable to
perform statute labour.

Overseers to erect guards
rails and fences

Persons liable for statute
labour may compound for
2s. 6d. per day.

[See 4 & 5 Vic. Ch. 10,
Sec. 39.]

XX. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Overseers of highways of any Township, and they are hereby severally authorised and required to superintend, make and keep in repair, the highways, roads, streets and bridges, that may be allotted to them severally, from time to time, and ordered by the Magistrates acting for the division; which divisions the Magistrates acting within the division are hereby authorised and empowered to make at a Special Sessions, by them for that purpose to be holden, on or before the third Saturday in the month of April in each year, of which Special Sessions at least six days public notice shall be given, by putting up the same in at least three public places within each Township; and every such Overseer shall, after having received such order, notify all persons within his division, liable to perform Statute labour, and order them, after having given three days notice of the day, hour and place, which notice may be delivered either in writing or verbally at the place of residence of said persons so liable to work, within the time stated in such order, on such part of the roads, bridges or highways, as they are directed to make, mend or repair; and shall and may direct all persons performing such labour to destroy such weeds as may be, in his opinion, hurtful to good husbandry; and shall give to every person who may have done his Statute labour for the year, requiring the same, a certificate under his hand of having performed his share of Statute labour in that Township for the year, in order to prevent such person from being called out again in any other Township into which he may remove.

XXI. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Township Clerk for each and every Township in this Province, to obtain a list of persons in his Township liable to perform Statute labour, showing the number of days each person is liable to work, which list the Overseers of highways for the Township shall have authority to take a copy or extract from the same.

XXII. *And be it further enacted by the authority aforesaid,* That when any road or highway passes any deep water, precipice or other dangerous place, the Overseer in whose division such may be situated, shall, by Statute labour, cause good and sufficient guards, rails or fences, to be erected, in order to make such place safe; and shall also erect finger posts at all such places within his division, as shall be necessary for the direction of travellers.

XXIII. *And be it further enacted by the authority aforesaid,* That any person liable to perform Statute labour, according to law, may compound for such duty, if he or she shall think fit, on or before the first Monday in May, by paying the Overseer acting for the division in which he resides, the sum of two shillings and six pence for every day which he or she may be required to work, as aforesaid; and such Overseer is hereby authorised and required to accept the said sum in lieu of such Statute labour, and shall and may lay out and expend the same as to him shall seem best, for

the improvement of the roads and bridges allotted to his division, and render an account of the same as is provided by this Act: *Provided always*, that nothing herein contained shall affect any provision in any Act passed for Macadamizing certain roads within this Province.

XXIV. *And be it further enacted by the authority aforesaid*, That in order to provide materials for making or erecting bridges or causeways, or making or repairing any road, with the money or labour of any Township, it shall and may be lawful for any Overseer of Highways, in the actual discharge of his duty, to direct the persons performing the work to cut down or make use of any trees or underwood standing upon any unenclosed and unimproved lands, and also to break up and make use of any stone upon any unimproved and uncultivated land that the Overseer may think necessary for that purpose, doing no unnecessary damage to the premises from whence they are taken.

Overseers may direct the cutting down and using of any trees on unimproved lands.

XXV. *And be it further enacted by the authority aforesaid*, That the roads and highways in and through every Township, and also a just share of any road actually required and necessary, running between the same and any other Township, shall be cleared, repaired and maintained, by the inhabitants thereof; and that every person liable to perform Statute labour, if not compounded for, as aforesaid, shall, either in person or by a sufficient and able-bodied man in his stead, be obliged, under the direction of an Overseer acting for the division, to work faithfully and diligently on the said road, and shall bring with him such tools or implements useful for the purpose as he may be owner of, and be directed by the Overseer to bring, for and during the time he may be liable to work on the said road in each and every year, allowing eight hours to each days work, exclusive of the time of going and coming to and from the place of work; and that every person within the Township keeping a cart, wagon or team, of one or more horses, or yoke of oxen, shall send on every day to be appointed by the said Overseers, a cart or wagon, or other implement and team, and one able-bodied man to drive the same for such space of time as he shall be liable to work on the said roads according to law, allowing eight hours for such days work, which said days work, with a team and driver, shall be held equivalent to two days personal labour for one man; and if any labourer or driver shall refuse or neglect to work faithfully, or to carry sufficient loads during the time above mentioned, it shall and may be lawful for the said Overseer, and he is hereby authorised and required to discharge such labourer, and the person furnishing such team shall be liable to the forfeiture which every such person would have incurred by virtue of this Act, in case such labourer had not attended, or such team and driver had not been sent, and shall not be allowed for the part or portion of the day which he may have laboured.

Persons to work faithfully and furnish such tools for the purpose as he may possess;

Owners of carts or wagons to send them and driver when directed;

Penalty in case of neglect.

XXVI. *And be it further enacted by the authority aforesaid*, That the several Overseers of highways in the several Townships, shall cause all Statute labour under their direction and control to be performed, and all

Statute labour to be performed, and money expended, between the 10th May and 24th July.

monies coming into their hands in lieu of Statute labour, to be expended between the tenth day of May and the twenty-fourth day of July, in each and every year; and in default thereof shall be liable to forfeit, to be expended on the roads in the Township in the succeeding year, the same sum as is hereinafter imposed for refusing to make and sign the declaration of office.

Persons neglecting to perform statute labour, after warning, shall pay five shillings per day;

XXVII. *And be it further enacted by the authority aforesaid,* That every person liable to perform Statute labour in any Township or division, and not having compounded for the same according to law, who shall neglect or refuse, after having been duly notified, as aforesaid, to attend himself, or send a sufficient able-bodied man in his stead, with such carriage, team, implement or instrument, as may be by this Act required by the Overseers, at the time and place appointed, shall forfeit and pay the sum of five shillings for each day he shall so neglect or refuse, to be recovered on complaint of the said Overseer of highways, by warrant under the hand and seal of a Magistrate, by distress and sale of the goods and chattels of the person so offending, rendering the overplus, (if any there be,) to the party, after deducting the penalty and legal charges attending such distress and sale; and the imposing of any such fine or penalty on any person shall not in any wise release such person from performing any duty required of him by this Act, but he shall be liable and subject to perform the same, at any time within the current year, when called upon so to do by the proper officer, as though no such penalty had been imposed.

Persons not released from performing statute labour, in consequence of being fined.

Persons stopping up any highway, or destroying any fence, &c. shall be fined;

(In part repealed by 3 Vic. Ch. 53, Sec. 51; and see 4 & 5 Vic. Ch. 26, Sec. 13.)

XXVIII. *And be it further enacted by the authority aforesaid,* That if any person shall wilfully stop up any road or roads in any Township, or shall pull down or destroy any fence, railing or guard, that shall have been erected along any water, bridge or precipice, for the safety of travellers, or any guide or finger post, such person or persons so offending shall forfeit and pay, on conviction for every such offence, a sum not less than five shillings, nor more than five pounds, to be recovered in the manner provided by the preceding clause of this Act; or in case any tree or trees shall be cut down in or fall out of any enclosed land, or other lands which shall be occupied by a resident settler, in such a way as to obstruct any public road or highway, or any other thing which may be represented as a nuisance, the owner or occupier of such land shall remove the same within twenty-four hours after notice received of such obstruction, under the penalty of ten shillings for every day the obstruction shall continue, the penalty to be recovered in like manner, as aforesaid.

Nuisances to be removed by owners of land on which they occur.

Persons assessed under twenty-five pounds when exempted from statute labour.

XXIX. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, any person who is not assessed more than twenty-five pounds, and who, by reason of age, sickness, numerous family or misfortune, may be in poor and indigent circumstances, may apply to the Town Wardens for the Township in which such person resides, and the said Town Wardens, on such application, having first

notified the Overseer acting for the division in which such person resides, to appear on the part of the public, shall inquire into the situation and circumstances of the person making such application, the said Town Wardens may exempt such person from the performance of the whole or part of his Statute labour upon the highways for the year, and give him a certificate to that effect, which shall be the Overseer's acquittance for the work.

XXX. *And be it further enacted by the authority aforesaid,* That if through any inadvertency or otherwise, the name of any person which should have been inserted in the assessment roll shall be omitted, such person shall be liable to work on the highways in the Township in which they reside, in the same proportion as if no such omission had taken place; and the Overseer is hereby authorised and required to insert, in his road list for labour, any such person as may come into the Township to reside after the assessment roll has been taken for the year, and to call them out to perform Statute labour in the same manner as other persons who reside in the Township: *Provided always,* that immigrant labourers shall have resided full six months in this Province.

Omission of names on assessment roll, or coming into the Township after the same is made up, not to exempt the parties;

Exception.

XXXI. *And be it further enacted by the authority aforesaid,* That the Overseers of each and every Township shall severally make out a true list or account of all persons within their respective divisions, who are liable to work on the highways, and of the labour done or unperformed by any person liable to perform or compound for the same; and also of all monies that may come into his hands by virtue of his office, and of the expenditure or payment of the same; which list and account shall be subscribed by such Overseer, and delivered, verified upon oath, which oath any Magistrate of the District is hereby authorised to administer, to the Township Clerk, on or before the first day of September in each and every year; and the said account shall be examined by the said Clerk for the purpose of being placed with the records of the Township; and it shall be the duty of the said Township Clerk, on or before the first day of December in each and every year, to furnish the Magistrates of the division with the names of the Overseers of roads who shall not have so rendered their account for the current year, in order that the said Overseers of highways may be called upon for their accounts; and every Overseer of roads who shall neglect to render his account, as aforesaid, shall be liable to the same penalty, to be recovered in the same manner as provided by this Act, for persons refusing to take the oath or declaration of office.

Township Overseer to make out lists of all persons within their divisions liable to statute labour, of labour done, monies received and expended, verified upon oath;

Township Clerk to furnish Magistrates with names of Overseers of roads who have not furnished their accounts;

Defaulters subject to fine.

XXXII. *And be it further enacted by the authority aforesaid,* That it shall be the duty of any Pound Keeper appointed under the provisions of this Act, to provide himself with sufficient yards or enclosures for the safe keeping of all such animals as it may be his duty to impound, and he is hereby authorised and required to impound all animals unlawfully running at large, trespassing and doing damage, that may be delivered to him by

Pound-keepers to provide themselves with enclosures, and to impound all animals unlawfully running at large, and furnish them with food and drink;

(See 48 Geo. III. Ch. 16, Sec. 4.)

If animals not claimed, and lawful demands not paid, they may, after legal notice, be sold;

any persons resident within his division taking up the same; and it shall be his duty to furnish the same with necessary food and drink; and if after the space of forty-eight hours the said animals shall not be claimed and redeemed by the owner, or some one on his behalf, paying the Pound Keeper his lawful demand and charges, and the amount of damages awarded, in the manner hereinafter mentioned, to have been done by such animals, to the person taking up the same, he shall cause a notice in writing to be affixed in three public places in the Township for at least fifteen days, which notice shall give a description of such animals, and also state the time and place at which he intends to expose the same for sale; and if the owner of such animals, or some one in his or her behalf, does not within the time specified in such notice, as aforesaid, redeem the same, by paying to the said Pound Keeper his legal fees, which shall be regulated from time to time by the Town Wardens of each Township, who are hereby required to regulate the same, and furnish the copy or schedule to the Township Clerk for the information of the Pound Keepers, and charges, and the damages awarded to the person taking up such animals, the said Pound Keeper shall proceed to sell the same to the highest bidder, at the time and place mentioned in the said notice, which sale is hereby declared to be valid in law; and the said Pound Keeper shall, after deducting his own legal charges and the damages awarded to the person taking up the said animals, provided he is the party injured, return the overplus (if any there be) to the original owner: *Provided always*, that if no person shall appear to claim the said animals within the space of three months after public notice and sale, as aforesaid, the said Pound Keeper shall pay the overplus (if any) into the hands of the Township Clerk for the time being, to be laid out and expended for the improvement of the roads and bridges within the said Township.

Overplus arising from sale to be returned to owner, if claimed.

How to proceed when horses, oxen or cows, are impounded, and owners are not known;

XXXIII. *And be it further enacted by the authority aforesaid*, That if any ox or oxen, horse or horses, cow or cows, shall be impounded, as aforesaid, and not claimed before the expiration of fifteen days, as aforesaid, and the owner thereof shall not be known by the said Pound Keeper, then and in that case the Pound Keeper shall not sell such ox or oxen, horse or horses, cow or cows, at the time stated in such notice, but shall postpone the sale thereof for the space of forty days, at the expiration of which time such Pound Keeper shall proceed to sell the same, and dispose of the proceeds in the manner mentioned in the last preceding clause of this Act: *Provided always*, that the owner of the same may at any time before such sale redeem such animal or animals by paying demands, as aforesaid.

Owner may redeem.

Persons taking up cattle to be impounded, must state their demands in writing;

XXXIV. *Provided also, and be it further enacted by the authority aforesaid*, That it shall be the duty of all and every person taking any animal or animals to a Pound-Keeper to be impounded, at the same time, or within twenty-four hours, to state in writing to the said Pound Keeper, all demands he may have against the owner of such animal or animals, for damages done by them; and in case the owner of such animal or animals

shall tender to the Pound Keeper the full sum which shall or may be awarded as damages to the party suffering the same, with the costs then incurred, such owner shall not be liable to any costs afterwards incurred, but all such subsequent costs in such case shall be borne by the party claiming extravagant damages.

Party claiming extravagant damages to pay costs.

XXXV. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Pound Keeper, and he is hereby authorised and required, when the owner of any animal impounded shall object to the amount of damages claimed, within forty-eight hours after the same have been impounded, as aforesaid, to notify three disinterested resident freeholders or householders, farmers in the said Township, to appraise the damages, and also to judge of the sufficiency of the fence enclosing the ground wherein such animals were found doing damage; and such freeholders or householders, farmers, or any two of them, shall within twenty-four hours after the receipt of such notice, view said fence, and determine whether the same is a lawful fence according to the regulations of the Township meeting on the subject, and if so appraise the damage done; and having reduced this their award to writing, shall deliver the same, signed with their names, to the Pound Keeper, within the space of twenty-four hours after having been so notified: *Provided always,* that if any person shall neglect or refuse to attend to examine said damage after being notified, as aforesaid, he shall be liable to a penalty of five shillings for every such neglect or refusal, to be recovered and applied in the same manner as fines imposed by this Act for refusing or neglecting to perform Statute labour: *Provided always,* that the owner of any animal or animals not permitted to run at large by the regulations of such Township meeting, shall be liable for any damage done by such animal or animals, notwithstanding that the fence enclosing the premises was not of the height required by the said regulations.

Three freeholders may appraise damages, and determine upon the lawfulness of fences;

(See 4 Wm. IV. Chap. 12, Sec. 5.)

Persons refusing to appraise may be fined;

Persons liable for damage, if cattle unlawfully allowed to run at large.

XXXVI. *And be it further enacted by the authority aforesaid,* That if any person legally appointed to any Township office agreeably to the provisions of this Act, shall neglect or refuse to make the declaration of office, and to sign his name thereto in the Township Clerk's book, within twenty days after his being so appointed, or after making said declaration shall neglect or refuse to perform the duties of his office agreeably to the provisions of this Act, or if any person shall neglect or refuse to deliver to the Assessor a true list of his or her ratable or personal property, as the law directs, in manner and form aforesaid, or shall wilfully mis-state such ratable property, such person shall forfeit and pay a sum not less than one pound, nor more than five pounds, with costs, for every such neglect, refusal or violation of the laws, to be levied by distress and sale of the offenders goods and chattels, eight days previous notice of said sale being given, and the overplus (if any there be) being rendered to the owner.

Persons neglecting to comply with provisions of this Act may be fined.

Records of Town Clerk may be examined on payment of one shilling and three pence.

XXXVII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for any person or persons to examine any document on record, in possession of the Township Clerk, on payment of one shilling and three pence, as the Clerk's fee for his trouble in making or assisting to make the same.

District Treasurers to present to Magistrates a list of Collectors in arrears ;

(See 4 & 5 Vic. Chap. 10.)

XXXVIII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the District Treasurer, and he is hereby authorised and required to prepare and place before the Quarter Sessions, to be holden in said District next after the first day of January in each and every year, a list of such Collectors of rates as may be in arrears, and shall not have paid over the rates to the Treasurer for the year in which he or they shall have been appointed ; and it shall be the duty of the Magistrates in Quarter Sessions assembled, to issue their warrant, and distrain the goods and chattels of said Collector or Collectors, and cause the same to be sold, after having given twenty days notice of the time and place of such sale, to the amount of rates due to the District, with the costs thereon ; and also may proceed in like manner against the goods and chattels of the sureties named in said Collector's bonds.

Who may proceed against them and sureties.

Persons chosen as Township Commissioners may serve as Township Wardens.

XXXIX. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Township Commissioners, who have been appointed at the Township meeting on the first day of January, one thousand eight hundred and thirty-eight, to perform the duties of Township Wardens provided for in this Act, and their offices as Township Commissioners shall hereafter cease ; and that the duties of all other Township Officers, appointed at the annual Township meeting, aforesaid, shall be performed and regulated agreeably to the provisions contained in this Act.

How to proceed when Township rates have not been assessed or collected.

XL. *And be it further enacted by the authority aforesaid,* That in case it shall have happened that any Township in this Province shall, from neglect of the Assessors or Collectors, or other cause, not have been assessed, or the rates therein not have been collected for any one year or more, previously to the passing of this Act, when by law it should have been done, it shall and may be lawful for the Magistrates of the District in which such Township or Townships are situated, in Quarter Sessions assembled, to authorise the Collector for the current year to collect the said rates, in like manner and under the same provisions and penalties provided for by this Act.

Assessors to make out schedules of lands not included in their rolls, for Clerks of Peace.

XLI. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Assessors of each and every Parish, Township or place, within this Province, to make out a schedule of all lands within the same, not included in their several Assessment Rolls, and they shall sign and deliver the same to the Clerks of the Peace of the several Districts along with the Assessment Rolls, for the information of the Treasurer, in the following form :—

SCHEDULE OF LAND, in the Township of ———, in the District of ———, not inserted in the Assessment Roll of said Township for the year ———.

LOTS OR PARTS OF LOTS.	CONCESSION.	NUMBER OF ACRES.
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Form.

XLII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Town Wardens of any Township, legally appointed according to the provisions of this Act, to compound or agree with any person or persons resident in the Township, for making in a permanent and substantial manner, any part of any public road within their Township, in lieu of his or their Statute labour, which he or they may be by law required to perform in the Township, for any number of years not exceeding five, which agreement shall be committed to writing and signed by the parties, and thereupon it shall be binding on the Town Wardens and their successors, and the other person or persons being a party to such agreement; and upon the due performance and completion of such agreement, the person or persons performing the same shall be exempt from all Statute labour in the Township for the full term of time agreed upon as aforesaid.

Town Wardens may compound for statute labour for five years.

XLIII. *Provided always, and be it further enacted by the authority aforesaid,* That in case any person or persons, after having subscribed to any agreement, as aforesaid, shall neglect or refuse to perform the same in the manner and within the time specified in such agreement, he or they shall be liable to the like penalty that persons are by this Act, who refuse or neglect to perform their Statute labour.

Persons failing in agreement liable to penalty.

XLIV. *And be it further enacted by the authority aforesaid,* That if it shall happen that any person or persons shall enter into an agreement with the Town Wardens, as aforesaid, and in pursuance of such agreement make a part or the whole of the road required by such agreement, but upon which there will arise a dispute between the Town Wardens making the agreement or their successors, and the other party thereto, touching the fulfilment of such agreement, such dispute shall and may be submitted to three Overseers of highways acting in the Township for the year; and such three Overseers of highways shall be drawn by a public and impartial ballot from the whole list of Overseers of highways acting in the Township for the year; which ballot shall be made by the Township Clerk, who shall give the two contending parties due notice of the time and place where such ballot shall take place; and it shall be the duty of such Clerk to appoint a time and place for the meeting of such Overseers of highways so balloted, giving them, and also the parties to such dispute, at least eight days notice; and thereupon it shall be the duty of such Overseers of highways to meet, and after having the said agreement submitted to them, and examining the premises, to make such

Disputes to be submitted to three Overseers of highways, chosen by ballot;

Contending parties to have notice;

Awards binding.

award as to them shall appear just and right, which award shall be binding on the parties, and be final.

Clerks of the Peace to make out returns of population, and transmit to Lieutenant-Governor.

XLV. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Clerk of the Peace in every District, to make out a general return of the population of his District from the several returns which he may receive from the Assessors for the year, and to transmit the same to the office of the Governor, Lieutenant Governor, or Person Administering the Government of this Province, for the time being, on or before the first day of July in each and every year; and if such return shall not contain the whole population of his District, he shall send in a return of such Townships as may be deficient, as soon as practicable after he shall be enabled to do so by returns of the Assessors of such Townships.

Persons refusing to pay rates, liable to distress and sale of goods and chattels.

XLVI. *And be it further enacted by the authority aforesaid,* That if any person whose name is inserted upon such assessment roll, shall neglect or refuse to pay the sum or rate for which he or she stands rated in manner aforesaid, for the space of fourteen days after demand duly made of the same by the said Collector, or his agent duly appointed, the said Collector, upon oath before one Magistrate, of such demand and refusal of payment, as aforesaid, shall be entitled to demand an execution for the amount of such rate or rates, which execution the said Magistrate is hereby authorised and required to grant; and upon receipt of the same, the said Collector shall, and he is hereby authorised and required to levy the same, by distress and sale of the goods and chattels of the person so neglecting or refusing to pay, having eight days previous notice of such sale in three public places in the Township, and render the overplus (if any there be) to the owner thereof, after deducting the amount of the rates assessed, and the legal charges of the distress and sale.

Fees to Constable.

XLVII. *And be it further enacted by the authority aforesaid,* That the Constable to whom any warrant, execution or summons, may be directed, authorised to be issued by this Act, shall be entitled to the following fees, and no more, for executing such warrant, execution or summons, namely: Four-pence per mile for every mile he may have to travel to execute the same, which travel shall be verified upon oath, if required; and for levying, advertising, selling and making returns, two shillings and sixpence; for every summons served eight-pence.

Town Wardens a corporate body.

XLVIII. *And be it further enacted by the authority aforesaid,* That the Town Wardens appointed by this Act for their respective Townships, and their successors duly appointed, shall be as a Corporation to represent the whole inhabitants of the Township for which they are Town Wardens, and as such may have and hold the property of or belonging to the Township, and shall and may sue, prosecute or defend, in all presentments, indictments or actions, for and on behalf of the said Townships.

XLIX. *And be it further enacted by the authority aforesaid,* That if any one to whom an oath or affirmation may be administered, under the provision of this Act, shall wilfully swear or affirm falsely, such false swearing or affirmation shall be deemed wilful and corrupt perjury, and the person guilty thereof shall and may be prosecuted and punished therefor as for wilful and corrupt perjury.

False swearing, perjury.

L. *Provided always, and be it further enacted by the authority aforesaid,* That in case it shall be necessary to repair any sudden breach which may be caused in any public highway, by reason of any bridge or causeway giving way, or from any other casualty, or to remove any obstruction on account of snow, or to fix or set up beacons or stakes as a guide for travellers over any frozen waters, marsh, plain or other place, it shall and may be lawful for the Overseer or Overseers of highways, in whose division the same may occur, and they are hereby required to repair, remove or establish, as aforesaid, or cause the same to be done, by applying any money in their hands, and applicable to the roads and unappropriated, or to direct the application (for that purpose) of any Statute labour subject to their control; and in case it shall happen that such Overseer or Overseers shall not at the time have any money or Statute labour under his direction, which he may apply for the purposes aforesaid, it shall and may be lawful for such Overseer to direct any person in his division, and liable to perform Statute labour, to repair such breach, remove such obstruction, or erect such guides, as aforesaid; and such Overseer shall keep an account of the number of days any person or persons may work on the roads for the purposes aforesaid, which account such Overseer shall transmit to the Clerk of the Township, to be laid before the Town Wardens of the Township; and the said Town Wardens, after examining the said account, if it shall appear just and expedient, may exempt any person who may have worked, as aforesaid, from performing any part of his or her Statute labour for the next year, and shall give such person, as aforesaid, a writing to that effect, which shall be taken and considered by the Overseer under whose direction such person may be liable to work, and credited to such person for so much of his Statute labour; and any person who shall neglect or refuse to perform such labour, or obey the orders of the Overseer, when required to work, as aforesaid, shall be liable to the same penalties, and which may be recovered and disposed of in the same way and manner, as is provided by this Act for neglecting to perform Statute labour, or disobeying the Overseers of highways, except such person can make it appear that he had a reasonable excuse for so doing: *And provided also,* that the said Overseer shall, and he is hereby required, to proportion such labour among the several persons within his division liable to perform Statute labour, as nearly equal as circumstances will permit.

Overseers of highways to repair breaches, set up beacons, &c.

Overseers may direct persons to do labour necessary, and account for the same as Statute labour;

Persons neglecting, liable to penalty;

Labour to be apportioned

LI. *And be it further enacted by the authority aforesaid,* That the following fee, and no more, shall and may by such Collectors be taken for every distress, advertising and sale, namely: three shillings and nine-pence.

Fees to be taken for distress and sale. (See 1 Vic. Chap. 16, of this Session.)

CHAP. XXII.

AN ACT to repeal and amend part of an Act passed in the last Session, intituled, "An Act to authorise the Chartered Banks in this Province, to suspend the redemption of their Notes in Specie, under certain regulations, for a limited time, and for other purposes therein mentioned."

[Passed 6th March, 1838.]

Preamble: 7 & 8 Wm. IV. Chap. 2, Secs 6 & 7 repealed; Issues of suspended Banks not to exceed double amount of paid capital.

CHAP. XXIII.

AN ACT to repeal part of an Act passed in the seventh year of His late Majesty's reign, intituled, "An Act to protect the public against injury from private Banks," and for other purposes therein mentioned.

[Passed 6th March, 1838.]

Preamble.

[See 7 Wm IV. Ch. 13;

Agricultural notes to be received in payment of bills, &c. assigned by Messrs. Truscott & Green, where they are beneficially interested in the trust.

WHEREAS George Truscott and John Cleveland Green have, and each of them has, issued a large number of notes, purporting to be of the Agricultural Bank, and payable either in this Province or at Montreal, in Lower Canada: *And whereas* many of the said notes remain unredeemed, and serious loss is likely to accrue to the public in consequence thereof, the said George Truscott and John Cleveland Green having left this Province: *Be it therefore enacted* by the Queen'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 any suit has been brought, or hereafter shall be brought, for a debt contracted with or due to the said George Truscott and John Cleveland Green, or either of them, in which suit the said George Truscott and John Cleveland Green, or either of them, are or may be plaintiffs, or in which any other person or persons are or may be plaintiffs, in any action brought upon any note, bill of exchange, assigned or transferred to him or them by the said George Truscott and John Cleveland Green, or either of them, in trust for any purpose whatsoever, except upon a trust in which it shall be satisfactorily shewn to the Court that the said George Truscott and John Cleveland Green, or either of them, are in no

degree interested, it shall and may be lawful for the defendant in such suit to pay the amount claimed, together with the costs, into Court, in the notes so issued by the said George Truscott and John Cleveland Green, or either of them, called the Agricultural Bank, whereupon the Court in which such suit is brought, or Judge thereof, shall direct all further proceedings to be stayed; or in case of judgment having been given in favour of the said George Truscott and John Cleveland Green, or either of them, in any such suit, it shall and may be lawful for any officer acting upon an execution under any such judgment, to receive and take such notes in payment and satisfaction of such execution.

II. *And be it further enacted by the authority aforesaid*, That so much of an Act passed in the seventh year of His late Majesty's reign, intituled, "An Act to protect the public against injury from private Banks," as relates to the Agricultural Bank, be and the same is hereby repealed.

Clause in 7 Wm. IV. Chap. 13, relating to Agricultural Bank, repealed.

III. *And whereas* the Farmers' Joint Stock Banking Company have issued notes payable one year after date: *Be it further enacted by the authority aforesaid*, That it shall not be lawful for the Farmers' Joint Stock Banking Company, or any other Banking Company, to issue any notes except those payable on demand, and within this Province.

Farmers Banking Company to issue notes payable on demand only.

CHAP. XXIV.

AN ACT to remove doubts respecting the validity of the late Elections for Aldermen and Councilmen for the City of Toronto.

[Passed 6th March, 1838.]

Preamble; Omission to comply with provisions of 7 Wm. IV. Chap. 39, Sec. 30, &c. not to vitiate election of Aldermen, &c. held 9th January, 1838.

CHAP. XXV.

AN ACT to erect certain Townships now forming parts of the Districts of Bathurst, Johnstown and Ottawa, into a separate District, to be called the District of Dalhousie, and for other purposes therein mentioned.

[Passed 6th March, 1838.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXVI.

AN ACT to authorise the erection of the County of Huron, and certain other Territory adjacent thereto, into a separate District.

[Passed 6th March, 1838.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXVII.

AN ACT to Incorporate the Town of Kingston, under the name of the "The Mayor and Common Council of the Town of Kingston."

[Passed 6th March, 1838.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXVIII.

AN ACT to amend the Charter of the Welland Canal Company.

[Passed 6th March, 1838.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXIX.

AN ACT to Incorporate sundry persons under the style and title of the Grantham Navigation Company, and for other purposes therein mentioned.

[Passed 6th March, 1838.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXX.

AN ACT to Incorporate sundry persons, under the name of the Kingston Marine Railway Company.

[Passed 6th March, 1838.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXI.

AN ACT to Incorporate certain persons, under the style and title of the Bond Head Harbour Company.

[Passed 6th March, 1838.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXII.

AN ACT to Incorporate certain persons under the style and title of the Waterloo Bridge Company.

[Passed 6th March, 1838.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXIII.

AN ACT to Incorporate certain persons under the style and title of "The Windsor Road Company."

[Passed 6th March, 1838.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXIV.

AN ACT for continuing the improvement of the Lake Road, West of the City of Toronto.

[Passed 6th March, 1838.]

Preamble; Trustees of West York road to complete road to Mimico.

II. *And whereas* the Bridge over the River Humber, where that stream crosses the said front road, is constructed in such a manner as to prevent the passage of boats and other craft, which could otherwise ascend that River for considerable distance: *Be it therefore enacted by the authority*

Bridge across the Humber to be altered on petition of inhabitants of Etobicoke and York, so as to admit vessels, &c. to pass through the same.

aforesaid, That the Trustees of the West York Road shall, upon application being made to them by petition of the inhabitants of the Townships of Etobicoke and York for that purpose, so alter the construction of the said Bridge as to permit vessels and other craft, with masts, to pass through the said Bridge.

William Gamble, and
Peter VanEvery, added
to Board of Trustees.

III. [Repealed by 3 Vic. Chap. 53.]

CHAP. XXXV.

AN ACT to amend an Act passed in the seventh year of the reign of His late Majesty King William the Fourth, intituled, "An Act to raise a sum of money to Macadamize the Roads leading from Brockville to Saint Francis, Charleston, Lyndhurst, Beverly and Portland, in the District of Johnstown, and to authorise the erection of toll gates on the said Roads."

[Passed 6th March, 1838.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXVI.

AN ACT to authorise the Justices of the Peace of the District of Talbot to levy an additional assessment, to liquidate the costs of the erection of the Gaol and Court House for that District, and other purposes therein mentioned.

[Passed 6th March, 1838.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXVII.

AN ACT to provide for the erection of a new Gaol at the Town of London, in the District of London.

[Passed 6th March, 1838.]

[See Local and Private Acts, in 2nd Volume.]

CHAP.

CHAP. XXXVIII.

AN ACT to authorise the erection of a Gaol and Court House at Brockville, in the District of Johnstown.

[Passed 6th March, 1838.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXIX.

AN ACT to authorise the levying an additional tax on the inhabitants of the County of Simcoe, for the purposes therein mentioned.

[Passed 6th March, 1838.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XL.

AN ACT to exempt the District of Hastings from the operation of a Bill passed during the present Session, to regulate the future erection of Gaols in this Province.

[Passed 6th March, 1838.]

[SEE 1 VIC. CHAP. 5.]

CHAP. XLI.

AN ACT to authorise the Surveyor of Highways in and for the County of Wentworth, to convey to Allan N. MacNab, Esquire, certain allowances for Road in the Township of Barton, in the District of Gore.

[Passed 6th March, 1838.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLII.

AN ACT to authorise the admission of John Prince, Esquire, to practise as a Barrister and Attorney within this Province.

[Passed 6th March, 1838.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLIII.

AN ACT authorising the payment of Pensions to certain Militia, during the late War with the United States of America, under certain restrictions.

[Passed 6th March, 1838.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLIV.

AN ACT to provide Pensions for the Widows and Children of Militiamen killed during the late Rebellion, and for other purposes therein mentioned.

[Passed 6th March, 1838.]

MOST GRACIOUS SOVEREIGN :

Preamble.

[See 53 Geo. III. Ch. 4;
2 Geo. IV. Ch. 4;
7 Geo. IV. Ch. 6;
11 Geo. IV. Chap. 23;
5 Wm. IV. Ch. p. 36;
7 Wm. IV. Chap. 103;
1 Vic. Chaps. 27, 28.]

WHEREAS it is deemed expedient to provide means for the support of the widows and children of such Officers, Non-commissioned Officers and Privates of the Militia, and other Provincial Corps and Detachments raised in this Province, as have been or may hereafter be killed on service, or die of disease contracted on service: May it therefore please Your Majesty that it may be enacted: *And be it enacted* by the Queen'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 Officer, Non-commissioned Officer, Private Militiaman or Teamster, of any such Corps or Detachment shall in any engagement, or by any accident or casualty which hath occurred, or may hereafter occur while performing any duty on actual service, be killed, or who hath died, or shall die of any disease contracted on service during the period of such service, or within twelve months thereafter, and leave a widow, child or children lawfully begotten, his widow shall be entitled to receive during her widowhood, and in case of the death of such widow, then the eldest child or guardian, for the use of such children of such Officer, Non-Commissioned Officer, or Private Militiaman, until the youngest thereof shall attain the age of sixteen years, an annuity of twenty pounds, of lawful money of this Province.

Widows and children of Militiamen who have or may die on actual service to receive a pension.

Pension to be paid by Receiver-General.

II. *And be it further enacted by the authority aforesaid*, That the said several annuities herein granted shall be paid by the Receiver General of this Province, out of any monies in his hands, subject to the disposition of the Parliament of this Province.

III. *Provided always, and be it further enacted by the authority aforesaid,* That each person whose name may hereafter be inserted on the Pension List of this Province, under this Act, shall as soon after the first day of January and the first day of July in each and every year as may be convenient, transmit to the Receiver General an affidavit, as the case may require, in the following forms: "I, J. H., do solemnly swear, that I am (or was) the widow of A. B. who was killed in action with the enemy." "I, G. H., do solemnly swear that I am (or was) the widow of A. B. who died from disease contracted whilst on service." "I, A. B. (or as the case may be), guardian, executor or administrator, do solemnly swear, that I verily believe that J. H. is the son or daughter of the said ———, who was killed in action with the enemy; or who died from wounds received in action; or who died from disease contracted whilst on service; and that J. H. is not sixteen years of age (as the case may be.)" "I, C. D., Senior Officer of the ——— Regiment of ——— Militia (as the case may be,) do hereby certify, that A. B. was killed in action on the ——— day of ———; or wounded, and died in consequence; or died of disease contracted on service; and that A. B. is the widow of C. D.;" which affidavit and certificate, with the receipt of such pensioner, guardian, agent, executors or administrators, shall be taken and allowed to be a sufficient voucher for the payment of such pension, as aforesaid.

Affidavit to be made by widow;

Guardian or executor or administrator of deceased Militiaman;

Certificate of senior officer of death of Militiaman.

IV. *And be it further enacted by the authority aforesaid,* That nothing in this Act contained shall extend, or be construed to extend to provide pensions for any person or persons otherwise provided for by any other Act, any thing in this Act contained to the contrary notwithstanding.

Not to extend to provide pension for person otherwise provided for by any other Act.

V. *And be it further enacted by the authority aforesaid,* That every person who shall have been, or shall hereafter be wounded, or in any way disabled, whilst in Her Majesty's service, may claim and be entitled to receive a pension of twenty pounds per annum, under the provisions of, and as if he had been named in a certain Act of the Legislature of this Province, passed during the first Session of the present Parliament, intituled "An Act authorising the payment of pensions to Militiamen disabled during the late war with the United States of America, under certain restrictions."

Provision for payment of wounded or disabled Militiamen.

CHAP. XLV.

AN ACT granting a retired allowance to Colonel Coffin, Adjutant-General of Militia.

[Passed 6th March, 1838.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLVI.*AN ACT granting a Pension to Sheppard McCormick.*

[Passed 6th March, 1838.];

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLVII.*AN ACT to grant a Pension to the widow and children of the late Colonel Robert Moodie.*

[Passed 6th March, 1838.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLVIII.*AN ACT to provide a Pension to the widows of the late Captains James Macnabb and William Church.*

[Passed 6th March, 1838.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLIX.*AN ACT granting a sum of money to William Hust, as a compensation for loss of time, in consequence of a wound received by him while engaged in capturing a band of Rebels.*

[Passed 6th March, 1838.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. L.*AN ACT to authorise the Receiver-General to raise a sum of money by way of loan, on the security of the Provincial Stock in the Bank of Upper Canada.*

[Passed 6th March, 1838.]

[REPEALED BY 3 VIC. CHAP. 57.]

CHAP. LI.

AN ACT to authorise a loan of money in London, and for other purposes therein mentioned.

[Passed 6th March, 1838.]

WHEREAS it would tend greatly to the interests of this Province were a loan to be effected in England, to the amount of not more than one million of pounds sterling, at a lower rate of interest than is now paid upon sums raised upon Debentures, thereby enabling this Province to redeem those Debentures: *Be it therefore enacted* by the Queen'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 Lieutenant-Governor of this Province, by and with the advice and consent of the Executive Council, to authorise Her Majesty's Receiver-General to issue Debentures to the amount of one million of pounds sterling, in such sums as he may deem advisable, at an interest of three per centum per annum, payable in twenty, twenty-five, thirty, thirty-five, forty, forty-five and fifty years; such interest payable half yearly in London.

Preamble.
(Not acted upon.)
(See 3 Vic. Ch. 73;
4 & 5 Vic. Chap. 33.)

Loan of £1,000,000 sterling authorised, at interest of 3 per cent. payable at stated periods

II. *And be it further enacted by the authority aforesaid*, That the interest accruing upon the sums raised under the authority of this Act shall be paid by Her Majesty's Receiver-General, out of the general revenues of this Province, at such yearly or half yearly periods as may in that behalf be required, and in discharge of such warrants as may be issued by the Lieutenant-Governor of this Province for that purpose.

Interest to be paid by Receiver General.

III. *And be it further enacted by the authority aforesaid*, That the Lieutenant-Governor shall direct the said Debentures to be transmitted to Her Majesty's Government, to be sold for the benefit of this Province in such manner as they may please to direct, and for the best price that can be obtained for the same.

Debentures for raising loan to be transmitted to Her Majesty's Government, to be sold for benefit of Province.

IV. *And be it further enacted by the authority aforesaid*, That so soon as any sum or sums shall be received by the Lords Commissioners of Her Majesty's Treasury, upon any loan authorised to be raised under this Act, such sum or sums shall be applied towards redeeming the outstanding Debentures of the Government of this Province which may then be due, to the holders thereof, or which they may purchase, and for no other purpose whatever.

Sums raised by loan to be applied towards redeeming outstanding debts.

C H A P. L I I.

AN ACT to prevent the Receiver-General from advancing any further sum on loans for certain public Works, until the interest is paid thereon.

[Passed 6th March, 1838.]

Preamble.

Receiver General re-
strained from advancing
further sums for public
works, until arrears of
interest on former advan-
ces is paid.

WHEREAS it is necessary to provide against the accumulation of arrearages of interest for monies advanced by this Province for certain improvements therein: *Be it therefore enacted* by the Queen'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 further sum or sums of money shall be paid and advanced by Her Majesty's Receiver-General for the purposes of carrying on or constructing any public work or improvement, authorised to be constructed by any Act or Acts of the Legislature of this Province, for which any loan is authorised to be raised and advanced, and security to be taken for the re-payment of the same, together with the interest, until all interest now due for any sum or sums heretofore advanced by this Province for the construction of the same be paid, nor until six months interest be paid on any sum or sums to be hereafter advanced.

C H A P. L I I I.

AN ACT to make further provision for the support and regulation of the Provincial Penitentiary.

[Passed 6th March, 1838.]

Preamble; Advance of money to be made for purposes mentioned. 2. Not to exceed £5000. 3.
A n account in detail of expenditure to be submitted to Legislature.

[SEE 4 WM IV. Ch. 37.]

21st section of former
Act, authorising servants
to Warden and Deputy,
rescinded.

IV. *And be it further enacted by the authority aforesaid,* That the twenty-first section of an Act passed in the fourth year of His late Majesty's reign, intituled, "An Act to provide for the maintenance and government of the Provincial Penitentiary, erected near Kingston, in the Midland District," so far as relates to the Warden and his Deputy being furnished with servants from among the convicts, be and the same is hereby repealed.

CHAP. LIV.

AN ACT to enable Her Majesty to remunerate Henry Smith, Esquire, Warden of the Provincial Penitentiary, for past services performed and disbursements made by him, and to increase the Salary of that Officer.

[Passed 6th March, 1838.]

Preamble; £208 15s. 7d. granted, to remunerate Henry Smith, for services performed.

[SEE 4 WILLIAM IV. CHAP. 37.]

II. *And be it further enacted by the authority aforesaid, That so much* of the twenty-sixth clause of an Act passed in the fourth year of the reign of our late Sovereign Lord King William the Fourth, as grants a salary of two hundred pounds per annum to the Warden of the Provincial Penitentiary, be and the same is hereby repealed.

So much of 26th clause of Act 4 Wm. IV. as grants salary of £200 to Warden of Penitentiary, repealed.

III. *And be it further enacted by the authority aforesaid, That the salary* of the said Warden shall, from and after the passing of this Act, be three hundred pounds per annum; and that there be granted to Her Majesty, out of the rates and duties, as aforesaid, the sum of three hundred pounds annually, to enable Her Majesty to augment the salary of the said Warden to three hundred pounds per annum.

Future salary of Warden £300 per annum.

CHAP. LV.

AN ACT to afford relief to the sick and destitute poor of the City of Toronto.

[Passed 6th March, 1838.]

Preamble; £350 granted.

CHAP. LVI.

AN ACT granting to Her Majesty a sum of money for the erection of a Dwelling House for the Keeper of the Point Peter Light House.

[Passed 6th March, 1838.]

Preamble; £80 granted: 2. Governor to appoint person to superintend construction of house:

CHAP.

CHAP. LVII.

AN ACT granting a certain sum of money to Her Majesty, for the purposes therein mentioned.

[Passed 6th March, 1838.]

Preamble; Loan of £80,000 authorised to be levied, interest to be paid in London, for completion of improvement of River Saint Lawrence. 2. Provisions of former Act made applicable to the present.

[NOT ACTED UPON.]

CHAP. LVIII.

AN ACT granting to Her Majesty a certain sum of money, for the purposes therein mentioned.

[Passed 6th March, 1838.]

Preamble; £9 10s. authorised to be paid John Farrel.

CHAP. LIX.

AN ACT authorising the payment of certain sums of money to sundry persons, for expenses incurred in the erection and completion of the Public Buildings.

[Passed 6th March, 1838.]

Preamble; £91 granted to James FitzGibbon, Esquire, Ewart and Park, Ch'r E. Denham and John G. Howard.

CHAP. LX.

AN ACT granting a sum of money for the support of Common Schools, for the year one thousand eight hundred and thirty-eight.

[Passed 6th March, 1838.]

Preamble; £5,650 granted in addition to sums now appropriated by law, to be distributed among the several Districts. 2. To be paid by Receiver-General.

III. *And be it further enacted by the authority aforesaid, That during the year aforesaid it shall not be lawful for the Board of Education, in any of the Districts of this Province, to pay to any Teacher of a Common*

School in this Province the annual allowance, unless the Trustees of the said School shall make it appear, to the satisfaction of the Board of Education, that they have made provision for his support, so as to secure him for his services in a sum equal at least to double the amount which may be allotted by the Board of Education from the public money, any thing to the contrary notwithstanding.

No money to be paid by Board of Education to Teacher, unless Trustees of School make it appear that provision has been made by them for payment of a sum double the amount allotted by Board of Education.

IV. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the Board of Education in each District, to allow their Clerks of their respective Boards, in addition to the sums they are now by law authorised to receive, the further sum of five pounds for the present year.

Additional allowance of £5 to Clerks of Board of Education.

[REVISED AND CONTINUED BY 2 VIC. CHAP. 62, AND 3 VIC. CHAP. 68, SEC. 3.]

CHAP. LXI.

AN ACT to make good certain monies advanced in compliance with the Address of the House of Assembly, during the first and second Sessions of the present Parliament, for the Contingent expenses of the Legislature of this Province.

[Passed 6th March, 1838.]

Preamble; £13,864 19s. 0^qd. granted.

CHAP. LXII.

AN ACT granting a certain sum of money to defray the expenses of the Civil Government, for the year one thousand eight hundred and thirty-eight, and for other purposes therein mentioned.

[Passed 6th March, 1838.]

Preamble; £15,910 16s. 3d. granted. 2. Accounts in detail to be rendered.

STATUTES OF UPPER CANADA,

PASSED IN THE

FOURTH SESSION OF THE THIRTEENTH PROVINCIAL PARLIAMENT OF UPPER CANADA:

MET AT TORONTO ON THE TWENTY-SEVENTH DAY OF FEBRUARY, IN THE SECOND YEAR
OF THE REIGN OF OUR SOVEREIGN LADY VICTORIA, AND PROROGUED ON THE
ELEVENTH DAY OF MAY FOLLOWING.

SIR GEORGE ARTHUR, K. C. H.

LIEUTENANT GOVERNOR.

ANNO DOMINI 1839.

CHAP. I.

AN ACT to regulate the name and style of the Court established under the authority of an Act of the Provincial Parliament, passed in the thirty-fourth year of the reign of King George the Third, intituled, "An Act to establish a Superior Court of Civil and Criminal Jurisdiction, and to regulate the Court of Appeal."

[Passed 11th May, 1839.]

Preamble.

(See 31 Geo. III. Ch. 2;
2 Geo. IV. Sess. 2, Ch. 1.)

Style of Court to be
"King's or Queen's
Bench," according to the
reign of a male or female
Sovereign.

WHEREAS it is expedient and right, that the name and style of the Court established in this Province under the authority of an Act of the Provincial Parliament, passed in the thirty-fourth year of the reign of His late Majesty King George the Third, intituled, "An Act to establish a Superior Court of Civil and Criminal Jurisdiction, and to regulate the Court of appeal," should alter and vary according to the existing fact of the reigning Sovereign being male or female: *Be it therefore enacted* by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper 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 name and style of the said Court shall be, His Majesty's Court of

King's Bench in and for the Province of Upper Canada, during the reign of any male Sovereign; and that the said name and style shall be, Her Majesty's Court of Queen's Bench in and for the Province of Upper Canada, during the reign of any female Sovereign, as the case may be, any thing in the above-mentioned Act to the contrary thereof in anywise notwithstanding.

II. *Provided always, and be it further enacted by the authority aforesaid*, That nothing in this Act contained shall extend, or be construed to extend, to affect any suit or action that may have been brought in any of the Courts of Law or Equity in this Province, previous to the passing of this Act.

Past suits, &c. not affected by this Act.

CHAP. II.

AN ACT to alter and amend the law relating to the appointment of Commissioners of the Court of King's Bench, in the several Districts of this Province.

[Passed 11th May, 1839.]

WHEREAS it is expedient to alter and amend the law relating to the appointment of Commissioners for taking Recognizances of Bail, and Affidavits, in the several Districts of this Province, so as to authorise the Justices of Her Majesty's Court of King's Bench, in certain cases, to make such appointments, without the intervention of the Chief Justice: *Be it therefore enacted* by the Queen'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 the event of the death of the Chief Justice, for the time being, or his absence from the Province, it shall and may be lawful for any two or more of the Puisne Justices of the said Court, to appoint Commissioners for taking Recognizances of Bail, and Affidavits, in the several Districts of this Province, in like manner as the said Chief Justice, and other the Justices of the said Court are now by law authorised to do, any thing contained in any former Act or Acts notwithstanding.

Preamble.

(See 2 Geo. IV. Chap. 1, Secs. 39 & 40.)

Puisne Judges empowered to appoint Commissioners, in the absence of the Chief Justice.

C H A P. III.

AN ACT to provide for the payment of Costs, in certain cases of informations, at the suit of the Crown, and for other purposes therein mentioned.

[Passed 11th May, 1839.]

[DISALLOWED.]

C H A P. IV.

AN ACT to continue in force, amend and make perpetual, an Act passed in the fourth year of His late Majesty's reign, intituled, "An Act to provide for the summary punishment of Petty Trespasses, and other offences."

[Passed 11th May, 1839.]

Preamble.

(See Statutes of Canada,
4 & 5 Vic. Chaps. 25,
26, 27.)

WHEREAS the Act, intituled, "An Act to provide for the summary punishment of Petty Trespasses and other offences," will expire at the close of the present Session of the Provincial Parliament: *And whereas* it is expedient that the same should be continued in force, amended and made perpetual: *Be it therefore enacted* by the Queen'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 first mentioned Act be and the same is hereby made and declared to be perpetual.

4 Wm IV. c. 4, made perpetual.

Justices empowered to summon witnesses;

II. *And be it further enacted by the authority aforesaid,* That in all cases in which a summary jurisdiction is given to one or more Justices, by virtue of the before recited Act, or any other Act of the Legislature of this Province, it shall and may be lawful for the said Justice or Justices, before whom any complaint is made upon oath, and they are hereby required, at the request of either the complainant or defendant, to summon such person or persons as he, she or they, may require to appear, at a time and place to be named in such summons, to give evidence; and every person so summoned, and neglecting to appear pursuant thereto, without reasonable excuse, to the satisfaction of the said Justice or Justices, upon proof

Penalty for refusing to attend or give evidence;

of the service of such summons, or appearing and refusing to take an oath, or being of the people called Quakers, refusing to affirm and give evidence, touching the charge in such complaint, shall for every such offence forfeit any sum not exceeding five pounds, to be recovered by distress and sale of the goods and chattels of such offender, and applied in the manner directed in the before recited Act for the recovery and application of penalties; and in default of such distress, be committed to the common Goal of the District, for any time not exceeding one calendar month.

Commitment in default of distress.

CHAP. V.

AN ACT to continue and make permanent an Act passed in the fifth year of the reign of His late Majesty King William the Fourth, intituled, "An Act to continue and amend the law for attaching the Property of Absconding Debtors."

[Passed 11th May, 1839.]

WHEREAS an Act passed in the fifth year of the reign of His late Majesty King William the Fourth, intituled, "An Act to continue and amend the law for attaching the Property of Absconding Debtors," will shortly expire: *And whereas* it is expedient to continue and make permanent the same: *Be it therefore enacted* by the Queen'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 recited Act be and the same is hereby continued and made permanent.

Preamble.

(See 2 Wm. IV. Chap. 5; and 3 Vic. Chap. 7.)

5 Wm. IV, Ch. 5, made perpetual.

CHAP. VI.

AN ACT to amend the law enabling Married Women to convey their Real Estates within this Province.

[Passed 11th May, 1839.]

WHEREAS by an Act passed in the first year of the reign of His late Majesty King William the Fourth, intituled, "An Act to enable married

Preamble.

(See 43 Geo. III. Chap. 5;
50 Geo. III. Chap. 3;
2 Geo. IV. Chap. 14;
and 1 Wm. IV. Ch. 3)

Women more conveniently to alien and convey their Real Estate, and to repeal an Act passed in the forty-third year of the reign of King George the Third, intituled, ‘An Act to enable married women having Real Estate more conveniently to alienate and convey the same,’ it is enacted, that it shall be lawful for any married women, above the age of twenty-one years, residing in this Province, and seized of real estate therein, to alien such estate by deed, jointly with her husband, executed in the presence of a Judge of the Court of King’s Bench, in certain cases a Judge of the Surrogate Court, or two Justices of the Peace, who shall, on the day of the execution of such deed, certify on the back of the same certain facts as set forth in the said Act: *And whereas* in some cases such certificates may not have been signed on the day of the date of the deed to which they relate as required, and it is nevertheless expedient to render valid such deeds, and also to provide that in future such certificates shall state, that the deed was executed as required on the day in which the certificate shall be signed; and also that the said certificate shall in all cases be prima facie evidence of the facts certified therein: *Be it therefore enacted* by the Queen’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 any certificate upon the back of any deed, executed by any married woman pursuant to the said Act, shall have been heretofore given on any day subsequent to the execution of the said deed, such certificate shall be deemed and be taken to have been given on the day on which the said deed was executed; and such deed shall be as good and valid in law, as if such certificate had been in fact signed on the day of the execution of the deed to which it relates, as required by the said Act.

Certificate of alienation by a married woman valid, though not signed on the day the deed was executed.

Form of certificate;

II. *And be it further enacted by the authority aforesaid,* That the certificate to be endorsed upon any deed pursuant to the said Act, shall be to the following effect: — do hereby certify, that on this — day of —, at —, the within deed was duly executed in the presence of —, by —, wife of —, one of the grantors therein named; and that the said —, at the said time and place, being examined by —, apart from her husband, did appear to give her consent to depart with her estate in the lands mentioned in the said deed, freely and voluntarily, and without coercion or fear of coercion on the part of her husband, or of any other person or persons whatsoever; and that such certificate shall be deemed and taken to be prima facie evidence of the facts contained therein, any thing in the said recited Act to the contrary thereof in any wise notwithstanding.

Certificate prima facie evidence of facts contained.

III. *And whereas* it is expedient to provide greater facilities for barring dower; *Be it therefore enacted by the authority aforesaid*, That from and after the passing of this Act, whenever any married woman shall join with her husband in any deed or conveyance whatever (wherein a release of dower is contained,) it shall not be necessary to acknowledge the same before any Court, Judge or Justice of the Peace, but such execution shall be deemed a valid and effectual bar of dower, of and in the premises mentioned and described in such deed or conveyance, any law, usage or custom, to the contrary thereof in any wise notwithstanding.

Joining in conveyance, containing a release of dower, by a married woman, a sufficient bar of dower.

IV. *And whereas* it is necessary, by Legislative provision, to legalize the bar of dower in certain deeds and conveyances, where the wife has not been a party to such deeds or conveyances, but has acknowledged the same before some competent authority; *Be it therefore enacted by the authority aforesaid*, That all acknowledgments which have been taken before any competent authority, shall be taken and deemed to be a valid and effectual bar of dower to all intents and purposes whatever, although the said wife shall not have joined in the execution of such deed or conveyance, or shall not have acknowledged the same on the day of the execution of such deed or conveyance.

Past acknowledgments in bar of dower rendered effective, although the wife not a party to the execution of the deed.

CHAP. VII.

AN ACT to continue and make perpetual an Act passed in the fifty-fifth year of the reign of His late Majesty King George the Third, intituled, "An Act to repeal an Act passed in the fifty-fourth year of His Majesty's reign, intituled, 'An Act to supply, in certain cases, the want of County Courts in this Province, and to make further provision for proceeding to Outlawry, in certain cases therein mentioned.'"

[Passed 11th May, 1839.]

WHEREAS an Act was passed in the fifty-fifth year of the reign of King George the Third, intituled, "An Act to repeal an Act passed in the fifty-fourth year of His Majesty's reign, intituled, 'An Act to supply, in certain cases, the want of County Courts in this Province, and to make further provision for proceeding to Outlawry, in certain cases therein mentioned;'" *And whereas* the said Act having been passed for a limited time has been continued by several Acts, and it is now about to expire, and it is expedient to continue the same: *Be it therefore enacted* by the Queen'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

Preamble.

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 recited Act be and the same is hereby continued and made perpetual.

55 Geo. III. Ch. 2, made perpetual.

CHAP. VIII.

AN ACT to continue and make permanent a certain Act passed in the fourth year of the reign of King George the Fourth, intituled, "An Act to repeal an Act passed in the forty-fifth year of His late Majesty's reign, intituled, 'An Act to regulate the trial of controverted Elections, or Returns of Members to serve in the House of Assembly, and to make more effectual provision for such trials;'" and also, a certain other Act, passed in the eighth year of the reign of King George the Fourth, intituled, "An Act to continue and amend the laws now in force for the trial of controverted Elections."

[Passed 11th May, 1839.]

Preamble.

WHEREAS an Act passed in the fourth year of the reign of His late Majesty King George the Fourth, intituled, "An Act to repeal an Act passed in the forty-fifth year of His late Majesty's reign, intituled, 'An Act to regulate the trial of controverted Elections or returns of Members to serve in the House of Assembly, and to make more effectual provision for such trials;'" and also an Act passed in the eighth year of His late Majesty's reign, intituled, "An Act to continue and amend the law now in force for the trial of controverted Elections," have been continued, but are now about to expire: *And whereas* it would greatly facilitate the proceedings on such trials if these laws are continued: *Be it therefore enacted* by the Queen'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 above recited Acts shall be, and the same are hereby continued, and be and remain permanent.

4 Geo. IV, Sess. 2, Ch. 4, made perpetual.

CHAP. IX.

AN ACT to repeal, alter and amend, the Militia Laws of this Province.

[Passed 11th May, 1839.]

WHEREAS the provisions of an Act passed in the first year of Her Majesty's reign, intituled, "An Act to amend and reduce into one Act the Militia Laws of this Province," have been found insufficient; *And whereas* it is necessary to make further provision to place the Militia of this Province upon a more efficient footing: *Be it therefore enacted* by the Queen'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, and all the Acts mentioned in the last clause thereof, be and the same are hereby repealed.

Preamble.

(See 4 & 5 Vic. Ch. 2)

Militia Act, 1 Vic. Ch. 3, repealed.

II. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, it shall and may be lawful for the Lieutenant-Governor, from time to time, to divide the Militia of this Province into such number of Regiments or Battalions as he may deem most conducive to the efficiency of the said Militia; and under his hand and seal to appoint a sufficient number of Lieutenant-Colonels, Majors, Captains and other officers, to train, discipline and command, the said Militia, according to such rules, orders and directions, as shall from time to time be issued by him for that purpose; which officers of Militia shall rank with officers of Her Majesty's Forces serving in this Province, as junior of their respective rank: *Provided nevertheless,* that any Colonel, Lieutenant-Colonel, or officer in the command of any Regiment or Battalion of Militia in this Province, having removed, or hereafter removing, from the District in which the limit of such Regiment or Battalion is situated, to which such Colonel, Lieutenant-Colonel or officer in command, respectively, belong, that the authority of such officer shall cease, in as far as relates to the command or any interference with the duties of such Regiment or Battalion.

Lieutenant-Governor may divide militia into regiments and battalions, and appoint officers;

Rank of officers;

Officer commanding removing from the limits of his regiment, &c. his command in respect of such regiment, &c. ceases.

III. *And be it further enacted by the authority aforesaid,* That the Militia of this Province shall be composed of the male inhabitants thereof, not less than eighteen nor more than sixty years of age.

Militiamen to be not less than eighteen nor more than sixty years of age.

IV. *And be it further enacted by the authority aforesaid,* That the officers now commanding Regiments or Battalions of Militia, or who shall

Persons liable to militia service to enrol themselves every fourth of June;

hereafter command the same, shall require the Captains, or officers commanding Companies or Divisions in such Regiment or Battalion, to call upon the inhabitants liable to serve within the limits of his Company or Division to enrol their names as Militiamen, at least once in every year, that is to say, on the fourth day of June, or if that day be upon Sunday, then on the following day, in each year; which enrolment shall be made at a place to be appointed by the officer commanding the Regiment or Battalion: *Provided always*, that no person shall enrol himself, as aforesaid, unless such person is a natural born subject of Her Majesty, or a subject of Her Majesty naturalized by an Act of the British Parliament, or become such by an Act of the Parliament of this Province, or a person who has taken the oath of allegiance.

At place appointed by commanding officer;

Subjects of Her Majesty only required to enrol themselves.

Incumbent on persons liable to service, to appear at place appointed, and if necessary, to prove his age.

V. *And be it further enacted by the authority aforesaid*, That every person liable to serve in the Militia of this Province, residing within the limits of any Regiment or Battalion, shall appear at the place so appointed by the officer commanding such Regiment or Battalion, and there enrol his name as a Militiaman; and if a question shall arise as to the age of any person required to enrol himself, it shall be incumbent on him to prove his age.

Lieutenant-Governor may call out militia in time of war, rebellion or invasion, and continue them embodied so long as necessary;

Not exceeding six months at one time,

Penalty for neglecting or refusing to obey such call;

Imprisonment for default of payment;

How penalties to be collected;

Persons called upon to serve may provide substitute;

VI. *And be it further enacted by the authority aforesaid*, That it shall be lawful for the Lieutenant-Governor to call out and embody the Militia of this Province, or any portion thereof, in a time of actual war with a foreign power; to put down or suppress rebellion; to repel invasion; or for any purpose connected with the preservation of the public peace; by ballot, or in such other manner as to him shall seem best; and to continue the Militia so called out embodied for actual service so long as in his opinion may be necessary, for a period not exceeding six months at any one time; and any person refusing to obey such order or command, or absconding from, or neglecting to repair to the place he is ordered to, shall as soon as possible be brought to trial before a Court Martial, as hereinafter provided, and being a commissioned officer shall forfeit and pay the sum of fifty pounds, and be held to be unfit to serve Her Majesty as an officer in any military capacity; and being a non-commissioned officer or private shall forfeit and pay a sum not exceeding the sum of twenty pounds, in the discretion of the said Court; 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 more than six months, in the discretion of such Court, except such person shall satisfy the Colonel or officer commanding such Regiment or Battalion to which he belongs, that such refusal or neglect arose from sickness, or that he was absent upon leave; and that all such penalties shall be levied and collected in the same manner as penalties are authorised to be levied and collected by the authority of this Act, for disobedience of orders in time of peace: *Provided always*, that whenever it shall happen that only part 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, or of any City within the same duly chartered by any Act of the Parliament of this Province, 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, Riding or City, that would otherwise be obliged to serve in the said part of the Militia called out, as aforesaid: *Provided nevertheless*, that Colonels, Lieutenant-Colonels, or officers in the command of Regiments or Battalions, and all officers of Militia, shall reside within the District in which the Regiment or Battalion is or has been situated, to which such officers, respectively, belong; and that any Colonel, Lieutenant-Colonel, or officer in the command of any Regiment or Battalion of Militia, or any officer having removed, or hereafter removing from the District in which the limits of the Regiment or Battalion of Militia under the command of such Colonel, Lieutenant-Colonel or officer, is situated, that the authority of such Colonel, Lieutenant-Colonel or officer, shall cease, in as far as relates to any interference with the command or duties appertaining to the officer in command of any Regiment or Battalion of Militia in this Province.

Officers to reside within the limits of their respective regiments, &c.

Officers leaving the limits of their respective regiments, &c. cease to command therein.

VII. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the Lieutenant Governor to embody the Militia of this Province, or such portion thereof as he may think necessary and expedient, and to march the same into the Province of Lower Canada, at any time when the same shall be actually invaded, or threatened with invasion, or in a state of insurrection, or to march the said Militia, or any portion thereof, to any place without the limits of this Province, for the attack of any enemy that may have invaded, or may be marching or collected for the purpose of invading this Province, or for the destruction of any vessel or vessels built or building, or any fort, depôt or magazine, formed or forming by any foreign power at war with our Sovereign Lady the Queen, Her Heirs or Successors, from whence the invasion of this Province may be apprehended.

Militia may be marched for service to Lower Canada, or to any other place where preparation making for invading this Province.

VIII. *And be it further enacted by the authority aforesaid*, That the Colonel, or officer commanding any Regiment or Battalion of Militia within this Province, shall have power and authority to assemble his respective Regiment or Battalion two days in each year, and oftener if thereunto directed by the Lieutenant Governor, at such place or places as he shall appoint, for the purpose of drill and inspection; and that the Captains or officers in command of Companies, shall cause a verbal or written notice to be given to each Militiaman within the limits of their Companies, either personally, or by leaving the same at their respective places of residence, of the time and place when such drill and inspection is to take place, at least four days previous thereto, which notice shall be served, as aforesaid, by such non-commissioned officer as the Captain or officer commanding the Company shall appoint and direct.

Officers commanding may assemble militia two days in each year for the purpose of drill and inspection;

Notice to militiamen of time and place of assembling;

Four days previous thereto.

Officers to hold their commissions during pleasure.

IX. *And be it further enacted by the authority aforesaid,* That all officers of Militia appointed under and by virtue of this Act, shall hold their commissions during pleasure.

Annual returns to Adjutant-General on or before 14th June.

X. *And be it further enacted by the authority aforesaid,* That on or before the fourteenth day of June, in each and every year, the Colonel or officer commanding any Regiment or Battalion of Militia, in this Province, shall transmit to the Adjutant General of the Province, a return of the effective strength of the same, the vacancies that may have occurred from any cause among the officers of such Regiment or Battalion, and the names of persons recommended to fill such vacancies, together with such further information as the Lieutenant Governor shall, from time to time, direct to be included in such return.

Lieutenant-Governor may appoint officers of his staff to militia rank.

XI. *And be it further enacted by the authority aforesaid,* That the Lieutenant Governor shall have full power and authority to appoint persons belonging to his personal Staff or on the staff of the Militia, to such Militia rank as he may think proper to confer, not exceeding the rank of Lieutenant Colonel, independent of and apart from any rank that may be held by such person, in any Regiment or Battalion of Militia, in this Province.

Lieutenant-Governor may prescribe uniform.

XII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Lieutenant Governor, from time to time, to prescribe the uniform to be worn by the Militia of the Province when on duty, or assembled for drill or inspection.

Officers to provide themselves with uniform, &c. within time limited, or be superseded.

XIII. *And be it further enacted by the authority aforesaid,* That any officer of Militia who shall not, within one year from the time the Lieutenant Governor shall prescribe the uniform for the respective Regiments or Battalions, provide himself with such uniform, including a sword, and who shall appear at any muster or inspection of the Regiment or Battalion to which he belongs without being dressed in such uniform and sword, or who shall not have provided himself with such books of instruction as may be hereafter required by any Militia General Order, shall be, and he is hereby declared superseded.

Lieutenant-Governor may appoint regiments, &c. of dragoons, artillery or light infantry;

XIV. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Lieutenant Governor, in his discretion, to constitute Regiments or Battalions of Dragoons, Artillery or Light Infantry, separate and distinct from other Regiments or Battalions, in the several Districts of this Province, to be selected from the different Regiments or Battalions therein, as the Lieutenant Governor may direct: *Provided nevertheless,* that nothing in this clause contained shall be construed to prevent the formation of Companies of Artillery, or Troops of Dragoons, within the limits assigned to the several Regiments or Battalions of Militia, to be independent of, or attached to such Regiments or Battalions,

Without prejudice to the formation of artillery companies or troops of dragoons within limits of regiments or battalions, &c.

according to such orders or directions as the Lieutenant Governor may from time to time make in that behalf.

XV. *And be it further enacted by the authority aforesaid, That* Regiments or Battalions of Dragoons, Artillery or Light Infantry, so constituted, as aforesaid, shall be subject to such orders, rules and regulations, with respect to drill, inspection, or other duty, as from time to time, may be issued by the Lieutenant Governor, for their efficient organization for actual service, apart from the other Regiments or Battalions of Militia in the Province.

Regiments of dragoons, &c. subject to rules and orders—as other militiamen.

XVI. *And be it further enacted by the authority aforesaid, That any* officer of Militia, who, in time of peace, shall be guilty of wilful neglect or disobedience of orders, or of any act of insubordination in the performance of his duty, shall, on conviction, be liable to pay a fine, not less than five pounds, nor more than twenty pounds, besides costs of conviction, or to be dismissed the service, at the discretion of the Court before whom he may be tried.

Penalty on officers guilty of disobedience, &c. during time of peace.

XVII. *And be it further enacted by the authority aforesaid, That it* shall and may be lawful for the Lieutenant-Governor, in his discretion, to form Rifle Companies within the limits assigned to the several Regiments or Battalions of Militia, to be independent of or attached to such Regiment or Battalion, according to such orders or directions as the Lieutenant-Governor may from time to time make in that behalf.

Lieutenant-Governor empowered to form rifle companies.

XVIII. *And be it further enacted by the authority aforesaid, That any* non-commissioned officer or private Militiaman, who in time of peace shall wilfully refuse or neglect to enrol himself as herein-before provided, or who shall be guilty of wilful neglect or disobedience of orders, or of any act of insubordination or misconduct while on parade or engaged in the performance of Militia duty, shall on conviction pay a fine of not less than five shillings, nor more than five pounds, over and above the costs of conviction, and in default of payment shall be liable to imprisonment in the common Gaol of the District, for a term not less than three days, nor more than one month.

Penalty on non-commissioned officers and privates for disobedience or neglect of duty in time of peace.

XIX. *And be it further enacted by the authority aforesaid, That the* Colonel or officer commanding any Regiment or Battalion of Militia in this Province, shall have full power and authority, in time of peace, to assemble a Court Martial, to be composed of not less than three officers of the Regiment or Battalion under his command, one of whom at least shall be of the rank of Captain, and which Court shall have full power and authority to hear evidence, and investigate all charges that may be brought against any non-commissioned officer or private Militiaman, for any offence or neglect of duty contrary to the provisions of this Act, and to give such judgment thereupon, as they in their discretion shall think

Officers commanding may assemble Courts Martial in time of peace, for trial of offences against this Act by non-commissioned officers or privates.

just and reasonable, the same being in accordance with and authorised by the enactments herein contained.

Notice to officers of time and place of holding such Court.

XX. *And be it further enacted by the authority aforesaid,* That the Colonel or officer commanding any Regiment or Battalion, shall direct a notice to be given to the Captains or officers commanding Companies under his command, of the time and place where such Court shall be held, at least three days before the time for its assembling.

Four days notice in writing to persons against whom charges are to be preferred ;

XXI. *And be it further enacted by the authority aforesaid,* That after receiving such notice, and at least four days before the meeting of such Court, Captains or other officers commanding Companies, shall cause a notice in writing to be served on any non-commissioned officer or private Militiaman belonging to the Company under his command, against whom it may be intended to prefer any complaint of neglect of duty or misconduct of such non-commissioned officer or private Militiaman, requiring him to appear to answer such complaint; which notice, signed by the Captain or officer commanding such Company, may be in the words or to the effect following: "You A. B. are hereby required to attend before the Court appointed for the trial of Militia offenders belonging to the _____ Regiment of Militia, which will assemble at _____, on the _____ day of _____, at ten o'clock, forenoon, to answer a charge (for not enrolling yourself as a Militiaman, or for not attending Militia muster, or for insubordination, as the case may be.) Dated this _____ day of _____. C. D., Captain or officer commanding _____ Company _____ Regiment Militia."

Form of notice.

No person to be condemned, unless due service of such notice proved.

XXII. *And be it further enacted by the authority aforesaid,* That no non-commissioned officer or private Militiaman, shall be condemned or be liable to answer any charge preferred against him, unless it be proved, at the time appointed for the trial of such charge, that he had been served with a notice as herein-before provided, at least four days before the meeting of the said Court, to appear and answer the charge to be preferred against him.

Court may command attendance of witnesses, and commit for neglect.

XXIII. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the said Court to command the appearance, and to examine witnesses upon oath relative to any complaint that may be brought before them, and to commit the person summoned as a witness for non-attendance, as in ordinary cases of contempt.

Allowance to officers composing the Court;

And to the Judge Advocate;

And witnesses.

XXIV. *And be it further enacted by the authority aforesaid,* That the officers composing the said Courts Martial and Courts of Inquiry authorised to be assembled under and by virtue of this Act, shall be entitled to receive five shillings for each day they shall be engaged as members of the said Court; and the person officiating as Judge Advocate shall be entitled to receive twenty shillings per day for each day he shall be so engaged; and that all witnesses summoned to attend such Court or

Courts shall be entitled to receive two shillings and six pence per day each for their attendance.

XXV. *And be it further enacted by the authority aforesaid,* That the person who shall serve notices, as herein-before required, shall be entitled to receive four pence for each mile he shall necessarily travel to effect such service; and that for every fine levied and collected under a warrant from the said Court, the person levying the same shall be entitled to the same fees as are now paid for services of a like nature to any Constable or Peace Officer in this Province: *Provided always,* that it shall be in the discretion of the said Court to appoint such person as they may think fit to execute the warrants or other process issued by them:

Fees to persons serving notices, &c.

Court may appoint person to execute process.

XXVI. *And be it further enacted by the authority aforesaid,* That the judgments of the said Court, upon being approved by the Colonel or officer commanding the Regiment or Battalion, shall be carried into effect, and the fines imposed by them shall be levied, upon a warrant signed by the President of the Court, in the same manner as the judgments of the Justices of the Peace are carried into effect under the provisions of an Act passed in the fourth year of His late Majesty's reign, intituled, "An Act to provide for the summary punishment of petty trespasses and other offences."

Judgments to be carried into effect in same manner as judgments under Summary Punishment Act, 4 Wm. IV. Ch. 4.

XXVII. *Provided always, and be it further enacted by the authority aforesaid,* That all officers who may be appointed to compose any Court for the trial of any offender or offenders under this Act, shall before proceeding to the trial of such offender or offenders take the following oath: "I do sincerely promise and swear that in all such matters as shall be brought before me under the Militia laws of this Province, I will faithfully act, according to the best of my judgment, agreeably to the said laws, without favour or partiality to any person. So help me God;" which oath may be administered by any one member to the other members of the said Court.

Officers composing the Court to be sworn;

Form of oath.

XXVIII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Lieutenant-Governor, if he thinks proper, when any complaint may be made against any officer of the Militia, or when any application may be made to him, to assemble a Militia General Court Martial according to the provisions of this Act, to appoint a Court of Inquiry, consisting of at least three officers of the Militia, to examine into and report upon any such complaint:

Lieutenant-Governor may appoint Court of Inquiry to report on complaints against officers.

XXIX. *And be it further enacted by the authority aforesaid,* That all monies arising from fines, levied and collected under the provisions of this Act, shall be paid by the person collecting the same into the hands of the Colonel or officer commanding the Regiment or Battalion within which the same shall have been imposed, and shall be by him paid into the hands of Her Majesty's Receiver-General, for the time being, to and for

Application of fines levied under this Act.

the public uses of this Province: and that all expenses attending the sitting of any Court Martial authorised by this Act, shall be paid from and out of the monies of this Province.

Returns of persons complained against, of judgments and fines levied, &c. to be made to Adjutant-General.

XXX. *And be it further enacted by the authority aforesaid,* That twice in each year, that is to say, on the first day of March and on the first day of September, the Colonels or officers in command of Regiments or Battalions in this Province, shall make a return to the Adjutant-General of Militia of this Province of the number and names of persons complained against, the judgments of the Court, and the amount of fines levied.

Courts Martial in time of peace for trial of officers;

How constituted;

Appointment of Judge Advocate, oaths and form of proceeding, to be the same as during war;

Sentence to be approved by Lieutenant-Governor.

Fines upon officers, how to be levied and applied.

Militia when embodied, subject to the provisions of the Mutiny Act;

XXXI. *And be it further enacted by the authority aforesaid,* That in time of peace, and when any charge shall be made against any officer of the Militia of this Province for disobedience of orders, or any act of insubordination or misconduct as an officer of the Militia, it shall and may be lawful for the Lieutenant Governor, in his discretion, to assemble a Court Martial (the President of which shall be a Field Officer) to be composed of seven or more officers belonging to one or more of the Regiments of Militia organised or embodied within the County or District to which the accused party belongs, to investigate the charges made against such officer, and to examine witnesses on oath, as well in support of as against such charge, and award such sentence as in their opinion may be just and reasonable, and not inconsistent with or contradictory to the provisions of this Act: *Provided always,* that in the appointment of Judge-Advocate, the administration of oaths, and forms of proceedings to be observed by the said Courts Martial, respect shall be had to the provisions hereinafter contained for the constitution and regulation of Courts Martial, in cases where the same shall be required during the period of actual service by any part of the Militia of this Province: *And provided also,* that such sentence shall, before being carried into effect, be approved of by the Lieutenant-Governor.

XXXII. *And be it further enacted by the authority aforesaid,* That in case any officer of Militia shall be sentenced to the payment of a fine, under the provisions of this Act, and shall make default in the payment thereof, the same shall be levied by sale and distress of his effects, under a warrant to be signed by the President of the said Court Martial, in the same manner as fines awarded against non-commissioned officers and private Militiamen are by this Act directed to be levied, and shall be appropriated and accounted for in the same manner as the said last mentioned fines are directed to be appropriated and accounted for.

XXXIII. *And be it further enacted by the authority aforesaid,* That during the time any portion of the Militia of this Province shall be embodied for actual service under and by virtue of this Act, they and every of them, as well officers as privates, shall be liable and subject to all the rules, regulations, pains and penalties, of any Act or Acts of the British Parliament that are or may be in force for the punishment of mutiny;

desertion or other crimes in the Army of Her Majesty the Queen, Her Heirs or Successors: *Provided nevertheless*, that no officer, non-commissioned officer or private Militiaman, shall be sentenced to the loss of life unless for desertion to the enemy, traitorous correspondence, or for traitorously delivering up to the enemy any Garrison, Fortress, Post or Guard, or Vessel, either armed or employed in the service of Government, any thing herein contained, or any statute, law or usage, to the contrary notwithstanding: *Provided also*, that no non-commissioned officer or private of Militia shall be liable to the punishment of being flogged, or of being sent to the Provincial Penitentiary, by the sentence of any Court Martial.

Punishment of death restricted to certain crimes;

Militiamen not subject to punishment of flogging.

XXXIV. *And be it further enacted by the authority aforesaid*, That when the Militia of this Province shall be called out on actual service, in all cases where a General Court Martial shall be required, the Lieutenant Governor, upon application to him made through the officer commanding the body of Militia to which the party accused may belong, or in case he be the accuser or accused then through the next senior officer, shall issue his order to assemble a General Court Martial, which said Court Martial shall consist of a President, who shall be a field officer, and not less than eight other commissioned officers of the Militia: *Provided always*, that in all trials by General Courts Martial to be held by virtue of this Act, the Lieutenant Governor shall nominate and appoint the person who shall act as Judge-Advocate; and that every Member of the said Court Martial, before any proceeding be had before the Court, shall take the following oath before the Judge-Advocate, who is hereby authorised to administer the same, viz.: "You, A. B., do swear that you will administer justice to the best of your understanding in the matter now before you according to the evidence, and the Militia Laws now in force in this Province, without partiality, favour or affection; and you further swear that you will not divulge the sentence of the Court until it shall be approved by the Lieutenant-Governor; neither will you on any account at any time whatever disclose or discover the vote or opinion of any particular Member of the Court Martial, unless required to give evidence thereof as a witness by a Court of Justice in due course of law; so help you God." And so soon as the said oath shall have been administered to the respective Members, the President of the Court is hereby authorised and required to administer to the Judge-Advocate, or the person officiating as such, an oath in the following words:—"You, A. B., do swear that you will not upon any account at any time whatsoever disclose or discover the vote or opinion of any particular Member of the Court Martial, unless required to give evidence thereof as a witness by a Court of Justice in due course of Law; so help you God." And the Judge-Advocate shall and is hereby authorised to administer to every person giving evidence before the said Court the following oath;—"The evidence you shall give to this Court Martial on the trial of A. B. shall be the truth, the whole truth and nothing but the truth; so help you God." *Provided always*, that the find-

General Courts Martial during time of actual service;

How constituted;

Appointment of Judge Advocate;

Oath by members of the Court;

Oath of Judge Advocate.

Two-thirds of Court must concur, and sentence await Lieutenant-Governor's approbation.

ing and judgment of every such Court Martial shall pass with the concurrence of two-thirds of the Members, and shall not be put in execution until the Lieutenant Governor has approved thereof.

Officers commanding Districts, Garrisons, &c may assemble Courts Martial in certain cases;

XXXV. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for any commanding officer of a District, Garrison, Post, Regiment or Battalion, to direct a District, Garrison, or Regimental Court Martial to assemble to try any non-commissioned officer or private of Militia, called out and embodied for actual service, charged with drunkenness, neglect of duty or disobedience of orders; and if such person so charged shall be convicted of the offence or offences alleged against him, it shall and may be lawful for the said Court to imprison him in the common Gaol of the District, or in any other place of confinement (except the Provincial Penitentiary) for a period not exceeding two weeks, and to reduce any non-commissioned officer to the ranks; *Provided always,* that the said Court shall consist of a President, who shall be a Captain, and not less than three commissioned officers of the Militia; and who shall before proceeding to the trial of such offender take the oath prescribed by the twenty-seventh section of this Act: *And provided also,* that nothing herein contained shall be construed to interfere with or alter the provisions contained in the thirty-third section of this Act, except in so far as in this clause is contained; *And provided also,* that the provisions in this clause shall be considered to have been in force from the first day of November next before the passing of this Act.

Authority of Court;

Constitution of the Court;

Oath as prescribed by sec. 27;

Period from which this clause to operate.

Militia may be called out in case of emergency without previous order of Lieutenant-Governor.

XXXVI. *And be it further enacted by the authority aforesaid,* That in cases of emergency by actual invasion, insurrection or otherwise, when it may not be practicable to consult the Lieutenant-Governor, it shall and may be lawful for the senior officer of Militia of any County or Riding, not upon a Retired List or in a Reserved Battalion, to call out and embody any number of the Militia he may judge necessary for actual service, and to report the same forthwith to the Lieutenant Governor.

Lieutenant-Governor may issue orders for impressment of horses and teams for the service, and for billeting troops, &c.

XXXVII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Lieutenant Governor, from time to time, to issue orders and make regulations for the impressment and employment of horses and teams for the conveyance of troops and stores, or for the performance of any other service during the time the Militia of this Province or any part thereof shall be called out for actual service; and in like manner to make orders and regulations for the billeting of Troops of the Line and Militia on actual service, not being repugnant to the Act passed in the forty-ninth year of the reign of His late Majesty King George the Third, intituled, "An Act for quartering and billeting on certain occasions His Majesty's Troops and the Militia of this Province;" and to authorise the Colonels or Lieutenant Colonels of Militia, Magistrates or other persons, to be by the Lieutenant Governor appointed for that purpose, to carry the said orders and regulations into effect.

XXXVIII. *And be it further enacted by the authority aforesaid,* That nothing in this Act contained shall extend or be construed to extend to make void any commission now held by any officer of Militia in this Province, or to alter or change the organization of the different Regiments of Militia now existing in this Province, until otherwise ordered and directed by the Lieutenant Governor.

Commissions, &c. now existing not affected by this Act.

XXXIX. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act the following fees shall be paid upon commissions issued, by the officers to whom such commissions shall be issued;—Lieutenant Colonels, one pound ten shillings; Majors, twenty shillings; Captains, twenty shillings; Lieutenants, fifteen shillings; Ensigns, ten shillings; Paymasters, fifteen shillings; Surgeons, fifteen shillings; Assistant Surgeons, ten shillings; Quarter-Masters, ten shillings, and Adjutant according to his rank.

Fees payable on commissions.

XL. *And be it further enacted by the authority aforesaid,* That all commissions to officers of Militia shall be transmitted by the Adjutant-General of Militia to the Colonel or officers commanding, to be delivered to the respective officers appointed to his Regiment or Battalion; and to whom the fees, as well as the exemption money collected from the Quakers, Menonists, Tunkers, and Aliens mentioned in this Act, shall be paid, and by him shall be paid into the hands of the Receiver-General of the Province, for the public uses of the same.

Commissions to be transmitted to officers commanding;

By whom fees, &c. are to be received;

And paid to Receiver-General.

XLI. *And be it further enacted by the authority aforesaid,* That the Colonel or officer, commanding any Regiment or Battalion, shall make a half-yearly return to the Adjutant-General of this Province of the fees by him received, and paid into the hands of the Receiver-General, as aforesaid.

Half-yearly returns of fees to be made.

XLII. *And be it further enacted by the authority aforesaid,* That no officer of Militia shall muster or be entitled to rank as an officer should he fail to obtain possession of his commission, and pay the fees thereon, within six months after the commission shall have been transmitted, as aforesaid.

Officers to obtain their commissions within six months after being transmitted.

XLIII. *And be it further enacted by the authority aforesaid,* That the Colonel, or officer commanding any Regiment or Battalion, shall have full power and authority, and he is hereby authorised to call out the officers or non-commissioned officers of his Regiment or Battalion for the purpose of drill or exercise one day in each month, (if he shall deem it necessary,) exclusive of the days appointed by this Act for the purpose of drill or exercise.

Officers commissioned, and non-commissioned, may be called out to drill once a month.

XLIV. *And be it further enacted by the authority aforesaid,* That the provisions of this Act shall apply to such Militia as are now embodied for actual service.

This Act to apply to militia now embodied.

Penalty on persons selling
&c. arms or equipments;

Recoverable before two
Justices;

Imprisonment for default
of payment;

Offender may be dis-
charged on tender of
penalty.

XLV. *And be it further enacted by the authority aforesaid,* That every person who shall sell, barter or pledge any part of the arms or equipments, or shall tender them in pledge, which may be delivered to him out of Her Majesty's Stores, or who shall destroy the same, and every person who shall buy or barter, obtain or receive in pledge such arms or equipments, 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 two Justices of the Peace residing within the County where the same has been committed; and in case the person so selling any part of his arms or equipments, as aforesaid, or the person obtaining the same in manner aforesaid, being thereof convicted, as aforesaid, shall refuse or neglect to pay the said sum of five pounds, it shall and may be lawful for the said Justices, by a warrant under their hands and seals, to commit such person to the Gaol of the County or District in which the offence shall be committed, for any space of time not exceeding three months: *Provided always,* that it shall and may be lawful for the said Justices to discharge the person so offending any time before the expiration of the said three months, when the person so convicted, as aforesaid, shall tender to the said Justices the penalty inflicted by this Act.

False swearing under this
Act perjury.

XLVI. *And be it further enacted by the authority aforesaid,* That if any person shall wilfully swear falsely in any proceeding or matter with respect to which he shall have been sworn, under and according to the provisions of this Act, every such person, on being lawfully convicted thereof, shall be deemed guilty of wilful and corrupt perjury, and shall suffer the like punishment as by law may now be inflicted on persons convicted of wilful and corrupt perjury.

Lieutenant-Governor may
appoint a Commodore, and
officers of a Provincial
Navy;

Their rank and duties.

XLVII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Lieutenant-Governor to appoint a Commodore, who shall rank with Colonels of Militia, and also Captains and Lieutenants of a Provincial Navy, who shall rank with Majors and Captains of the Militia as senior of their respective rank, to be drilled to the exercise of heavy guns and the management of gun-boats, in addition to their duties in the use of small arms as a Militia force.

Retired battalions to
be formed of persons
incapable of actual
service.

XLVIII. *And be it further enacted by the authority aforesaid,* That there shall be attached to every Regiment of Militia a second or retired Battalion, to which officers on becoming incapable of actual service by reason of old age, infirmity or otherwise, may be transferred, on their own applications or by order of the Lieutenant-Governor; and that all non-commissioned officers and privates from the age of fifty to sixty years shall also be transferred to the retired Battalion.

Volunteer marine compa-
nies may be formed.

XLIX. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Lieutenant-Governor of this Province, to sanction the formation of Volunteer Companies to serve as Provincial

Marine, and to be stationed at the different harbours along the coast; each of such Companies to consist of a Captain, a Lieutenant, an Ensign, and not less than fifty, or more than one hundred men.

L. *And be it further enacted by the authority aforesaid,* That if any person shall wilfully interrupt or molest any Regiment, Battalion, Company or Detachment of Militia, whilst on any duty prescribed by the laws of this Province, it shall be lawful for the commanding officer of such Regiment, Battalion, Company or Detachment, to confine such person, for any time not exceeding three days.

Persons interrupting militia on duty, may be confined by commanding officer.

LI. *And be it further enacted by the authority aforesaid,* That except in time of actual service, the Judges of the Court of King's Bench, the Vice-Chancellor 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, Her Majesty's Attorney and Solicitor-Generals, the Secretary of the Province, and all Civil Officers who shall have been or may hereafter be appointed to any Civil Office in this Province under the Great Seal of the same, as well as all Magistrates, Coroners, Sheriffs and half-pay and retired officers, Militia officers having served by virtue of any Militia commission in any part of Her Majesty's dominions who may not have been removed for any offence as an officer of Militia, or who may have obtained leave to resign his commission, the Surveyor-General and his Deputies duly appointed and actually engaged in public service, Deputy Post Masters and Mail-Carriers, Sea-faring men actually employed in the line of their calling, Physicians, Surgeons, the Masters of public or common schools, Ferrymen, and one Miller to each run of stones in every grist-mill, the Keepers of public toll-gates, Lock-masters and Labourers employed in attending locks or bridges on the Rideau, Welland and other public Canals, shall be and 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 of the above mentioned persons from holding commissions as officers in the Militia of this Province: *Provided always,* that it shall and may be lawful for the Lieutenant-Governor of this Province, by warrant under his hand and seal, to exempt any of the persons hereinbefore enumerated, or any other person, in his discretion, from being called out in the service aforesaid.

Persons generally exempt from militia service;

Exemption not to disable the parties from holding commissions;

Lieutenant-Governor may grant special exemption.

LII. *And be it further enacted by the authority aforesaid,* 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 and Tunkers, and producing a certificate of his being a Quaker, Menonist or Tunker, or being the son of a Quaker, Menonist or Tunker, brought up and educated in the principles of the Quakers, Menonists or Tunkers, and under the age of twenty-one years,

Quakers, Menonists and Tunkers, exempted;

[See 4 & 5 Vic. Chap. 2, which repeals this clause.]

On producing certificate;

signed by the Clerk of the meeting of such Society, or by three or more of the people called Quakers, Menonists or Tunkers, shall be excused and exempted from serving in the said Militia: *Provided nevertheless*, that every such person who may be so excused, as aforesaid, shall on or before the fourth day of June in every year, give in his name and place of residence to the Colonel, or officer commanding the Regiment, within the limits of which he may reside, and pay at the same time to the said Colonel or officer commanding the sum of twenty shillings currency; and in time of actual invasion, insurrection or rebellion, when any portion of the Militia are called upon for actual service, the sum of ten pounds; and in default of such return and payment, as aforesaid, such Colonel, or officer commanding, shall be required immediately to complain of such neglect or refusal, and to summon and try the party so offending, and to decide and determine upon every such case by a Regimental Court, in the same manner and form as is provided for the trial of other offenders against this Act.

And reporting their names and residences annually, and paying at the time 20s.;

And in time of actual invasion or rebellion £10;

Duty of commanding officer in default of such returns and payments.

Aliens who are not required to enrol themselves to report their names and residences annually to the officer commanding within the limit, and pay at the same time 10s.;

[See 4 & 5 Vic. Chap. 2, which repeals this clause.]

Duty of officer in default of such return and payment;

Proof of allegiance, &c. lies on party accused.

Where part only of Militia required for actual service, they may be selected by ballot;

Manner of balloting.

LIII. *And be it further enacted by the authority aforesaid*, That all persons not natural born subjects of Her Majesty, or not subjects of Her Majesty naturalized by an Act of the British Parliament, or who have not become such by an Act of the Parliament of this Province, or who have not taken the oath of allegiance, and having been resident in this Province for the period of one year, shall on or before the fourth day of June in every year, give in his name and place of residence to the Colonel or officer commanding the Regiment within the limits of which he may reside, and pay at the same time to the said Colonel or officer commanding the sum of ten shillings; and in default of such return and payment, as aforesaid, such Colonel or officer commanding shall be required immediately to complain of such neglect and refusal, and to summon and try the party so offending by a Regimental Court Martial, and upon conviction before the said Court such offender shall forfeit and pay the sum of ten shillings, besides the costs and charges of conviction, to be levied in the manner pointed out in the nineteenth section of this Act; and if it shall become a question on any trial whether such person is a natural born subject of Her Majesty, or a subject of Her Majesty naturalized by an Act of the British Parliament, or become such by an Act of the Parliament of this Province, or whether he has taken the oath of allegiance, it shall be incumbent on him to prove the fact.

LIV. *And be it further enacted by the authority aforesaid*, That when the Lieutenant-Governor shall call out any portion of the Militia of this Province in a time of actual war with a foreign power, to put down or suppress rebellion, to repel invasion, or for any purpose connected with the preservation of the public peace, the officer commanding the Regiment out of which they may be so called, may cause the number appointed to serve out of his Regiment to be chosen by ballot in the following manner: The names of all persons liable to serve as Militiamen within the division of his Regiment shall be written upon slips of white paper,

and folded up and put into a box or glass, out of which the number required to serve shall be drawn by the Adjutant of the Regiment, in the presence of at least three Captains of the Regiment: *Provided always*, that nothing herein contained shall be construed to prevent the Lieutenant-Governor from calling out the Militia, or any portion of them, for the purposes aforesaid, without resorting to the ballot.

LV. *And be it further enacted by the authority aforesaid*, That after any ballot shall take place for the purposes aforesaid, the officer commanding the Regiment shall appoint a meeting within three weeks, and issue an order to the Adjutant to direct a notice to be given to every man so chosen, by giving or leaving the same at his place of abode three days previously, to appear at such meeting.

Notice of meeting after selection by ballot.

LVI. *And be it further enacted by the authority aforesaid*, That if any complaint shall be brought or commenced against any person for any thing done or to be done in pursuance of this Act, or in the execution of the powers and authorities, or the orders and directions herein-before given or granted, every such suit shall be brought or commenced within three calendar months next after the fact committed; and the defendant in 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 thereon, and that the same was done in pursuance and by the authority of this Act; and if it shall appear to be done so, or if any action shall be brought after the time herein-before limited for bringing the same, then a verdict shall be given for the defendant.

Limitation of actions;

General issue may be pleaded.

LVII. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the Lieutenant-Governor to appoint a proper person to be Adjutant-General of the Militia of this Province, who shall have the rank of Colonel, and do all matters and things appertaining to the said office of Adjutant-General.

Lieutenant-Governor may appoint Adjutant-General with rank of Colonel.

LVIII. *And be it further enacted by the authority aforesaid*, That no person who shall have been discharged from Her Majesty's service as a Serjeant shall be obliged to serve in any inferior station of the Militia of this Province, unless having been such non-commissioned officer in the said Militia he may have been reduced according to law.

Persons having been Serjeants in the regular service, when not liable to serve in inferior stations.

LIX. *And be it further enacted by the authority aforesaid*, That every officer or non-commissioned officer of Militia duly appointed, shall be exempt from serving as Constable for any period during such time as he shall hold such appointment.

Officers not liable to serve as Constables.

LX. *And be it further enacted by the authority aforesaid*, That any person who shall have been dismissed from Her Majesty's Army by sentence of a General Court Martial or otherwise, shall not be allowed to hold a commission in the Militia of this Province.

Persons dismissed Her Majesty's service not eligible to hold commissions in Militia.

Proceedings commenced under 1 Vic. Chap. 8, not made void by the repeal of that Act.

LXI. *And be it further enacted by the authority aforesaid, That nothing in this Act contained shall extend, or be construed to extend, to make void or in any wise affect any proceedings heretofore commenced and prosecuted under the said Act of the first Victoria, Chapter eight, hereinbefore recited or referred to and intended to be hereby repealed, except that it shall be lawful for the Lieutenant Governor to reduce, mitigate or remit, any fine or penalty heretofore adjudged against any person or persons for any offence against the said last mentioned Act.*

C H A P. X.

AN ACT to provide for the advancement of Education in this Province.

[Passed 11th May, 1839.]

Preamble.

(See 7 Wm. IV. Chap. 16.)
(And see also 4 & 5 Vic. Chap. 19, Ser. 8, which repeals this Act.)

WHEREAS it is very desirable to afford every encouragement to the advancement of education throughout the Province: *And whereas* His late most Gracious Majesty George the Third was pleased to direct, that a quantity of the waste lands of the Crown should be set apart for the endowment of Grammar Schools, and also of a University: *And whereas* a Royal Charter has been granted incorporating the University of King's College which has been endowed by a grant of lands from the Crown: *And whereas* Upper Canada College has by an Act of the Legislature been incorporated with and now forms an appendage to such University: *And whereas* the advancement of education will be better promoted by devoting a portion of the annual revenues of King's College to the support of Upper Canada College and of Grammar Schools for several years to come, than by the erection of a University in the present state of education in the Province: *And whereas* Upper Canada College, with some changes easily affected, would afford sufficient accommodation to the public as a Provincial seat of learning, until it should be deemed requisite to erect the University: *And whereas* it is expedient to appoint Trustees for each Grammar School in the several Districts, to superintend the Schools to be established under the provisions of this Act, and to see to the application of the monies appropriated to their support: *Be it therefore enacted* by the Queen'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 several Dis-

district Schools in this Province shall be and are hereby declared to be Grammar Schools, as contemplated by His late most Gracious Majesty King George the Third, at the time the said reservation of land was directed to be made, as aforesaid.

District Schools declared to be Grammar Schools with a view to the endowment of Geo. III.

II. *And be it further enacted by the authority aforesaid,* That there shall be constituted and appointed by the Lieutenant Governor a Board of Trustees to each and every Grammar School in the several Districts of this Province, consisting of not less than five members, three of whom shall be a quorum, who shall have the superintendance of the Grammar Schools established in the several Districts of this Province, and receive the money authorised to be paid under this Act.

Board of Trustees to each Grammar School;

Their authority and duty

III. *And be it further enacted by the authority aforesaid,* That the money now remaining in the Receiver General's hands unexpended, arising from the sales of School Lands, or which may come into his hands applicable to the purposes of this Act, shall be invested in the Debentures of this Province, at six per cent. interest, and the proceeds placed under the control of the Council of King's College for the purposes of this Act, to be by the said Council distributed amongst such Districts as in their opinion more immediately require assistance, owing to the state of the School House, or other circumstances.

Proceeds of school lands to be invested for the purposes of this Act;

To be administered by the Council of King's College

IV. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Lieutenant Governor, by and with the advice of the Executive Council, to set apart two hundred and fifty thousand acres of the waste lands of the Crown in this Province, to be sold in like manner as other Crown Lands, at a price not less than ten shillings per acre, and the proceeds thereof paid into the hands of the Receiver-General, from time to time, to be appropriated in such manner, and for the Grammar Schools, as herein-before provided.

Appropriation of waste lands in aid of Grammar Schools.

V. *And be it further enacted by the authority aforesaid,* That a sum not exceeding one hundred pounds per annum may be advanced to each of the said Boards of Trustees, from time to time, out of any monies in the hands of the Receiver General, applicable to the purposes of this Act; and should such monies be insufficient, it shall and may be lawful for the Council of King's College, in their discretion, to appropriate a sufficient sum from the annual revenues thereof to make up the deficiency, to be applied in providing an additional Master and other means of instruction for the Grammar Schools in each District, respectively: *Provided always,* that no portion of the principal money arising from the sale of lands granted to King's College shall be so appropriated, but merely the interest or rents thereof.

£100 per annum to be advanced to each Board of Trustees;

Council of King's College empowered to supply further funds;

But not out of the principal money of the College.

VI. *Provided also, and be it further enacted by the authority aforesaid,* That it shall and may be lawful for the said Council of King's College

Proportion of revenues of King's College to be first appropriated to Upper Canada College.

first to appropriate a proportion of the revenues thereof, not exceeding one half, to the support, extension and maintenance, of Upper Canada College, until it shall be deemed necessary to erect the University.

Grant of £200 for erection of school house in each District;

VII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Board of Trustees, in any District now constituted or here after to be constituted, to receive out of any monies in the hands of the Receiver General, applicable to the purposes of this Act, a sum not exceeding two hundred pounds, to aid in the erection of a suitable building for a School House in each District; *Provided,* an equal sum shall be raised by subscription among the inhabitants for the like object; *And provided,* they shall ensure the permanent insurance of such building.

Provided an equal sum be raised among the inhabitants.

Grant in aid of two schools in each District other than the Grammar School in the District Town;

VIII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Lieutenant Governor to authorise a sum not exceeding one hundred pounds per annum for each School, to be paid to any Board of Trustees, for the use and support of two other Schools than the one in the Town where the Court House is situated, in any Town or Village in which the inhabitants shall provide a suitable School House, at which not less than sixty Scholars shall be educated: *Provided,* any such additional School shall not be within six miles of the District Town: *And provided always,* that nothing herein contained shall prevent the Council of King's College from extending the aid to four Grammar Schools (including the said two,) other than the one established in the District Town, should the said Council deem it expedient.

Council of King's College empowered to extend its aid to four additional Grammar Schools in each District.

Council of King's College to frame rules for government of Grammar Schools.

IX. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Council of King's College to make such rules, regulations and by-laws, for the conduct and good government of the several Schools established under this Act, as to such Council shall seem proper.

Accounts to be annually rendered to Lieutenant-Governor.

X. *And be it further enacted by the authority aforesaid,* That an account in detail of the sums received and expended under the provisions of this Act shall be rendered to the Lieutenant Governor annually, in order that the same may be laid before the Legislature within thirty days after the commencement of each Session.

CHAP. XI.

AN ACT to authorise the erection of an Asylum within this Province, for the reception of Insane and Lunatic persons.

[Passed 11th May, 1839.]

Preamble.

WHEREAS the establishment of an Asylum in this Province for the reception of insane persons has become necessary, and it is therefore

expedient to authorise His Excellency the Lieutenant-Governor to appoint Commissioners for superintending the erection of a suitable building, to be appropriated for the purpose aforesaid, and to provide for the appointment of officers for the government thereof, and to frame regulations for the management of the said Asylum, and to authorise the Court of Quarter Sessions in each District in the Province to levy an additional assessment of one-eighth of a penny in the pound, to be annually appropriated to the erection of the said Asylum, and in the purchasing of land sufficient for a site, and maintaining and supporting the same: *Be it therefore enacted* by the Queen'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 an Asylum for the reception of insane and lunatic persons shall be erected on such plot of ground as shall be appropriated by the Lieutenant-Governor, or purchased by Commissioners appointed under the authority of this Act for the purpose.

Asylum for lunatics to be erected.

II. *And be it further enacted by the authority aforesaid*, That His Excellency the Lieutenant-Governor shall be and is hereby authorised to appoint Commissioners, of whom one shall be an experienced Medical-Practitioner, for superintending the erection of said building, with full power and authority to employ a skilful Architect to procure plans and elevations, and to adopt such plan as to them may seem best suited for the purpose intended.

Commissioners to be appointed to superintend the erection, &c.

III. *And be it further enacted by the authority aforesaid*, That so soon as the said building shall be reported to the Lieutenant-Governor by the said Commissioners as sufficiently completed and furnished for the reception of patients, it shall and may be lawful for the Lieutenant-Governor to appoint to such Institution a Board of Directors, to consist of not less than twelve persons resident within the Province; and it shall be the duty of the said Board, or of any two Members thereof, at least once in each month to visit the said institution to inspect the same; and annually on the first Tuesday in November, after the passing of this Act, to make a report of the state thereof, and of the patients therein, and the times of their admission or discharge, to the Lieutenant-Governor, for the information of the Legislature.

Lieutenant-Governor to appoint Board of twelve Directors;

Two Directors to visit the Institution once a month at least;

And make annual reports to the Lieutenant-Governor.

IV. *And be it further enacted by the authority aforesaid*, That the said Board of Directors to be appointed, as aforesaid, shall have power to make such prudential rules and regulations for the internal arrangement and management of the said Institution, as to them may seem fit and proper;

Authority of Directors to make rules and regulations for government of the Institution;

and may change, alter, annul or renew the same, from time to time, as occasion may require; and the said Board of Directors shall appoint a Superintendent, who shall always reside at the Asylum, and whose duty it shall be to act as Physician to the said establishment, and to watch over the internal management thereof, and carry into effect, in so far as appertains to his office, the provisions of this Act and the by-laws of the said Institution; and the said Board shall have the appointment of all other officers and servants to the said Institution, and have power to remove them at pleasure, and appoint others, and fix the amount of their salaries, subject to the confirmation or disallowance of the Lieutenant-Governor: *Provided*, that the salary of the said Superintendent shall not exceed the sum of three hundred pounds per annum.

Medical Superintendent to reside at the Asylum;

His duties;

Board to appoint other officers and servants;

Salaries subject to control of Lieutenant-Governor;

Salary of Superintendent £300.

Board to meet once a month at the Institution;

Minutes of their proceedings to be kept;

Majority of votes binding upon the Board;

Three Directors necessary to form a quorum;

Chairman's casting vote in case of equality.

Rules relative to reception of a lunatic into the Asylum;

Penalty upon officer admitting an alleged lunatic contrary to such rules;

Recovery and application of penalty;

Proof of compliance with rules laid upon defendant.

V. *And be it further enacted by the authority aforesaid*, That it shall be the duty of the said Board to meet at least once in each month, and oftener if they shall see occasion, in some convenient room at the Institution, to be selected by them for holding the meetings of the said Board; and a minute of all such business as shall be transacted at any such meeting shall be recorded in a book to be kept for that purpose at the said meeting room, and to be on no account removed therefrom, except by the special order or consent of the Board; and at any such meeting a plurality of votes shall be binding and conclusive upon any matter before the Board: *Provided always*, that there shall be at least three Directors present at such meetings, who shall for the purposes of this Act constitute a quorum for the despatch of business; and in case of an equality of votes at any such meeting, the Chairman shall have a casting vote.

VI. *And be it further enacted by the authority aforesaid*, That any insane or lunatic person or persons, being subject or subjects of Her Majesty, and a resident of this Province, may be received into the said Asylum, upon proof to the satisfaction of the said Board of Directors, or any one Member thereof in case the Board shall not be then sitting, of the said person being such subject and resident, as aforesaid, and upon the production of a certificate signed by at least three resident practising Physicians in this Province, that such person has been examined by them collectively, and that he is insane or a lunatic; and in case the Superintendent of the said Asylum, or any officer or servant belonging thereto, shall admit any person into the said Institution charged with insanity or lunacy, without first requiring and receiving such certificate, together with an order from the Board signed by at least one Member thereof, he or they so offending shall forfeit and pay the sum of one hundred pounds for each and every offence; to be recovered by action of debt in any of Her Majesty's Courts of Record in this Province, by any person or persons who shall sue in his, her, or their name or names, and one moiety of such penalty, when recovered, shall go to the use of the said Institution, and the other moiety to the party or parties who shall sue for the same; and the onus of proving that such order and certificate were duly given, shall be upon the defendant or defendants.

VII. *And be it further enacted by the authority aforesaid,* That the said Board shall establish the sum per diem to be paid by the person or persons so admitted into the said Asylum, towards defraying the expense incurred for the maintenance, attendance and support, of such person or persons; which sum shall be paid quarterly in advance, and security shall be given by bond to the Treasurer of the said Institution, for the future payments, according to the terms of the establishment.

Board to establish rates at which patients may be supported in the Asylum;

Payments quarterly in advance, and security to be given to Treasurer.

VIII. *And be it further enacted by the authority aforesaid,* That so often as application shall be made to the said Board for admission into the Asylum of any destitute insane or lunatic person, the said Board may admit such person to the benefit and advantages of such Institution, upon proof to their satisfaction, or if not then sitting to the satisfaction of any one Member of the said Board, of such person being an inhabitant of this Province, and a subject of Her Majesty, and without the means of paying the expenses to be incurred for his maintenance and support.

Admission of pauper lunatics.

IX. *And be it further enacted by the authority aforesaid,* That the expenses that may be incurred in removing such destitute insane or lunatic person from his usual place of abode, shall be borne by the District in which such person was last resident, and shall be ascertained and paid as the other ordinary or incidental expenses of the District, and upon the recovery of the person so admitted, such District shall also bear the expense of his removal from the said Asylum to the place from whence such person was brought.

Expenses of removing destitute insane persons to be paid by the several Districts.

X. *And be it further enacted by the authority aforesaid,* That if any insane or lunatic person, upon or at any time after his admission into the said Asylum, shall possess or become possessed of or entitled to any goods or chattels, lands or tenements, or any estate or property, whereby or by which the expenses to be incurred for his maintenance and support in the said Asylum can be raised, and shall have no relatives or guardians or protectors, willing or capable of the care or management of the same, for the benefit of the said insane or lunatic person, and of giving the necessary security to the Institution for the payments as required by this Act, then and in such case it shall be lawful for Her Majesty's Court of King's Bench in this Province, upon the application of the next of kin or nearest friend of such insane or lunatic person, and upon sufficient proof being adduced to the satisfaction of the said Court in Term time, to appoint one or more persons, in the discretion of the said Court, to be a Committee of the person and property of the said lunatic or insane person; and the Committee, so to be appointed of the said lunatic or insane person, shall during the continuance of his insanity or lunacy, and until a surpsedeas of his or their authority shall have been issued by the said Court, have full power over, and be competent to manage and appropriate, recover, lease, mortgage, sell or convey, all or any part of the real or personal estate, chattels and credits, of the said insane or lunatic person,

Where lunatic becomes entitled to property, the Court of Queen's Bench empowered to appoint Committee for management of his estate, &c.

Authority of such Committee.

in the name of such insane or lunatic person, or as his Committee, and as fully and effectually to all intents and purposes, as such insane or lunatic person could or might have done the same in a sound disposing mind; and such Committee shall obey the order and direction of the said Court, to be from time to time made in the matter and affairs of such lunatic or insane person.

Quarterly accounts of the Institution to be made by the Superintendent;

XI. *And be it further enacted by the authority aforesaid,* That the accounts of the said Institution shall be made up and ascertained by the Superintendent quarterly, on the first Tuesday in January, April, July and October, in each year, and be audited by the Board, and a true copy thereof transmitted by the said Board, as soon as may be after the first Tuesday in November, in each year, to the Lieutenant Governor, to be laid before the Legislature; which copy of said accounts shall specify the amount of salary paid to the different officers and servants of the Institution, and also the ordinary and incidental expenses incurred in carrying on its operations; also the sums received or due for the support or maintenance of the persons admitted (if any there be,) who have means for the payment thereof.

Salaries, &c. to be specified in such accounts.

Vacancies among Directors may be supplied by Lieutenant-Governor.

XII. *And be it further enacted by the authority aforesaid,* That whenever any vacancy shall occur among the Members of the said Board, by death, resignation or departure from the Province, or otherwise, it shall be lawful for the Lieutenant Governor to fill such vacancies, by the appointment of other fit and proper persons, as often as need shall require.

Justices empowered to make assessment for the purposes of this Act.

XIII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the Justices of the Peace of each and every District of this Province, at their General Court of Quarter Sessions next holden after the passing of this Act, to levy by assessment, to be made on each and every inhabitant householder within their said several Districts, in the same manner and form as by law any assessment may now or hereafter be levied for any public purpose within the same, an additional rate or assessment of one-eighth of a penny in the pound; which additional rate or assessment of one-eighth of a penny in the pound, after deducting the expenses allowed by law for levying and collecting the same, shall be paid by the several District Treasurers into the hands of Her Majesty's Receiver-General of this Province, for the purposes of this Act.

Warrants to Commissioners for expenses of erecting the Asylum, &c.

XIV. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the Lieutenant Governor to issue his warrant or warrants on the Receiver-General of the Province, in favour of the Commissioners appointed under the authority of this Act, for the amount paid into his hands, as aforesaid, to be by them expended in the erection of a Provincial Asylum, and in paying for the land requisite as a site for such building.

XV. *And be it further enacted by the authority aforesaid, That the assessment of one-eighth of a penny in the pound additional, authorised by this Act to be levied on all ratable property in the several Districts, shall be levied and collected annually, in each and every year, (with the exception of the first assessment, to be levied as directed by the thirteenth clause of this Act,) at such times and in the same manner as other rates are now by law levied and collected.*

Collection and levying of rates authorised by this Act.

CHAP. XII.

AN ACT to amend an Act passed in the fourth year of the reign of His late Majesty King George the Fourth, intituled, "An Act for the preservation of Deer within this Province," and to extend the provisions of the same; and to prohibit Hunting and Shooting on the Lord's Day.

[Passed 11th May, 1839.]

WHEREAS it is expedient to amend and extend the provisions of an Act passed in the second year of the reign of His late Majesty King George the Third, intituled, "An Act for the preservation of Deer within this Province," and to prevent the practice of hunting and shooting on the Sabbath: *Be it therefore enacted* by the Queen'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 or persons shall, within this Province, after the first day of February in every year hereafter, kill in any manner whatever any Deer *feræ naturæ*, until the first day of August.

Preamble.

(See 2 Geo. IV. Chap. 17; which is superseded but not expressly repealed by this Act.)

Prohibits killing wild deer after 1st February and before 1st August.

H. *And be it further enacted by the authority aforesaid, That if any person shall hunt, shoot, kill or destroy, any Deer or Fawn, between the first day of February and the first day of August; or any Wild Turkey, Prairie-Hen or Grouse; or any Grouse, commonly called Pheasant or Partridge; or any Quail or Wood-Cock, between the first day of March and the first day of September in every year; or shall hunt or shoot, or go out with a gun in quest or pursuit of any Deer, or other wild animal or wild fowl, on the Lord's Day, (commonly called Sunday,) within this Province, any such person being convicted thereof before a Justice of the Peace, upon the oath or affirmation of one or more credible witness or*

Prohibits killing of deer or fawn between 1st February and 1st August;

Wild turkey, prairie hen, grouse, pheasant or partridge, quail or wood cock, between 1st March and 1st September;

Hunting and shooting on Sundays prohibited, and offenders made liable to punishment.

witnesses, (which oath or affirmation the Justice is hereby authorised to administer,) or upon view had of the offence by the said Justice himself, shall pay a fine or penalty not exceeding five pounds, nor less than one pound, current money of this Province, together with the costs and charges attending the conviction.

Mode of proceeding
against persons offending
against this Act.

III. *And be it further enacted by the authority aforesaid,* That when any person shall be charged, in writing, before any Justice of the Peace with any offence against this Act, the said Justice shall summon the person so charged to appear before him, at a time and place to be named in such summons; and if such person shall fail or neglect to appear accordingly, then (upon proof of due service of the summons upon such person, by delivering or leaving a copy thereof at his house or usual place of abode, or by reading the same over to him personally,) the said Justice may either proceed to hear and determine the case *ex parte*, or issue his warrant for apprehending such person, and bringing him before himself or some other Justice of the Peace within the same District, and the Justice before whom the person charged shall appear, or be brought, shall proceed to hear and determine the case.

Form of conviction.

IV. *And be it further enacted by the authority aforesaid,* That the Justice before whom any person shall be convicted of any offence against this Act, may cause the conviction to be drawn up in the following form, or in any other form of words to the same effect as the case shall require, that is to say: "Be it remembered, that on the _____ day of _____, in the year of our Lord _____, at _____, in the County of _____, (or District, Riding or Division, as the case may be,) A. B. of _____, is convicted before me, C. D., one of Her Majesty's Justices of the Peace for the said County, (or District, or Riding or Division, as the case may be,) for that he the said A. B. did, (specify the offence, and the time and place when and where the same was committed, as the case may be;) and I, the said C. D., adjudged the said A. B. for his offence to pay immediately, or on or before the _____ day of _____, the sum of _____, and also the sum of _____ for costs; and in default of payment of the said sums, respectively, to be imprisoned in the County Gaol of the said County, (or District, or Riding or Division, as the case may be,) for the space of _____, unless the said sums shall be sooner paid; and I direct that the said sum of _____ pounds, (the penalty) shall be paid to the Township Clerk of the Township wherein the fine may be imposed, to be by him applied according to the provisions of this Act. Given under my hand and seal, the day and year first above mentioned.

[L. S.]

"C. D."

Conviction not to be
quashed for want of form.

V. *And be it further enacted by the authority aforesaid,* That a conviction under this Act shall not be quashed for want of form; nor shall any warrant of commitment be held void by reason of any defect therein; *Provided*, it be alleged that the party has been convicted, and there be a good and valid conviction to sustain the same.

VI. *And be it further enacted by the authority aforesaid,* That in default of payment of any fine imposed under the authority of this Act, together with the costs attending the same, within the period specified for the payment thereof at the time of conviction, by the Justice of the Peace before whom such conviction may have taken place, it shall and may be lawful for such Justice of the Peace (if he deems it expedient to do so) to issue his warrant, directed to any Constable, to levy the amount of such fine and costs within a certain time, to be in the said warrant expressed; and in case no distress sufficient to satisfy the amount shall be found, it shall and may be lawful for him to commit the offender to the common Gaol of the District wherein the offence was committed, for any term not exceeding one calendar month, unless the fine and costs shall be sooner paid.

Proceedings against offender in case of non-payment of fine.

VII. *And be it further enacted by the authority aforesaid,* That the prosecution for every offence punishable under this Act, shall be commenced within one calendar month after the commission of the offence, and not otherwise; and the evidence of any inhabitant of the County, District, Riding or Division, in which the offence shall have been committed, shall be admitted and receivable, notwithstanding the penalty incurred by the offence may be payable for the benefit of the Township or Division where the offence shall have been committed.

Prosecution of offenders to be instituted in one month;

Persons residing in place where penalty is appropriated, competent witnesses.

VIII. *And be it further enacted by the authority aforesaid,* That any person who shall think himself aggrieved by any conviction or decision under this Act, may appeal to the next Court of General Quarter Sessions which shall be holden not less than twelve days after the day of such conviction or decision, and if holden in less than twelve days, then to the next ensuing Court of General Quarter Sessions for the District wherein the cause of complaint shall have arisen: *Provided,* that such person shall give to the other party a notice in writing of such appeal, and of the cause and matter thereof, within three days after such conviction or decision, and seven days at least before the Sessions, and shall also either remain in custody until the Sessions, or enter into recognizance with two sufficient sureties before a Justice of the Peace, conditioned, personally to appear at the Sessions and to try such appeal, and to abide the judgment of the Court thereupon, and to pay such costs as shall be by the Court awarded; and upon such notice being given, and such recognizance entered into, shall liberate such person, if in custody; and the Court at such Sessions shall hear and determine the matter of the appeal, and shall make such order therein, with or without costs to either party, as to the Court shall seem meet; and in case of the dismissal of the appeal or the affirmance of the conviction, shall order and adjudge the offender to be punished according to the conviction, and to pay such costs as shall be awarded, and shall if necessary issue process for enforcing such judgment.

Appeal against decision of Justices to Quarter Sessions, upon notice and recognizance being entered into, &c.;

Costs in affirmance of judgment.

IX. *And be it further enacted by the authority aforesaid,* That every Justice of the Peace before whom any person shall be convicted of any

Record of conviction by Justices to be transmitted to Quarter Sessions.

offence against this Act, shall transmit the conviction to the next Court of General Quarter Sessions which shall be holden for the District wherein the offence shall have been committed, there to be kept by the proper officer among the records of the Court.

Application to persons prosecuted for any thing done by them in pursuance of this Act.

X. And for the protection of persons acting in the execution of this Act, *Be it further enacted by the authority aforesaid*, That all actions and prosecutions to be commenced against any person for any thing done in pursuance of this Act, shall be laid and tried in the District where the fact was committed, and shall be commenced within six calendar months after the fact committed and not otherwise; and notice in writing of such action, and of the cause thereof, shall be given to the defendant one calendar month, at least, before the action; and in any such action the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in such action, if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought by or on behalf of the defendant; and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuit, or discontinue any such action after issued, joined, or if upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs, as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases; and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge before whom the trial shall be had shall certify his approbation of the action, and of the verdict obtained thereupon.

Appropriation of penalties

XI. *And be it further enacted by the authority aforesaid*, That all sums of money and penalties to be awarded and imposed by virtue of this Act, shall be paid to the Township Clerk of the Township or place wherein the offence was committed, and shall be by such Township Clerk paid over to the Path Master or Street Surveyor of the Division in which the offence shall have been committed or the fine levied, in aid of any commutation money to be expended for roads, or in aid of any Statute labour to be performed within such Division.

Indians not included in this Act.

XII. *Provided always, and be it further enacted by the authority aforesaid*, That nothing in this Act contained shall extend, or be construed to extend, to any Indians now or hereafter to be resident within the limits of this Province.

Limitation of Act, four years. &c

XIII. *And be it further enacted by the authority aforesaid*, That this Act shall be and continue in force for and during the term of four years, and from thence to the end of the then next ensuing Session of Parliament, and no longer.

CHAP. XIII.

AN ACT to continue in force, for a limited period, the laws authorising the Chartered Banks in this Province to suspend the redemption of their Notes in Specie, under certain regulations.

[Passed 11th May, 1839.]

Preamble; 7 & 8 Wm. IV. Sess. 2, Chap. 2, and 1 Vic. Chap. 22, continued until 1st November, 1839. 2. Bank Directors not to declare any dividend during suspension of specie payments.

III. *And be it further enacted by the authority aforesaid, That notwithstanding the provisions of the first clause of this Act, His Excellency the Lieutenant-Governor in Council, shall upon any great emergency authorise such Banks to suspend for such further period, and under such restrictions, as he may think proper.*

Lieutenant-Governor may sanction further suspension.

CHAP. XIV.

AN ACT to extend and continue, for a limited period, the provisions of an Act passed in the first year of Her Majesty's reign, intituled, "An Act to provide for the disposal of the Public Lands in this Province."

[Passed 11th May, 1839.]

WHEREAS under and by virtue of the provisions of the Act passed in the first year of Her Majesty's reign, for the disposal of the Public Lands, it is impossible to procure the registry of any assignment from a person entitled to a free grant of land, in case the witness or witnesses is or are dead, or shall or may leave the Province: *Be it therefore enacted by the Queen'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 all cases wherein the witness or witnesses to any assignment, as aforesaid, is or are dead, or shall or may leave the Province, proof of the hand-writing of such witness or witnesses, sworn before any Justice of the Peace in and for any District of this Province, shall be taken and deemed to be sufficient evidence of the execution of any such assignment.*

Preamble.
[See 7 Wm. IV. Ch. 112;
4 & 5 Vic. Chap. 100.]

In what cases hand-writing of witnesses to assignments may be proved.

Act for disposal of public lands continued for five years.

II. *And be it further enacted by the authority aforesaid,* That the twenty-eighth clause of the said Act, passed in the first year of Her Majesty's reign, limiting the same to two years, be and the same is hereby repealed; and that the said Act shall be continued for five years from the passing of this Act.

CHAP. XV.

AN ACT for the protection of the Lands of the Crown in this Province, from trespass and injury.

[Passed 11th May, 1839.]

Preamble.

WHEREAS the lands appropriated for the residence of certain Indian Tribes in this Province, as well as the unsurveyed lands, and lands of the Crown ungranted and not under location, or sold or held by virtue of any lease or license of occupation, have from time to time been taken possession of by persons having no lawful right or authority so to do: *And whereas* the said lands have also been from time to time unlawfully entered upon, and the timber, trees, stone and soil, removed therefrom, and other injuries have been committed thereon; *And whereas* it is necessary to provide by law for the summary removal of persons unlawfully occupying the said lands, as also to protect the same from future trespass and injury: *Be it therefore enacted* by the Queen'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 Lieutenant-Governor of the Province, from time to time, as he shall deem necessary, to appoint two or more Commissioners under the Great Seal of this Province, to receive information, and to inquire into any complaint that may be made to them, or any one of them, against any person for illegally possessing himself of any of the aforesaid lands, for the cession of which to Her Majesty no agreement hath been made with the Tribes occupying the same, and who may claim title thereto; and also to inquire into any complaint that may be made to them, or any one of them, against any person for having unlawfully cut down or removed any timber, trees, stone or soil, on such lands, or for having done any other wilful and unlawful injury thereon.

Commissioners may be appointed to inquire concerning trespasses committed upon Indian lands, &c.

II. *And be it further enacted by the authority aforesaid,* That if such Commissioners, or any one of them, shall upon investigation of any complaint made, as aforesaid, against any person for being unlawfully in possession of any of the lands herein-before mentioned, find and determine that such person is unlawfully in possession of such lands, it shall be lawful for the said Commissioners, or any one of them, to give notice to and require such person to remove from the occupation of such lands, within not less than thirty days from the day of the service of such notice; and if the person so required to remove from the occupation of such lands, shall neglect to remove from the same within the time specified in the said notice, it shall be lawful for the said Commissioners, or any one of them, to issue a warrant under their hands and seals, or the hand and seal of any one of them, directed to the Sheriff of the District wherein such lands are situate, commanding him to eject and remove the person in such warrant mentioned from the lands so unlawfully occupied by him; which warrant the Sheriff to whom the same is directed shall have full power and authority to execute, and shall execute and carry into effect, in the same manner as by law he is authorised to execute and carry into effect writs issued by Her Majesty's Courts of Law for restoring and delivering possession of lands recovered in any action of trespass in this Province.

Commissioners, on finding illegal possession;

To give notice to intruder to remove within thirty days;

On neglecting to remove, warrant of ejectment may be directed to and executed by the Sheriff.

III. *And be it further enacted by the authority aforesaid,* That if any person who shall have been removed from the lands and tenements aforesaid, in manner herein-before mentioned, shall return and unlawfully resume the occupation thereof, or any part thereof, it shall be lawful for the said Commissioners, or any one of them, upon complaint made and satisfactory proof being adduced, that such person has returned and unlawfully resumed the occupation of the lands and tenements from which he had been removed, as aforesaid, to order and direct that he be committed to the common Gaol of the District in which such lands are situate, for a term not exceeding thirty days, and that he pay a fine to Her Majesty, Her Heirs and Successors, not exceeding twenty pounds:

Penalty for resuming possession after having been removed by virtue of this Act.

IV. *And be it further enacted by the authority aforesaid,* That if any such Commissioners, or any one of them, shall upon investigation of any complaint made, as aforesaid, against any person for having unlawfully cut down or removed any timber or trees, or for having quarried upon, or removed any stone or other materials from the lands aforesaid, find the person charged with such offence guilty thereof, it shall be lawful for such Commissioners, or any one of them, to order and direct that he pay a fine to Her Majesty, not exceeding twenty pounds; and in default of paying the same, that he be committed to the common Gaol of the District, for a period not exceeding three months.

Penalty not exceeding £20 for unlawfully cutting and removing trees, quarrying, &c.;

Imprisonment for default of payment.

V. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Commissioners aforesaid, or any one of them, to order and direct that all timber and trees unlawfully cut down, or any

Timber, &c. cut but not removed, may be seized and sold.

stone quarried upon the lands aforesaid, and which have not been removed from off the same, be seized and detained, and to cause the same to be seized and detained, and afterwards to sell and dispose of the same, according to such instructions as they, from time to time, shall receive from the Lieutenant Governor to that effect.

Commissioners authorised to summon witnesses;

And examine upon oath;

False swearing under this Act, perjury.

VI. *And be it further enacted by the authority aforesaid,* That the Commissioners, or any one of them, appointed under and by virtue of this Act, shall have full power and authority to summon and call before them any person as a witness, to give evidence upon the subject of any complaint or matter the said Commissioners by this Act are authorised to investigate, and to administer in the usual form to such witness an oath, that he will true answer make to all such questions as shall be put to him in reference to the matter under investigation; and if such witness shall be guilty of wilful false swearing in giving his evidence, as aforesaid, he shall on conviction be deemed guilty of wilful and corrupt perjury, and be liable to be punished in the same manner as persons convicted of wilful and corrupt perjury are now by law liable to be punished.

Appropriation of monies levied under this Act.

VII. *And be it further enacted by the authority aforesaid,* That all monies and fines levied and collected under and by virtue of this Act shall, after deducting the expenses of collecting the same, be paid into the hands of the Receiver-General, and accounted for as part of the hereditary revenues of the Crown in this Province, or appropriated for the benefit of the Indian Tribes in this Province, in such manner as the Lieutenant Governor, by and with the advice and consent of the Executive Council of the Province shall direct, as the case may require.

Person accused to be summoned previous to investigation of charge;

On default of appearance complaint may be determined *ex parte*.

VIII. *And be it further enacted by the authority aforesaid,* That when any person shall be charged with any offence against the provisions of this Act, the Commissioner or Commissioners appointed to examine into the same, shall before entering upon the investigation of such charge, summon the party accused to appear before him or them, at a place to be named in the said summons; and if he shall not appear there, upon proof of the due service of such summons, by delivering the same to him personally, the Commissioner or Commissioners may proceed to hear and determine the complaint *ex parte*.

Commissioners empowered to issue, and Sheriffs and other officers bound to execute their warrants.

IX. *And be it further enacted by the authority aforesaid,* That it shall be lawful for any Commissioner or Commissioners, duly appointed and acting under the authority of this Act, to issue any warrant or warrants under their hands and seals, directed to any Sheriff, Gaoler or Peace Officer, of the District in which any proceeding shall be had before them, commanding such Sheriff, Gaoler or Peace Officer, to carry into effect any order by them made in respect to any matter within their jurisdiction; and such warrant or warrants shall be executed by the Sheriff, Gaoler or Peace Officer, to whom the same may be directed, in the same manner

as warrants issued by any of Her Majesty's Justices of the Peace are executed.

X. *And be it further enacted by the authority aforesaid,* That the Commissioners appointed under and by virtue of this Act, and all others acting under their authority, shall be entitled to the same privileges and protection in respect of any action or suit that may be instituted against them for any act by them done, that by law is granted and secured to any Justice of the Peace, Sheriff, Gaoler or Peace Officer, against whom an action may be brought for any thing by him done in the execution of his office.

Commissioners entitled to same protection as Justices of the Peace, &c.

XI. *And be it further enacted by the authority aforesaid,* That in case any person shall be dissatisfied with the judgment or decision of the said Commissioners, it shall and may be lawful for him at any time, not exceeding three months from the date of such judgment or decision, upon giving fourteen days notice in writing of his intention to the said Commissioners, who shall thereupon transmit to the proper officer of the Court, for the use thereof, a copy of their judgment, together with the evidence taken before them the said Commissioners, to appeal therefrom to the Court of Chancery of this Province; and the Vice-Chancellor is hereby authorised and empowered to revise, alter, affirm or annul, the decision of the said Commissioners, or to order such further inquiry to be made, or if he shall see fit, to direct an issue to be tried at law touching the matter in dispute, and to make such orders and directions therein for payment of costs, and other matters respecting the same, as to him shall seem just and reasonable; and the decree of the said Court of Chancery to be given on such appeal shall be binding and conclusive on the party appealing, as well as on the said Commissioners.

Appeal lies against judgment of Commissioners to the Vice-Chancellor;

Decision in Chancery final.

CHAP. XVI.

AN ACT to prevent the felling of Trees into certain Rivers and Creeks within this Province.

[Passed 11th May, 1839.]

WHEREAS much injury has arisen and may continue to arise from the felling of trees into the Grand River, Smith's Creek, or River Nith, Erb's Creek, or River Speed, in the District of Gore; Otter Creek, in the District of London; the River Credit, in the Home District; the River Otonabee, from Sturgeon Lake to Rice Lake; the River Scugog and River Trent, from Rice Lake to the Bay of Quinte, and Crow River, in the Newcastle and Midland Districts; Rivers Gananoque, Rideau and

Preamble.

Petit Nation, in the Johnstown District; and the Rivers Tay, Mississippi, Bonnechere, Madawaska and Goodwood, in the Bathurst District, in this Province, by endangering the Mill Dams and Bridges, and impeding the navigation thereof: *Be it therefore enacted* by the Queen'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 August next, every person or persons, or their employers, cutting and felling any trees into the said Grand River, River Nith, River Speed, in the District of Gore; Otter Creek, in the District of London; the River Credit, in the Home District; the River Otonabee, from Sturgeon Lake to Rice Lake; the River Scugog, and the River Trent from Rice Lake to the Bay of Quinte, and Crow River, in the Newcastle and Midland Districts; the Rivers Gananoque, Rideau and Petit Nation, in the Johnstown District; and the Rivers Tay, Mississippi, Bonnechere, Madawaska and Goodwood, in the Bathurst District, within this Province, or upon such parts of the banks thereof as are usually overflowed in the autumn or spring of the year, by means of the rising of the water of the said Rivers, who shall not lop off the branches of such trees, and cut up the trunks thereof into lengths of not more than eighteen feet, before they are or shall be allowed to be floated or cast into the said Rivers, or any of them, shall for every such offence forfeit and pay the sum of fifty shillings, or such less sum as is hereinafter provided in this Act.

Conditions on which timber may be cut, on the banks of certain rivers, and floated thereon;

Branches to be lopped, and trunks cut into lengths not exceeding 18 feet:

Penalty for violation of prescribed rules.

Mode of conviction and levying forfeiture;

Imprisonment on default of payment.

II. *And be it further enacted by the authority aforesaid*, That any person or persons who shall after the said first day of August next, cut down or fell any trees, as aforesaid, contrary to the provisions of this Act, shall upon conviction before any two Justices of the Peace, in the District in which such person or persons may reside, or have committed such offence, upon the oath of one or more credible witness or witnesses, pay such fine as to the said Justices the case may seem to require, not exceeding the sum of fifty shillings, to be levied by distress out of the goods and chattels of the said person or persons so convicted, by execution under the hand and seal of either of the said Justices, which execution either of the said Justices is hereby empowered to issue; and in case no distress can be found wherefrom to levy such fine, or that the said person or persons so convicted do not otherwise pay the said fines, within three days after conviction, then and in such case the said Justices may confine the said person or persons in the common Gaol of the District where such person or persons shall be convicted, for the term and space of ten days, unless the said fine and costs be sooner paid.

III. *And be it further enacted by the authority aforesaid, That all* Application of penalties levied.
 fines and forfeitures to be levied by virtue of this Act, shall be paid into the hands of the Treasurer of the District where the same shall be levied, and shall be applied to the improvement of the roads within the same.

IV. *Provided always, and be it further enacted by the authority aforesaid, That nothing in this Act contained shall apply, or be deemed to* Exception in regard to timber, &c. prepared for market.
 apply, to any round or squared timber, or trees, masts, staves, deals, boards or other sawed or manufactured lumber or saw logs, prepared for transportation to a market.

CHAP. XVII.

AN ACT to extend the provisions of an Act passed in the fifty-ninth year of the reign of His late Majesty King George the Third, intituled, "An Act to repeal an Ordinance of the Province of Quebec, passed in the twenty-fifth year of His late Majesty's reign, intituled, 'An Ordinance concerning Land Surveyors, and the admeasurement of Lands;' and also to extend the provisions of an Act passed in the thirty-eighth year of His late Majesty's reign, intituled, 'An Act to ascertain and establish on a permanent footing the Boundary Lines of the different Townships in this Province,' and further to regulate the manner in which Lands are hereafter to be surveyed."

[Passed 11th May, 1839.]

WHEREAS it is expedient to extend the provisions of an Act passed Preamble.
 in the fifty-ninth year of the reign of His late Majesty King George the 59 Geo. III., Ch. 14, recited.
 Third, Chapter fourteen, intituled, "An Act to repeal an Ordinance of the Province of Quebec, passed in the twenty-fifth year of His Majesty's reign, intituled, 'An Ordinance concerning Land Surveyors and the admeasurement of lands,' and also to extend the provisions of an Act passed in the thirty-eighth year of His Majesty's reign, intituled, 'An Act to ascertain and establish on a permanent footing the boundary lines of the different Townships in this Province,' and further to regulate the manner in which lands are hereafter to be surveyed," so as to protect persons who have made improvements upon lands not their own, in consequence of unskilful surveys previously to the lines of any Township, Concession or Lot in this Province being established under the authority of the aforesaid Act, from costs of vexatious law-suits: *Be it therefore enacted* by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province

Defendant entitled to costs, when defending the action only for purpose of obtaining value of his improvements, &c.

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, in all cases in which the Jury before whom any action of ejectment shall be tried, shall assess damages for the defendant, as is provided for in the twelfth clause of the aforesaid Act, for improvements made upon land not his own, in consequence of unskilful surveys; and when it shall be satisfactorily made to appear that the defendant does not contest the plaintiff's action for any other purpose than to obtain the value of the improvements made upon the land previous to the alteration and establishing of the lines in the manner pointed out in the aforesaid Act, it shall and may be lawful for the Judge before whom such action shall be tried to certify such fact upon the record, and thereupon the defendant shall be entitled to the costs of the defence, in the same manner as if the plaintiff had been non-suited on the trial, or a verdict rendered for the defendant.

Defendant to give notice of amount of claim for improvements, and willingness to surrender possession;

II. *Provided always, and be it further enacted by the authority aforesaid,* That it shall be incumbent upon the defendant, at the time of entering into the consent rule, to give notice in writing to the lessor or lessors of the plaintiff in such ejectment, or to his attorney, named on the writ or declaration, of the amount claimed for such improvements, on payment of which sum the defendant, or person in possession, will surrender the possession to such lessor or lessors, and that the said defendant does not intend at the trial to contest the title of the lessor or lessors of the plaintiff; and without such notice shall on the trial be found to have been given, as aforesaid, or if the Jury shall assess for the defendant a less sum than that claimed in the notice, or shall find that the defendant has refused to surrender possession of the land claimed, after tender shall have been made of such amount claimed, then in either of such cases the Judge shall not certify, and the defendant shall not be entitled to the costs of the defence, but shall pay costs to the plaintiff, any thing herein contained to the contrary thereof notwithstanding.

Without which notice, or if smaller sum shall be assessed, &c. Judge not to certify in his favour.

When evidence not necessary in favour of claimant's title.

III. *Provided nevertheless, and be it further enacted by the authority aforesaid,* That upon the trial of any such cause, no evidence shall be required to be produced in proof of the title of the lessor or lessors of the plaintiff.

CHAP. XVIII.

AN ACT to continue and make permanent an Act passed in the fourth year of the reign of King William the Fourth, intituled, "An Act to regulate Line Fences and Water-courses, and to repeal so much of an Act passed in the thirty-third year of the reign of His late Majesty King George the Third, intituled, 'An Act to provide for the nomination and appointment of Parish and Town Officers within this Province,' as relates to the office of Fence Viewers being discharged by Overseers of Highways and Roads."

[Passed 11th May, 1839.]

WHEREAS an Act passed in the fourth year of the reign of His late Majesty King William the Fourth, intituled, "An Act to regulate line fences and water-courses, and to repeal so much of an Act passed in the thirty-third year of the reign of His late Majesty King George the Third, intituled, 'An Act to provide for the nomination and appointment of Parish and Town Officers within this Province,' as relates to the office of Fence Viewers being discharged by Overseers of Highways and Roads," will shortly expire; *And whereas* it is expedient to continue and make permanent the same: *Be it therefore enacted* by the Queen'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 recited Act be and the same is hereby continued and made permanent. 4 Wm. IV. c. 12, made perpetual.

CHAP. XIX.

AN ACT to limit the period for owners of lands making claims for damages already occasioned by the construction of the Rideau Canal, and for other purposes therein mentioned.

[Passed 11th May, 1839.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XX.

AN ACT to revive and continue for a limited time, the Second Clause of an Act passed in the ninth year of the reign of King George the Fourth, intituled, "An Act to secure to and confer upon certain Inhabitants of this Province, the Civil and Political rights of natural born British Subjects."

[Passed 11th May, 1839.]

Preamble.
(See 1 Wm. IV. Chap. 8,
Sec. 2.)

WHEREAS the time allowed by the second clause of an Act passed in the ninth year of the reign of King George the Fourth, intituled "An Act to secure to and confer upon certain inhabitants of this Province the Civil and Political rights of natural born British subjects," has expired: *And whereas* it is necessary to revive and continue the same for two years: *Be it therefore enacted* by the Queen'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 the said second clause of the said Act as limits the time for taking the oath therein prescribed be revived, and the same is hereby extended to two years from and after the passing of this Act, and no longer.

Period for taking the oath
under the Naturalization
Act, 5 Geo. IV. Ch. 21,
extended.

Publication of this Act at
Quarter Sessions.

II. *And be it further enacted by the authority aforesaid,* That this Act shall be publicly read by the Clerk of the Peace, immediately after empanneling the Grand Jury, at the several Courts of General Quarter Sessions of the Peace held in the several Districts of this Province, for four successive sittings of such Courts after the first day of July next.

CHAP. XXI.

AN ACT to continue and make perpetual an Act passed in the fifth year of the reign of King William the Fourth, intituled, "An Act to promote the public health, and to guard against infectious diseases in this Province."

[Passed 11th May, 1839.]

Preamble.
[See 7 Wm. IV. Chap. 26.]

WHEREAS an Act passed in the fifth year of the reign of His late Majesty King William the Fourth, intituled, "An Act to promote the

public health, and to guard against infectious diseases in this Province," will expire at the close of the present Session; *And whereas* it is expedient to continue and make permanent the said Act: *Be it therefore enacted* by the Queen'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 recited Act be and the same is hereby continued and made perpetual. 5 Wm. IV. Ch. 10, made perpetual.

CHAP. XXII.

AN ACT to amend an Act passed in the seventh year of the reign of His late Majesty King William the Fourth, intituled, "An Act granting to His Majesty a sum of money for the erection of certain Light Houses within this Province, and for other purposes therein mentioned."

[Passed 11th May, 1839.]

WHEREAS it is expedient to alter and amend the Act passed in the seventh year of the reign of His late Majesty King William the Fourth, Chap. ninety-five, intituled, "An Act granting to His Majesty a sum of money for the erection of certain Light Houses within the Province, and for other purposes therein mentioned:" *Be it therefore enacted* by the Queen'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 fourth clause of the said recited Act be and the same is hereby repealed. Preamble. [See 7 Wm. IV. Chap. 95; and post. Chap. 57.] Fourth clause of 7 Wm. IV. Ch. 95, repealed.

II. *And be it further enacted by the authority aforesaid,* That for the purpose of defraying the interest and principal of the sum of three thousand five hundred pounds, granted to His Majesty by the said recited Act, for erecting certain Light Houses in this Province, a duty of one shilling per ton shall be demanded and collected upon every boat and vessel owned by British subjects navigating Lakes Erie, Ontario and Tonnage imposed for defraying charges for Light-houses;

Saint Clair, and the Rivers Saint Clair and Detroit, which said duty of one shilling per ton shall be charged upon the full and actual measurement of every such vessel: *Provided always*, that no boat under ten tons shall be liable to the payment of such duty.

Boats under 10 tons
excepted.

CHAP. XXIII.

AN ACT to continue and make permanent an Act passed in the third year of the reign of King William the Fourth, intituled, "An Act to continue the duty upon Licenses to Hawkers and Pedlers."

[Passed 11th May, 1839.]

Preamble.

[See 56 Geo. III. Ch. 34;
58 Geo. III. Ch. 5;
9 Geo. IV. Ch. 8;
3 Wm. IV. Chap. 41.]

WHEREAS an Act passed in the ninth year of the reign of His late Majesty King George the Fourth, intituled, "An Act to continue an Act, intituled, 'An Act to continue for a limited time an Act passed in the fifty-eighth year of His late Majesty's reign, intituled, 'An Act to continue, repeal part of and amend an Act passed in the fifty-sixth year of His Majesty's reign, intituled, 'An Act granting to His Majesty duties on licenses to hawkers, pedlers, and petty chapmen, and other trading persons therein mentioned, and to extend the provisions of the same,'" will expire at the close of the present Session of Parliament if not continued; *And whereas* it is expedient to continue the said above mentioned Act: *Be it therefore enacted* by the Queen'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 recited Act be and the same is hereby continued and made permanent.

Hawkers' and pedlers'
licensing Act made
perpetual.

CHAP. XXIV.

AN ACT to continue and make permanent an Act passed in the fourth year of the reign of His late Majesty King William the Fourth, intituled, "An Act to revive and continue an Act passed in the fourth year of the reign of His late Majesty King George the Fourth, intituled, 'An Act prescribing the mode of measuring the contents of Wooden Stills, also for fixing the rate of Duty to be paid on all Stills used for the distillation of Spirituous Liquors within this Province.'"

[Passed 11th May, 1839.]

WHEREAS an Act passed in the fourth year of the reign of His late Majesty King William the Fourth, intituled, "An Act to prevent the consumption of spirituous liquors in shops," will shortly expire: *And whereas* it is expedient to continue and make permanent the same: *Be it therefore enacted* by the Queen'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 recited Act be and the same is hereby continued and made permanent.

Preamble.
[See 4 Geo. IV. Chap. 1
9 Geo. IV. Chap. 9;
4 Wm. IV. Chap. 49.]
Recites that Act 4 Wm.
IV. Ch. 49, passed to
prevent the consumption
of spirituous liquors, will
shortly expire;

Continues and makes the
same permanent.

[There is a repugnancy between the title of this Act and the enacting part. See Chap. 26 of this Session.]

CHAP. XXV.

AN ACT to continue and make permanent an Act passed in the eleventh year of the reign of King George the Fourth, intituled, "An Act to revive and continue, with certain modifications, an Act passed in the fifty-ninth year of His late Majesty's reign, intituled, 'An Act to alter the laws now in force for granting Licenses to Innkeepers, and to give the Justices of the Peace in General Quarter Sessions assembled, for their respective Districts, authority to regulate the duties hereafter to be paid on such Licenses.'"

[Passed 11th May, 1839.]

(Continues 11 Geo. IV. Chap. 9, for four years, and to the end of the next Session of Parliament.)

[See 3 Vic. Chap. 21, which makes perpetual 59 Geo. III. Chap. 2.]

CHAP. XXVI.

AN ACT to continue and make permanent an Act passed in the fourth year of the reign of His late Majesty King William the Fourth, intituled, "An Act to prevent the consumption of Spirituous Liquors in Shops."

[Passed 11th May, 1839.]

Preamble.

[See 4 Wm. IV. Chap. 18;
and Chap. 24 of this
Session.]

WHEREAS an Act passed in the fourth year of the reign of His late Majesty King William the Fourth, intituled, "An Act to prevent the consumption of spirituous liquors in shops," will shortly expire; *And whereas* it is expedient to continue and make permanent the same: *Be it therefore enacted* by the Queen'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 recited Act be and the same is hereby continued and made permanent.

Act continued and made permanent.

CHAP. XXVII.

AN ACT to assign duties to certain Commissioners, and for other purposes therein mentioned.

[Passed 11th May, 1839.]

Preamble.

(See 3 Vic. Ch. 53;
4 & 5 Vic. Chs. 28 & 33.)

WHEREAS several Acts have been passed by the Legislature of this Province, authorising grants and loans of money for Macadamizing, making and repairing roads, and constructing other public works; *And whereas* several Bills have been passed by the House of Assembly during the present Session for the same purposes; *And whereas* it is advisable to provide that proper returns shall be from time to time made, by the Commissioners appointed to carry the provisions of the same into effect, to the Lieutenant-Governor, of the manner in which the monies have been laid out and expended: *Be it therefore enacted* by the Queen'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 any sum of money has been laid out for Macadamizing, making or repairing any road, or constructing any other public works, under the provisions of any Act of this Province, or any Bill which may become a law during the present Session, it shall be the duty of the Commissioners appointed to carry the provisions of the same into effect, to make such returns of the manner in which the monies advanced have been laid out and expended upon any such road or other public work, with proper receipts and vouchers, and also to give such other information to the Lieutenant-Governor as he may from time to time require.

Commissioners to make returns to Lieutenant Governor, and give such information as he may from time to time require.

II. *And be it further enacted by the authority aforesaid,* That after any sum of money has been expended upon any such road, or other public works, and the Commissioners neglect to make a return, as in the first clause of this Act is provided, to the satisfaction of the Lieutenant-Governor, it shall and may be lawful for the said Lieutenant-Governor, and he is hereby authorised, to withhold any further advance to the said Commissioners, until a satisfactory return, with receipts and vouchers, as aforesaid, be made to him.

If proper returns be not made, Lieut. Governor to withhold further advance of money to Commissioners neglecting to make such returns.

III. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Lieutenant-Governor in his discretion, from time to time, to dismiss any Commissioner appointed under the provisions of any Act now in force, or any Bill which may become a law during the present Session, authorising the Macadamization, making or repairing any road, or the construction of any other public work, and to appoint another in his stead.

Power given to Governor to dismiss Commissioners, and to appoint others.

CHAP. XXVIII.

AN ACT to alter and amend an Act passed in the first year of Her Majesty's reign, intituled, "An Act to erect certain Townships now forming parts of the Districts of Bathurst, Johnstown and Ottawa, into a separate District, to be called the District of Dalhousie."

[Passed 11th May, 1839.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXIX.

AN ACT to extend the provisions of an Act passed in the seventh year of the reign of His late Majesty King William the Fourth, intituled, "An Act to authorise the erection of the County of Oxford into a separate District, by the name of the District of Brock."

[Passed 11th May, 1839.]

(See Local and Private Acts, in 2nd Volume.)

CHAP. XXX.

AN ACT to alter and amend an Act passed in the first year of Her Majesty's reign, intituled, "An Act to authorise the erection of the County of Huron, and certain other territory adjacent thereto, into a separate District."

[Passed 11th May, 1839.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXI.

AN ACT to extend the period for imposing an additional rate upon the intended new District of Colborne.

[Passed 11th May, 1839.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXII.

AN ACT to authorise the raising of one thousand pounds, by an additional rate or levy of one half-penny in the pound, upon the inhabitants of the Western District, for the purpose of relieving the said District from debt, and of enabling the Justices of the Peace of that District to repair and improve the Gaol at Sandwich.

[Passed 11th May, 1839.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXIII.

AN ACT to make valid and to confirm the admission of John Bristowe, Esquire, as a Solicitor in the Court of Chancery in this Province.

[Passed 11th May, 1839.]

Preamble; Admission of John Bristowe as Solicitor, confirmed. 2. Past professional acts declared valid.

CHAP. XXXIV.

AN ACT to authorise the Court of King's Bench to admit Adam Ainslie to practise as an Attorney in that Court, and to authorise the Vice-Chancellor to admit him to practise as a Solicitor, in the Court of Chancery in this Province.

[Passed 11th May, 1839.]

Preamble; Court of King's Bench authorised to admit Adam Ainslie as an Attorney. 2. Vice-Chancellor authorised to admit Adam Ainslie to be a Solicitor.

CHAP. XXXV.

AN ACT authorising the Trustees of certain Lands in Peterborough, for the use of the Roman Catholic Church, to dispose of the same.

[Passed 11th May, 1839.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXVI.

AN ACT to render valid the late Elections for Aldermen and Councilmen for the Town of Kingston.

[Passed 11th May, 1839.]

Preamble; First election of members of the Corporation of Kingston, declared valid.

[TEMPORARY.]

CHAP. XXXVII.

AN ACT to amend an Act passed in the first year of Her Majesty's reign, intituled, "An Act to Incorporate the Town of Kingston, under the name of the Mayor and Common Council of the Town of Kingston."

[Passed 11th May, 1839.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXVIII.

AN ACT to Incorporate certain persons under the style and title of the College of Physicians and Surgeons of Upper Canada.

[Passed 11th May, 1839.]

(DISALLOWED BY PROCLAMATION, 29th DECEMBER, 1840.)

CHAP. XXXIX.

AN ACT to Incorporate certain persons under the style and title of "The President, Directors and Company, of the Bayfield Harbour."

[Passed 11th May, 1839.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XL.

AN ACT to amend an Act, intituled, "An Act to Incorporate certain persons under the style and title of the Waterloo Bridge Company."

[Passed 11th May, 1839.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLI.

AN ACT to alter and amend an Act passed in the sixth year of the reign of His late Majesty King William the Fourth, intituled, "An Act to incorporate sundry persons under the style and title of the President, Directors and Company, of the Gore Bank."

[Passed 11th May, 1839.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLII.

AN ACT to increase the Capital Stock of the Cobourg Harbour Company, and to extend the period for completing the same.

[Passed 11th May, 1839.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLIII.

AN ACT to authorise the Magistrates of the Midland District to borrow a sum of money, to build a wall around the Gaol and Court House of the Midland District.

[Passed 11th May, 1839.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLIV.

AN ACT to authorise the Magistrates of the Home District to borrow a sum of money, for the purpose of completing the new Gaol and Court House.

[Passed 11th May, 1839.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLV.

AN ACT to establish a second Market in the Town of Hamilton, to enable the Corporation of the said Town to effect a loan, and for other purposes therein mentioned.

[Passed 11th May, 1839.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLVI.

AN ACT to authorise the Trustees of the Market Reserve in the Town of Niagara, to raise a sum of money for certain purposes therein mentioned.

[Passed 11th May, 1839.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLVII.

AN ACT for making, repairing and improving, the Road from Amherstburgh to Sandwich, and from thence to Chatham, in the Western District, and for constructing and repairing Bridges thereon.

[Passed 11th May, 1839.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLVIII.

AN ACT granting to Her Majesty a sum of money to improve the Cayuga Road, from Drummondville to Simcoe.

[Passed 11th May, 1839.]

Preamble; £1000 granted for improvement of Cayuga road. 2. Commissioners appointed.

CHAP. XLIX.

AN ACT granting a sum of money to complete the construction of a Macadamized Road, from the Village of Dundas to the Township of Waterloo, in the Gore District.

[Passed 11th May, 1839.]

Preamble; £8000 to be raised for purposes of this Act. 2. Provisions of 7 Wm. IV. Chap. 79, to apply to loan authorised by this Act.

CHAP. L.

AN ACT granting a further sum, by way of loan, to complete the Hamilton and Brantford Road, and for other purposes therein mentioned.

[Passed 11th May, 1839.]

Preamble; Further loan of £10,000 for purposes of this Act. 2. Provisions of 7 Wm. IV. Chap. 78, to apply to loan hereby authorised; Except sections 10, 11, 12, 13 and 14, which are repealed. 3. Residents near the road may commute for Statute labour; Trustees authorised to receive commutation money. 4. Road between J. Binkley's and Dundas and Waterloo road may be Macadamized. 5. Trustees may deviate from old line of road. 6. Logs, &c. not to be trailed along the road. 7. Under penalty of 10s. 8. Trustees not liable for damages for cutting, &c. on old line of road.

CHAP. LI.

AN ACT granting a further sum of money for the purpose of completing the Macadamized Road between the Town of Kingston and the Village of Napanee, in the Midland District.

[Passed 11th May, 1839.]

Preamble; Further appropriation of £10,000 for Kingston and Napanee road. 2. Debentures to be issued as money required; Returns of expenditure to be made.

CHAP. LII.

AN ACT granting to Her Majesty a sum of money for the improvement of the Post Road between Cornwall and L'Original.

[Passed 11th May, 1839.]

Preamble; £1000 granted for purposes of this Act. 2. Proportions payable to Eastern and Ottawa Districts. 3. Time within which money to be expended and accounted for.

[SEE 3 VIC. CHAP. 48.]

CHAP. LIII.

AN ACT granting one thousand pounds for opening and improving a Road from London, in the London District, to the River Saint Clair, in the Western District.

[Passed 11th May, 1839.]

Preamble; £1000 granted for London and Saint Clair road. 2. Commissioners appointed. 3. Authority of Commissioners. 4. Commissioners to report progress and expenditure. 5. Provision for survey, &c. of line of road; Survey to be made before 1st July, 1839.

CHAP. LIV.

AN ACT granting a sum of money to improve and keep in repair the Kettle Creek Harbour, at Port Stanley.

[Passed 11th May, 1839.]

Preamble; £2000 granted for harbour at Port Stanley. 2. Commissioners, &c. for expending money granted. 3. Civil Engineer to be appointed for purposes of this Act; Money to be applied according to Engineer's plan. 4. Detailed report of expenditure to be made by Commissioners.

CHAP. LV.

AN ACT to make further provision for the completion of the improvement of the navigation of the inland waters of the District of Newcastle.

[Passed 11th May, 1839.]

Preamble; Further sum of £3000 to Commissioners of Trent Navigation.

CHAP. LVI.

AN ACT to extend the provisions of an Act passed in the seventh year of the reign of His late Majesty, intituled, "An Act to alter and amend an Act passed during the last Session of the Legislature, intituled, "An Act granting to His Majesty a sum of money for the improvement of the Roads and Bridges, in the several Districts of this Province."

[Passed 11th of May, 1839.]

[TEMPORARY.]

CHAP. LVII.

AN ACT to revive and continue, with certain limitations, an Act passed in the seventh year of the reign of His late Majesty King William the Fourth, intituled, "An Act granting to His Majesty a sum of money for the erection of certain Light-Houses within the Province, and for other purposes therein mentioned."

[Passed 11th May, 1839.]

WHEREAS an Act passed in the seventh year of the reign of His late Majesty King William the Fourth, intituled, "An Act granting to His Majesty a sum of money for the erection of certain Light-Houses within the Province, and for other purposes therein mentioned," has recently expired: *And whereas* it is expedient to revive and continue the said Act as far as relates to such Light-Houses therein specified as have not yet, from whatever cause, been commenced or completed: *Be it therefore enacted* by the Queen'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 recited Act shall be and the same is hereby revived and continued, excepting so far as the same relates to any Light-House or Light-Houses therein specified, which has or have been erected and accounted for in accordance with the provisions of the said Act, and excepting the third clause in the said Act contained.

Preamble.

(The 7 Wm. IV. Chap. 95, was not a temporary Act; See 4 & 5 Vic. Chap. 28.)

7 Wm. IV. Chap. 95, revived and continued with certain exceptions.

II. *And be it further enacted by the authority aforesaid,* That the said third clause in the said Act contained, shall be and the same is hereby repealed.

Third section of 7 Wm. IV. Chap. 95, repealed.

III. *And be it further enacted by the authority aforesaid,* That the Commissioners in and by the said Act authorised to be appointed for the purposes thereof, as far as regards the Light-Houses in the said Act specified, which have not as yet been commenced, completed or accounted for, shall on or before the first day of January, which will be in the year of our Lord one thousand eight hundred and forty-one, render an account in detail, with proper vouchers, to the Governor, Lieutenant Governor or Person Administering the Government of this Province, of the monies expended under the said Act, to be submitted as soon as may be to the Legislature.

Commissioners to render detailed account on or before 1st January, 1841.

CHAP. LVIII.*AN ACT to provide for the completion of the Gull Island Light-House.*

[Passed 11th May 1839.]

Preamble; £453 12s. 6d. for completion of Gull Island Light House.

CHAP. LIX.*AN ACT to continue and make perpetual an Act, intituled, "An Act to increase the Salary of the Keeper of the False Ducks Light-House."*

[Passed 11th May, 1839.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LX.*AN ACT to afford relief to Robert Brown, Esquire.*

[Passed 11th May, 1839.]

Preamble; Per-centage allowed on monies heretofore collected.

CHAP. LXI.*AN ACT for the relief of Teachers of Common Schools in the District of Niagara.*

[Passed 11th May, 1839.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LXII.*AN ACT granting a sum of money for the support of Common Schools, for the year one thousand eight hundred and thirty-nine.*

[Passed 11th May, 1839.]

Preamble; Additional appropriation of £5,650 for support of Common Schools; Proportions to the several Districts. 2. To be paid upon Lieutenant Governor's warrants.

III. *And be it further enacted by the authority aforesaid, That the third and fourth clauses of an Act passed in the first year of Her Majesty's reign, intituled, "An Act granting a sum of money for the support of Common Schools, for the year eighteen hundred and thirty-eight," be and the same are hereby revived and continued.*

1 Vic. Chap. 60. Secs. 3 & 4, revived and continued.

CHAP. LXIII.

AN ACT granting a certain sum of money for the maintenance and support of the House of Industry, in the City of Toronto.

[Passed 11th May, 1839.]

Preamble; £200 granted in aid of House of Industry,

CHAP. LXIV.

AN ACT granting a sum of money for the maintenance and support of the General Hospital, of the City of Toronto.

[Passed 11th May, 1839.]

Preamble; £500 granted in aid of the Hospital funds.

CHAP. LXV.

AN ACT to provide for the further support of the Provincial Penitentiary.

[Passed 11th May, 1839.]

Preamble; £8000 granted towards the completion, and for support of Penitentiary. 2. Account of expenditure to be rendered.

CHAP. LXVI.

AN ACT granting a Pension to the Widow and Children of the late Captain Edgworth Ussher.

[Passed 11th May, 1839.]

MOST GRACIOUS SOVEREIGN:

WHEREAS the late Captain Edgworth Ussher, of Her Majesty's Militia of this Province, was inhumanly assassinated in the night time, in

Preamble.

his own home, by brigands from the United States of America: *And whereas* there is reason to believe that his assassination is to be attributed to the gallantry and activity displayed by him in resisting the invasion of this Province by the inhabitants and citizens of the said United States; *And whereas* it is just and proper to mark the sense entertained of the services rendered to the Province by the said Captain Edgworth Ussher, by granting a pension to his surviving widow and family, We, Your Majesty's dutiful and loyal Subjects, the Commons of Upper Canada, in Provincial Parliament assembled, do therefore most humbly beseech your Majesty that it may be enacted, &c.

Pension of £100 granted to widow of Captain Ussher; On her death or marriage to Captain Ussher's children.

CHAP. LXVII.

AN ACT granting a sum of money to remunerate Bernard Turquand, for certain services therein mentioned.

[Passed 11th May, 1839.]

Preamble; Grant of £200 for services rendered by B. Turquand.

CHAP. LXVIII.

AN ACT to make provision for the payment of certain losses sustained by sundry individuals therein named.

[Passed 11th May, 1839.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LXIX.

AN ACT to increase the salary of the Adjutant-General of Militia of this Province.

[Passed 11th May, 1839.]

MOST GRACIOUS SOVEREIGN:

Preamble.

WHEREAS it is expedient to increase the salary of the Adjutant-General of Militia of this Province: *Be it therefore enacted* by the Queen'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 the second clause of an Act passed in the fourth year of the reign of His late Majesty King George the Fourth, intituled, "An Act to provide a salary for the Adjutant-General of Militia in this Province, and for other purposes therein mentioned," as grants to Her Majesty annually the sum of three hundred and sixty-five pounds, to provide a salary for the Adjutant-General of Militia of this Province, be and the same is hereby repealed.

4 Geo. IV. Chap. 6,
partially repealed.

II. *And be it further enacted by the authority aforesaid,* 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 public uses of this Province, there be granted annually to Her Majesty, Her Heirs and Successors, the sum of six hundred pounds, to provide a salary for the Adjutant-General of Militia of this Province; the said salary of six hundred pounds to commence and be payable from the first day of January, eighteen hundred and thirty-eight.

£600 per annum granted
for salary of Adjutant
General.

CHAP. LXX.

AN ACT to make good certain monies advanced, in compliance with two several Addresses of the House of Assembly, during the last Session, for the contingent expenses of the Legislature of this Province.

[Passed 11th May, 1839.]

(£11,220 0s. 3½d. granted.)

CHAP. LXXI.

AN ACT granting a certain sum of money to defray the expenses of the Civil Government for the year one thousand eight hundred and thirty-nine, and for other purposes therein mentioned.

[Passed 11th May, 1839.]

(£28,049 18s. 1d. granted.)

CHAP. LXXII.

AN ACT to afford further facilities to negotiate Debentures for the completion of certain Works.

[Royal Assent promulgated by Proclamation, 30th January, 1840.]

Preamble.

The sale of certain public Debentures authorised on the best terms, to realize money for particular works.

WHEREAS it is expedient to finish certain of the Public Works now in progress in this Province: *Be it therefore enacted* by the Queen'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 Her Majesty's Receiver-General, by and with the consent of the Lieutenant Governor of this Province, in Council, to sell and dispose of the public Debentures of this Province, now authorised by law to be issued, to the best advantage, in order to realise the several sums hereby appropriated during the present year, viz.: for finishing the Saint Lawrence Canal, the sum of fifty thousand pounds; for building a Ship Lock at Dunnville, and providing materials for the Welland Canal, the sum of fifteen thousand pounds; for the Grand River Navigation, the sum of twelve thousand five hundred pounds; for the Johnstown District Roads, the sum of five hundred pounds; for the Queenston and Grimsby Road, the sum of ten thousand five hundred and fifty-five pounds; for the road north of the City of Toronto, the sum of nine thousand pounds; for the road west of the City of Toronto, the sum of seven thousand pounds; for the road east of the City of Toronto, the sum of four thousand pounds; for the continuation of the improvement of the River Trent, the sum of twelve thousand pounds; for the Credit Harbour, the sum of seven hundred and fifty pounds.

Such Debentures to be made payable in England.

II. *And be it further enacted by the authority aforesaid,* That the amount of Debentures required by this Act, now authorised to be issued for the construction of the foregoing Works, payable in this Province, shall be made payable in England, any thing in any Act to the contrary in any wise notwithstanding.

STATUTES OF UPPER CANADA,

PASSED IN THE

FIFTH SESSION OF THE THIRTEENTH PROVINCIAL PARLIAMENT

OF UPPER CANADA:

MET AT TORONTO ON THE THIRD DAY OF DECEMBER, IN THE THIRD YEAR OF
THE REIGN OF OUR SOVEREIGN LADY VICTORIA, AND PROROGUED ON THE
TENTH DAY OF FEBRUARY FOLLOWING.

THE RIGHT HONOURABLE C. POULETT THOMSON,
GOVERNOR-GENERAL.

ANNO DOMINI 1840.

CHAP. I.

*AN ACT to authorise the appointment of Commissioners to regulate the
Practice of the Court of Chancery.*

[Passed 10th February, 1840.]

WHEREAS it is necessary to make further provision for the regulation of the Practice of the Court of Chancery: *Be it therefore enacted* by the Queen'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 of this Province, from time to time, and as often as occasion shall require, to issue a Commission or Commissions under the Great Seal of the Province, directed to the Vice-Chancellor and any two or more Judges of the Court of Queen's Bench, (of whom the Chief Justice may be one) authorising them from time to time to make such Rules, Regulations and Orders, for altering or establishing the Practice of the Court of Chancery, and the Costs of its proceedings, as to them or a majority of them may seem fit, and calculated to promote the ends of Justice.

Preamble.
(See 7 Wm. IV. Ch. 9;
1 Vic. Ch. 14.)

Governor may issue
Commissions;

With power to alter and
establish the practice and
costs of Chancery.

C H A P. II.

AN ACT for the better regulation of the Office of Reporter to the Court of Queen's Bench in this Province.

[Passed 10th February, 1840.]

Preamble.

WHEREAS it is expedient to repeal an Act passed in the fourth year of the reign of His late Majesty King George the Fourth, intituled, "An Act providing for the publication of reports of the decisions of His Majesty's Court of King's Bench in this Province," and to substitute other provisions in lieu thereof: *Be it therefore enacted* by the Queen'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 the same is hereby repealed.

4 Geo. IV, Chap. 3,
repealed.

Law Society may appoint Reporter, who shall be answerable to them for the discharge of his duty, and subject to rules made by them, with the approbation of the Judges;

Law Society may remove Reporter;

Reporter to be a Barrister;

Appointment or removal subject to the approval of the Judges.

Duty of the Reporter;

To enter report in a book;

II. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the Law Society of the Province of Upper Canada in convocation, by an instrument under the Seal of the Society, to appoint to the office of Reporter of Her Majesty's Court of Queen's Bench in this Province; and that from and after the passing of this Act the Reporter shall be answerable to the said Society in convocation for the correct and faithful discharge of his duty, and shall be subject to such rules and regulations for the discharge of the duties of his office, and the publication of the reports, as shall or may be made for that purpose by the said Society in convocation, with the approbation of the Judges of the Province, as Visitors of the said Society, and passed and adopted according to the course as practised in respect of other general rules of the said Society according to law; and it shall be in the power of the said Law Society in convocation, such Reporter to remove, and another to appoint in his place, from time to time: *Provided always*, that no person shall be eligible to the office of Reporter except members of the said Society of the degree of Barrister at Law, and that no appointment to or removal from the said office shall take place without the confirmation of the Judges of the Province, as aforesaid, as Visitors of the said Society.

III. *And be it further enacted by the authority aforesaid*, That it shall be the duty of the Reporter, to report as well the substance of such of the verbal decisions of the Court as shall be of general importance, as to report also such decisions as may be delivered in writing; and it shall further be his duty, without any unnecessary delay, to cause such report

to be fairly entered in a book, and to submit the same for the inspection of the Judges of the said Court; which report, after due examination and correction by the Judges aforesaid, shall be signed by them, or such of them as shall not be prevented by absence or sickness from so doing.

Reports to be signed by the Judges.

IV. *And be it further enacted by the authority aforesaid,* That the said Reporter shall be at liberty to print and publish such Report, or a digest thereof; and it shall be his duty so to do whenever thereto required by the said Law Society in convocation, and in such manner and mode as the said Law Society shall direct; the profits arising from such publication of Report to belong to the Reporter.

Reporter to print and publish;

When required by the Law Society.

V. *And be it further enacted by the authority aforesaid,* That the salary of the Reporter shall not exceed the sum of one hundred and fifty pounds per annum, and shall and may be fixed at or varied within the said amount, as the said Law Society in convocation, and the Judges of the Province as Visitors, shall think just and proper.

Salary of Reporter not to exceed £150 per annum.

VI. *And be it further enacted by the authority aforesaid,* That every Attorney of the said Court shall annually, before or during Michaelmas Term, take out a certificate from the Clerk of the Crown and Pleas in this Province, of his having been admitted to practice as an Attorney in the said Court; which certificate the said Clerk is hereby required to give upon production of a receipt from the Treasurer of the Law Society, for such sum as the said Benchers in convocation shall by rule passed and ordered, as aforesaid, from time to time, determine upon; and upon payment to the said Clerk of the sum of one shilling.

Every Attorney to take out a certificate in Mich. Term;

Clerk of the Crown to give the same on production of a receipt from Treasurer of the Law Society;

Fee.

VII. *And be it further enacted by the authority aforesaid,* That if any Attorney shall neglect to take out such certificate within the time aforesaid, he shall not be entitled thereto until he shall have produced a receipt from the Treasurer of the Law Society for the sum of four pounds; and if any Attorney shall practice in any of Her Majesty's Courts in this Province without a certificate, he shall forfeit the sum of ten pounds, to be recovered by information in Her Majesty's Court of Queen's Bench, and to be paid into the hands of the Treasurer of the Law Society: *Provided always,* that nothing herein contained shall extend to require any person admitted during and after Michaelmas Term in any year, to take out any certificate, as aforesaid, until the Michaelmas Term following.

Attorney neglecting to take out certificate in proper time, to pay £4 therefor;

Attorney practising without certificate, to forfeit £10;

How recovered;

Proviso.

VIII. *And be it further enacted by the authority aforesaid,* That in case any penalties shall be hereafter recovered for practising as an Attorney before the passing of this Act, without a certificate, such penalties shall be paid into the hands of the Treasurer of the Law Society.

Application of penalty

IX. *And whereas* there is reason to believe that the monies paid into the hands of the Receiver-General of this Province, under the provisions

Disposition of unappropriated balance of Reporter's salary fund;

Receiver-General to pay same to Treasurer of Law Society;

Proviso.

of the said Act hereby repealed, have exceeded the monies paid by the said Receiver-General by way of salary to Reporters, and it is just and reasonable that such surplus should be refunded to the Treasurer of the Law Society: *Be it therefore further enacted by the authority aforesaid,* That it shall and may be lawful for the Receiver-General of this Province, and he is hereby required, to pay to the Treasurer of the Law Society, for the time being, any surplus that may appear to have come to his hands under the provisions of the said Act, over and above the monies by him paid by way of salary to Reporters of the said Court: *Provided,* that in such case the salary of the Reporter for the current half year shall be paid by the said Law Society.

CHAP. III.

AN ACT to repeal an Act passed in the forty-fourth year of the reign of His late Majesty King George the Third, intituled, "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 harbor, conceal, receive or assist, any Deserter from such Service," and to make further provision for the punishment of such offenders.

[Passed 10th February, 1840.]

Preamble.

‡

WHEREAS the laws now in force in this Province for the punishment of persons concerned in enticing Soldiers to desert Her Majesty's Service, or who may harbor deserters from Her said Majesty's Service, are found insufficient to prevent or restrain such unlawful and pernicious practices: *And whereas* it is necessary to extend punishment to such persons as shall persuade, or attempt to persuade Sailors engaged in the Naval Service of Her Majesty to desert, or who shall harbor deserters from the said Naval Service: *Be it therefore enacted* by the Queen'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 an Act passed in the forty-fourth year of the reign of His late most Gracious Majesty George the Third, intituled, "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 harbor, conceal, receive or assist any deserter from such Service," be and the same is hereby repealed.

II. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, if any person other than enlisted Soldiers in Her Majesty's Service, or Sailors engaged in the Naval Service of Her Majesty, shall by words or with money, or by any ways, methods or means whatsoever, directly or indirectly, prevail upon, procure, persuade or encourage, any such Soldier or Sailor to desert or leave Her Majesty's Naval or Military service, as aforesaid, and shall be thereof lawfully convicted before any Court of Oyer and Terminer and General Gaol Delivery in this Province, such person so offending shall be deemed guilty of a misdemeanor, and upon conviction shall be liable to be punished by imprisonment in the common Gaol of the District in which such conviction shall happen, or by imprisonment in the Provincial Penitentiary in this Province, for such period as the Court before which such trial shall take place, shall in their discretion adjudge, and shall be further liable to the payment of such fine as the said Court shall impose upon and require to be paid by such offender.

Any person procuring soldiers or sailors to desert, to be liable to imprisonment in the common Gaol or Penitentiary, and to a fine, in the discretion of the Court.

III. *And be it further enacted by the authority aforesaid,* That if any person other than an enlisted Soldier, or Sailor engaged in the Naval Service of Her said Majesty, shall after the passing of this Act harbor, conceal, receive or assist, any deserter from Her Majesty's Naval or Military Service, knowing him to be a deserter, such person so offending shall be deemed guilty of a misdemeanor, and upon conviction shall be liable to the same penalties and punishments as are mentioned and set forth in the preceding clause of this Act.

Any person harboring a deserter liable to the same penalties.

CHAP. IV.

AN ACT to prevent the circulation of Printed Promissory Notes, under the value of five shillings.

[Passed 10th February, 1840.]

WHEREAS the issue of small promissory notes, in form of Bank notes, and intended for general circulation, has been found productive of much evil and inconvenience: *Be it therefore enacted* by the Queen'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

Preamble.

No note wholly or in part printed, &c for less than five shillings, to be issued by any person;

Forfeiture of treble the amount of such note.

If default made in payment of any such note heretofore issued on demand;

Treble the sum may be recovered from the defaulter.

This Act not to authorize issue of any notes by persons now by law prohibited from such issue

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 Body Corporate, to make or issue any note or undertaking for the payment of money for an amount less than five shillings of lawful money of Upper Canada, in the whole or in part printed, stamped or impressed from a plate or engraving; and that any person who shall make or issue any such note or undertaking for the payment of money, shall be liable to pay to the holder thereof treble the amount of the note or undertaking so issued, to be recovered by action in any Court of Requests in this Province.

II. *And be it further enacted by the authority aforesaid,* That in case any such note or undertaking now made, or issued before the passing of this Act, shall be presented for payment to the maker or makers thereof, and in case default shall be made in the payment of the same in the current coin, or in the current Bank notes of this Province, whether such note or undertaking shall purport to be payable in money or in Bank notes or otherwise, the person making such default shall be liable to pay to the holder of such note or undertaking treble the amount for which the same is made, to be recovered by action in any Court of Requests in this Province.

III. *Provided always, and be it further enacted by the authority aforesaid,* That nothing contained in this Act shall be construed to give authority to any person or persons, or Body Corporate, to issue any note or undertaking for the payment of money, who are now by law prohibited from issuing the same.

CHAP. V.

AN ACT to provide for the continuation of Suits and Process, in cases of formation of new Districts.

[Passed 10th February, 1840.]

Preamble.

Recital of inconvenience to suits from the formation of new Districts;

WHEREAS in cases where new Districts have been erected by Acts of the Provincial Parliament, much inconvenience has been found to arise from the want of legal authority in the respective Sheriffs of the Districts, of which the new Districts formed a part, to continue to execute legal process already issued, and to execute process in suits already commenced: *Be it therefore enacted* by the Queen'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 suits commenced in any of the District Courts of this Province, and all suits commenced in Her Majesty’s Court of Queen’s Bench, at the time of the division of any District of this Province, shall continue to final judgment and execution as if no such division had taken place; and all process, whether mesne or final, directed to the Sheriff of the District in which the suit shall have been commenced, shall be considered legal and regular, notwithstanding the erection of any new District; and the Sheriffs of the Districts to which such process shall have been or shall be addressed, shall have the execution of such process, and the custody of all persons and property taken or seized under the same, and shall be subject to the same liabilities respecting the same, as if no such new District had been erected, any thing in the several Acts for the erection of new Districts to the contrary thereof in any wise notwithstanding.

All suits commenced at the time of dividing any District, to be carried on as if no such division had taken place;

Sheriffs to execute process, &c. as if such new District had not been formed.

II. *Provided always, and be it further enacted by the authority aforesaid*, That nothing in this or any other Act contained shall extend, or be construed to extend, to prevent the Court of Queen’s Bench, or a Judge thereof, from ordering the trial of any cause pending, as aforesaid, to be had in such new District: *Provided also*, that the provisions of this Act shall extend to any case arising from any division of Districts which may hereafter take place.

Not to prevent trials being ordered to take place in the new District;

This Act to extend to Districts to be hereafter formed.

CHAP. VI.

AN ACT to continue and make perpetual an Act passed in the fifth year of the reign of His late Majesty King William the Fourth, intituled, “An Act to mitigate the law in respect to Imprisonment for Debt.”

[Passed 10th February, 1840.]

WHEREAS an Act passed in the fifth year of the reign of His late Majesty King William the Fourth, intituled, “An Act to mitigate the law in respect to imprisonment for debt,” is about to expire, and it is expedient to continue the said Act, and to make it permanent: *Be it therefore enacted* by the Queen’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,

Preamble.

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 effectua; 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 recited Act be and the same is hereby continued and made perpetual.

5 Wm. IV. Chap. 3, made perpetual.

CHAP. VII.

AN ACT to revive, continue and make perpetual, a certain Act passed in the fifth year of the reign of His late Majesty King William the Fourth, intituled, "An Act to continue and amend the law for attaching the property of absconding Debtors, and for other purposes therein mentioned."

[Passed 10th February, 1840.]

Preamble.

WHEREAS it is doubtful whether an Act passed in the second year of the reign of His late Majesty King William the Fourth, intituled, "An Act to afford means for attaching the property of absconding debtors," is still in force; *And whereas* it is expedient that the same should be revived, continued and made perpetual, and that any proceedings that may have been had or taken under any of its provisions since the same ceased to be in force, should be declared as valid and effectual for all intents and purposes whatever as if the same had not expired: *Be it therefore enacted* by the Queen'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 recited Act be and the same is hereby revived, continued and made perpetual; and that all proceedings whatsoever that may have been had or taken on or under the said recited Act, or any of the provisions thereof, shall be as valid and effectual to all intents and purposes whatsoever as if the same had not expired.

2 Wm. IV. Chap 5, revived and made perpetual;

And all proceedings under it declared as valid as if it had not expired.

C H A P. V I I I.

AN ACT to make perpetual certain parts of an Act passed in the fifth year of the reign of His late Majesty King William the Fourth, intituled, "An Act to prevent the unnecessary multiplication of Law Suits, and increase of Costs in Actions on Notes, Bonds, Bills of Exchange and other Instruments," and for other purposes therein mentioned.

[Passed 10th February, 1840.]

WHEREAS an Act passed in the fifth year of the reign of His late Majesty King William the Fourth, intituled, "An Act to prevent the unnecessary multiplication of law suits, and increase of costs in actions on notes, bonds, bills of exchange and other instruments," is about to expire, and it is expedient to continue the said Act and make it permanent: *Be it therefore enacted* by the Queen'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 fourth, sixth, seventh, tenth and fourteenth clauses of the said Act be and the same are hereby repealed.

Preamble.

4th, 6th, 7th, 10th and 14th sections, 5 Wm. IV. Chap. I, repealed.

II. *And be it further enacted by the authority aforesaid,* That the plaintiff in any joint action against the drawers, makers, endorsers and acceptors, or any of them, of any bill of exchange or promissory note, may declare, in the form contained in the Schedule hereto annexed, upon such bill or note, varying the same according to the circumstances of the case.

Plaintiffs in actions against several parties to a bill or note, may declare in a given form.

III. *And be it further enacted by the authority aforesaid,* That in any such action the person sued shall be entitled to set off against the said plaintiff any payment, claim or demand, whether joint or several, which in its nature and circumstances arises out of or is connected with the bill or promissory note, which is the subject of such joint action, or the consideration thereof, in the same manner and to the same extent as though such defendant had been sued in the form heretofore used; and if the jury shall allow any demand as a set off, and still find a balance in favour of the plaintiff, they shall state in the verdict the amount which they allow to each defendant as a set off against the plaintiff's demand.

Defendants may set off against several demands, when of a particular description.

IV. *And be it further enacted by the authority aforesaid,* That any proceedings now pending under the said recited Act, shall be conducted to a final end, in the same manner as if this Act had not been passed.

Proceedings already instituted to be continued as before.

SCHEDULES :

1.—*On a Promissory Note :*

For that whereas the said ———, (the maker of the note,) on the ——— day of ———, at ———, made his promissory note in writing, and thereby promised ———, (setting forth the note in the usual manner,) and the said, ———, (the first, second or other endorsers,) afterwards duly endorsed the same, and the said ———, (the last endorser) delivered the said note, so endorsed, to the said plaintiff, (aver presentment, notice, &c. where by law necessary in the particular case.) By reason whereof the said ———, (all the defendants) became jointly and severally liable to pay to the said plaintiff the said sum of money in the said note specified, and being so liable, afterwards jointly and severally promised the said plaintiff to pay him the same. (Add the usual breach.)

2.—*On a Bill of Exchange :*

For that whereas the said ———, (the drawer,) on the ——— day of ———, at ———, drew his certain bill of exchange, directed to ———, (setting forth the bill according to its tenor and effect,) and the said ———, (the drawee) afterwards duly accepted the same, and the said ———, (the first and other endorsers,) afterwards duly endorsed the said bill of exchange, and the said ———, (the last endorser,) delivered the said bill, so endorsed, to the said plaintiff, (averment, presentment, protest, notice, &c., where by law necessary in the particular case.) By reason whereof the said ———, (all the defendants) became jointly and severally liable to pay to the said plaintiff the said sum of money in the said bill specified, and being so liable, afterwards jointly and severally promised the said plaintiff to pay him the same. (Add the usual breach.)

CHAP. IX.

AN ACT to regulate the time for making Returns and Payments by Collectors, and other persons receiving the Public Revenues of this Province, and for other purposes therein mentioned.

[Passed 10th February, 1840.]

Preamble.

WHEREAS it is expedient to make certain alterations in the present system of making returns to the Inspector-General of Public Accounts, and also in the issuing of certain licenses: *Be it therefore enacted* by the Queen'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 fourth Session of the eighth Provincial Parliament, in the fourth year of the reign of His late Majesty King George the Fourth, as prescribes the time of making returns to the Inspector-General of this Province, and of paying over moneys to the Receiver-General of the same, be and the same is hereby repealed.

Part of 4 Geo. IV. Chap. 11, Sec. 6, repealed.

II. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, all Collectors of Customs in this Province shall make a report to the Inspector-General of this Province, four times in every year, of all entries made at their Port or Ports of Entry, which reports shall also severally comprise a faithful statement of all duties paid or secured, and the proceeds of all seizures and penalties received, or which shall have accrued within the periods following, that is to say: between the sixth day of January and the fifth day of April; the sixth day of April and the fifth day of July; the sixth day of July and the fifth day of October; and the sixth day of October and the fifth day of January; and that the first and last days of such periods shall be inclusive; and that the said returns shall be transmitted to the Office of the Inspector-General, within twenty days next after the expiration of every quarter, as aforesaid; and shall also report to the Inspector-General all seizures by the said Collectors, or any of their deputies, made within twenty days after making the same: and the full amount of the duties, and proceeds of all seizures, as shall in such returns be stated to have come into the hands of such Collector or Collectors, shall within the said term of twenty days be paid by him or them into the hands of Her Majesty's Receiver-General for this Province.

Collectors of Customs to make quarterly returns to Inspector-General;

Periods;

First and last days inclusive;

Seizures to be reported;

Duties, &c. to be paid within twenty days after each quarterly period to Receiver General.

III. Current returns to be made up to the fifth April next.

IV. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, it shall and may be lawful for each and every District Inspector of this Province, and each and every of them is hereby required to transmit quarterly to the Inspector-General of this Province, a just, true and faithful account, to be verified on oath, of all moneys which he or they shall receive under and by virtue of this or any other Act of Parliament of this Province, within the periods following, that is to say: between the sixth day of January and the fifth day of April; the sixth day of April and the fifth day of July; the sixth day of July and the fifth day of October; and the sixth day of October and the fifth day of January, in each and every year; and that the first and last days of such periods shall be inclusive; and that the said returns shall be transmitted to the

District Inspectors to make quarterly returns to Inspector General; (See 56 Geo. III. Ch. 3;)

Periods;

First and last days inclusive;

Returns to be transmitted within twenty days;

And payment to be made to Receiver General within twenty days after each quarterly period;

Current returns to be made up to the 5th April next.

Office of the Inspector-General within twenty days next after the expiration of each quarterly period, as aforesaid; and shall also pay or cause to be paid into the hands of Her Majesty's Receiver-General for this Province, within the said period of twenty days from the expiration of each of said periods, all moneys in such account mentioned to have been received, as aforesaid, any thing contained in any Act of Parliament of this Province in any wise to the contrary notwithstanding; and further, that the accounts for the current quarter shall be made up to the fifth day of April next, and the moneys therein mentioned be paid over in the said period of twenty days therefrom

Part of 56 Geo III. Ch. 34;

And of 58 Geo. III. Ch. 5, repealed.

V. *And be it further enacted by the authority aforesaid,* That so much of a certain Act passed in the fifty-sixth year of the reign of His late Majesty King George the Third, intituled, "An Act for granting to His Majesty duties on licenses to hawkers, pedlars and petty chapmen, and other trading persons therein mentioned;" and also so much of a certain other Act passed in the fifty-eighth year of His said late Majesty King George the Third, intituled, "An Act to continue, repeal part of and amend, an Act passed in the fifty-sixth year of His Majesty's reign, intituled, 'An Act for granting to His Majesty duties on licenses to hawkers, pedlars and petty chapmen, and other trading persons therein mentioned,' and to extend the provisions of the same," as devolve the duty of issuing licenses to the persons therein named as the Collectors, be and the same are hereby repealed.

After 5th April next, licenses to pedlars, &c. to be issued by District Inspectors.

[See 43 Geo. III. Ch. 9, Sec. 2.]

VI. *And be it further enacted by the authority aforesaid,* That from and after the expiration of the current quarter, ending on the fifth day of April next, the said licenses directed by the said two last recited Acts, shall and the same are hereby directed and required to be issued to the persons in the said Acts named and described by the District Inspectors in this Province, and the duties and fees on said licenses to be received by the said Inspectors, according to the provisions of the said last-mentioned Acts, any thing to the contrary notwithstanding.

District Inspectors to be allowed costs when they fail in prosecuting;

If Justices certify probable cause.

VII. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, it shall and may be lawful for the District Inspectors, out of the moneys by them collected, to retain the amount of costs by them respectively disbursed, in cases where a conviction may not be obtained: *Provided,* the Justice or Justices, or a majority of them, before whom the matter may be heard, shall certify that there was probable and reasonable cause for instituting such prosecution; and the several Inspectors are hereby required to insert the particulars of such claim for costs disbursed in their quarterly returns, to be verified on oath as soon as by law directed.

All licences for keeping billiard tables to be dated on the 6th of January;

VIII. *And be it further enacted by the authority aforesaid,* That all licenses to the keepers or proprietors of billiard tables, to be granted after the passing of this Act, shall be dated on the sixth day of January

in the year in which they may respectively be issued, and shall continue in force until the fifth day of January following; and that all moneys received by the Inspector for or on account of such licenses, shall be returned in the quarterly accounts directed by this Act, and be paid over with the moneys received for other licenses to the Receiver-General, within the twenty days after the expiration of each period as directed by this Act, any thing in any Act of this Province contained to the contrary in any wise notwithstanding.

Returns to be made and moneys to be paid over to Receiver General, as in cases already provided for.

IX. *And whereas* it is necessary to afford greater facilities for the conviction and punishment of persons having or keeping a billiard table, without having taken out a license for that purpose: *Be it therefore further enacted by the authority aforesaid*, That every keeper of an inn, ale house, ordinary or recess, and all and every other person or persons who shall keep a house of entertainment, resort or boarding, who shall have or keep a billiard table in such house, out-house or room, or building connected with or attached thereto, and for the keeping or having of which billiard table a license shall not have been obtained according to the provisions of an Act passed in the reign of His Majesty King George the Third, intituled, "An Act for granting to His Majesty a duty upon billiard tables," it shall and may be lawful for the Inspector of the District in which such billiard table may be had or kept, or any other person, to give information of the same before any Justice of the Peace; and it shall and may be lawful for any two or more Justices of the Peace of such District to hear and determine the same, and to award execution thereon according to the provisions of the before-recited Act, any law usage or custom to the contrary notwithstanding.

Every keeper of an inn, &c. keeping a billiard table;

Not having taken out a license;

May be prosecuted by the District Inspector, or any other person.

X. *And be it further enacted by the authority aforesaid*, That in any case when after conviction the penalty cannot be recovered, in consequence of the party convicted not having sufficient property to make the amount required; it shall and may be lawful for either of the Justices, before whom the information and complaint shall have been made, to issue his warrant for the apprehension and committal to the common Gaol of the District of such delinquent, for a period not to exceed one month, unless the fine and costs shall be sooner paid.

If penalty cannot be levied;

Offender may be imprisoned one month.

CHAP. X.

AN ACT to compel certain persons not assessed to perform Statute Labour.

[Passed 10th February, 1840.]

WHEREAS doubts have arisen in the minds of the Justices of the Peace in the several Districts of this Province, with regard to the power

Preamble.

invested in them to compel persons not assessed, who are over the age of twenty-one years, to perform Statute labour, whereby several Townships have for the last two years lost the benefit thereof; *And whereas* it is necessary to remove all such doubts: *Be it therefore enacted* by the Queen'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 Justices of the Peace throughout this Province, to order the Path-Masters of their several divisions, to demand from every male inhabitant within the limits of his division, of the age of twenty-one years and upwards, not assessed, the performance of two days Statute labour, or commute for the same at the rate per day allowed by the Statutes of the Province.

Every male inhabitant twenty-one years of age, liable to two days statute labour, though not assessed.

Such persons refusing, to be dealt with as persons assessed;

If fine not paid, offender may be imprisoned.

Statute labour heretofore done by such persons, to be deemed in accordance with law.

II. *And be it further enacted by the authority aforesaid*, That such persons refusing so to do, after being notified as required by law, shall be dealt with in the same manner as those who are assessed and are liable to perform Statute labour; and in case no distress sufficient to satisfy the amount shall be found, it shall and may be lawful for the Justices before whom complaint shall be made, to commit the offender to the common Gaol of the District wherein the offence was committed, for any time not exceeding six days, unless the fine and costs shall be sooner paid.

III. *And be it further enacted by the authority aforesaid*, That in all cases where Statute labour has been performed up to this period, by persons of the age of twenty-one years and upwards, and whose names do not appear on the assessment rolls, such labour shall be deemed and taken to have been regularly performed as in accordance with law and usage.

CHAP. XI.

AN ACT to alter and amend an Act passed during the third Session of the present Parliament, intituled, "An Act to authorise the establishment of Boards of Boundary Line Commissioners within the several Districts of this Province."

[Passed 10th February, 1840.]

Preamble.

WHEREAS it is found expedient and necessary to repeal part of and amend an Act passed during the third Session of the present Parlia-

ment, intituled, "An Act to authorise the establishment of Boards of Boundary Line Commissioners within the several Districts of this Province:" *Be it therefore enacted* by the Queen'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 seventeenth clause of the said Act be and the same is hereby repealed.

[See 1 Vic. Chap. 19;
4 & 5 Vic. Chap. 9.]

17th Sec. 1st Vic. Ch. 19,
repealed.

II. *And be it further enacted by the authority aforesaid*, That from and after the passing of this Act, every judgment and final decision of the said Commissioners, in case there shall be no appeal against the same, shall be filed with the Registrar of the County where such boundary shall be situate, or of which it shall be a boundary line, together with the plan of the boundaries herein-before directed, to be made within one calendar month from the expiration of the time of appealing against the same; and in case there shall be an appeal from the judgment of the said Commissioners, as aforesaid, the judgment and decree, and all orders of the Courts of Queen's Bench and of Chancery, establishing any line or lines of boundary upon any such appeal, shall also, together with said plan, be filed with the Registrar of the County where such boundary shall be situate, or of which it shall be a boundary line, within six months after the determination and pronouncing of the same; and the said Registrar shall be entitled to a fee of one shilling and three pence, and no more, for entering the same of record.

Judgment of Commissioners (if no appeal) to be filed with County Registrar;

Within one month after the time for appealing expires;

If an appeal, the final decision;

To be filed with Registrar within six months after the determination;

Registrar's fee.

III. *And be it further enacted by the authority aforesaid*, That whenever the Commissioners appointed under and by virtue of the said recited Act, shall be called upon to settle and determine any disputed boundary in any Township within this Province, it shall be the duty of the said Commissioners, and they are hereby required, in the first place to ascertain and determine the true course of a straight line between the front and rear angles of the Concession in which such disputed boundary is situate, on the boundary of the Township from which the Lots are numbered, according to the original survey of the same; and to cause sufficient stone monuments to be placed to mark such angles so ascertained and determined, unless stone monuments have been previously erected in such Townships in conformity with an Act of the Provincial Parliament, passed in the thirty-eighth year of the reign of His late Majesty King George the Third, intituled, "An Act to ascertain and establish on a permanent footing the boundary lines of the different Townships of this Province;" and the surveys to be made in ascertaining the said lines, shall be made in the same manner, and subject to the same provisions as the surveys directed to be made in the said recited Act, so far as the same may not

Duty of Commissioners on settling a disputed boundary in any Township;

Placing stone monuments;

[38 Geo. III. Ch. 1.]

How surveys to be made;

[See 50 Geo. III. Ch. 14.]

Costs of such monuments to be defrayed by the District.

have been varied by the first Act herein mentioned, or by the provisions in this Act contained: *Provided always*, that the costs, charges and expenses, of erecting such stone monuments, as aforesaid, shall be borne and paid out of the funds of the District wherein the same shall be situated.

Deputy Surveyor, who is a Commissioner, not to be employed in certain cases.

IV. *And be it further enacted by the authority aforesaid*, That no Deputy Surveyor, being a Boundary Commissioner, shall be employed to make any survey under the authority of the Board of which he is a member.

If owner of land absent from the Province, service may be made on his known agent.

V. *And be it further enacted by the authority aforesaid*, That when the owner of any lot or lots in fee, or for any less estate of freehold, from whom redress may be sought, shall be absent from the Province, the warrant or precept authorised to be issued by the fourth Section of the Act herein first mentioned, shall and may be issued and delivered to the known agent of such owner, as aforesaid, and shall have as full force and effect as if the same had been issued to the said owner in person.

Provisions of 21 Sec. 50 Geo. III. Ch. 14, declared binding on Commissioners.

VI. *And whereas* doubts have arisen how far the provisions of an Act passed in the fifty-ninth year of the reign of King George the Third, intituled, "An Act to repeal an Ordinance of the Province of Quebec, passed in the twenty-fifth year of His Majesty's reign, intituled, 'An Ordinance concerning Land Surveyors, and the admeasurement of lands,' and also to extend the provisions of an Act passed in the thirty-eighth year of His Majesty's reign, intituled, 'An Act to ascertain and establish on a permanent footing the boundary lines of the different Townships of this Province,' and further to regulate the manner in which lands are hereafter to be surveyed," are binding upon Boundary Commissioners: *Be it therefore further enacted by the authority aforesaid*, That all the provisions contained in the second Section of the said Act relating to boundaries, are hereby declared to be and remain in full force and virtue, in all cases in which the said Commissioners may be called on to hear and determine matters in dispute, touching any line or boundary of any Lot, Township or Concession.

CHAP. XII.

AN ACT to alter and amend an Act passed in the first year of Her Majesty's reign, intituled, "An Act to protect the Inhabitants of this Province against lawless aggressions from Subjects of Foreign Countries at peace with Her Majesty."

[Passed 10th February, 1840.]

Preamble.

WHEREAS it is found necessary to amend the provisions of an Act passed in the first year of Her Majesty's reign, intituled, "An Act to protect

the inhabitants of this Province against lawless aggressions from subjects of foreign Countries at peace with Her Majesty:" *Be it therefore enacted* by the Queen'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 the same is hereby repealed.

1 Victoria, Chap. 3,
repealed.

II. *And be it further enacted by the authority aforesaid*, That if any person, being a citizen or subject of any foreign State or Country, at peace with the United Kingdom of Great Britain and Ireland, shall after the passing of this Act, be or continue in arms against Her Majesty, Her Heirs or Successors, within this Province, or shall commit any act of hostility therein, or shall enter this Province with design or intent to levy war against Her said Majesty, Her Heirs or Successors, or to commit any felony within the same, for which any person convicted of such felony would by the laws of this Province be liable to suffer death, then it shall and may be lawful for the Governor of this Province to order the assembling of a Militia General Court Martial for the trial of such person, agreeably to the Militia Laws of this Province; and upon being found guilty by such Court Martial of offending against this Act, such person shall be sentenced by such Court Martial to suffer death, or such other punishment as shall be awarded by the Court.

Citizens or subjects of a
foreign power taken in
arms in this Province;

Or coming therein with
intent to levy war;

Or to commit certain
felonies;

May be tried, by a Militia
General Court Martial;

And if convicted, to be
sentenced to death.

III. *And be it further enacted by the authority aforesaid*, That if any subject of Her Majesty, Her Heirs or Successors, shall within this Province levy war against Her Majesty, Her Heirs or Successors, in company with any of the subjects or citizens of any foreign State or Country then at peace with the United Kingdom of Great Britain and Ireland, or shall enter this Province in company with any such subjects or citizens of a foreign State or Country at peace with the said United Kingdom, with intent to levy war on Her Majesty, or to commit any such act of felony, as aforesaid, within this Province, or shall join himself to any person or persons whatsoever, whether subjects or aliens, who may have entered this Province with design or intent to levy war on Her Majesty, Her Heirs or Successors, or to commit any such felony, as aforesaid, within the same, with the design or intent to aid and assist such last mentioned person or persons to levy war, or to commit any such act of felony, as aforesaid, then such subject of Her Majesty, Her Heirs or Successors, shall be liable to be tried and punished by a Militia Court Martial, in like manner as any citizen or subject of a foreign State or Country at peace with Her Majesty, Her Heirs or Successors, is liable under this Act to be tried and punished.

Any subject levying war
in this Province with
foreigners;

Or entering the Province
with foreigners with
intent to levy war;

Or commit such felony
as aforesaid;

Or joining persons who
have entered the Province
with intent to levy war;

Or to commit such felony;
With intent to aid such
persons;

May be tried and pun-
ished in like manner.

Any such foreigners may be tried before a Court of Oyer and Terminer.

IV. *And be it further enacted by the authority aforesaid,* That the citizen or subject of any foreign State or Country offending against the provisions of this Act, shall be deemed guilty of felony, and may, notwithstanding the provisions herein-before contained, be prosecuted and tried before any Court of Oyer and Terminer and General Gaol Delivery in and for any District of this Province, in the same manner as if the offence had been committed in such District, and upon conviction shall suffer death as in cases of felony.

CHAP. XIII.

AN ACT to amend and make permanent an Act passed in the fifth year of His late Majesty's reign, intituled, "An Act to prevent the sale of Spirituous Liquors to Indians."

[Passed 10th February, 1840.]

Preamble.

[See 5 Wm. IV. Ch. 9.]

No kind of spirituous liquors to be sold, bartered, exchanged or given, to any Indian.

WHEREAS an Act passed in the fifth year of the reign of His late Majesty King William the Fourth, intituled, "An Act to prevent the sale of spirituous liquors to Indians," will shortly expire, and it is expedient to continue and amend the same: *Be it therefore enacted* by the Queen'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 to sell, barter, exchange or give to any Indian man, woman or child, within this Province, any kind of spirituous liquors in any manner or way, or to cause or procure the same to be done for any purpose whatever, under the pains and penalties to be inflicted by the authority of this Act.

Justice of Peace to fine offender, not exceeding £20 for every offence;

How fines to be collected;

·II. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for any Justice of the Peace of any District wherein any offence against the provisions of this Act shall have been committed, upon the testimony of one or more credible witness or witnesses, to fine the offender for each and every offence so complained of, in a sum not exceeding twenty pounds; a moiety whereof shall be paid to the informer, and the other moiety shall be collected and applied in the same manner as fines and penalties are now collected and applied under the Act for the summary punishment of petty trespasses; to be applied for the improve-

ment of the roads through the section of the country where the offence was committed : *Provided always*, that the penalty in this Act mentioned shall not be incurred by the furnishing to any Indian any spirituous liquor by a Medical man, in case of sickness, or under the direction of any Medical man.

Penalty not incurred by furnishing spirits by medical direction.

CHAP XIV.

AN ACT to prevent the introduction of Spirituous Liquors into the common Gaols of this Province.

[Passed 10th February, 1840.]

WHEREAS it is necessary to prevent the practice of secretly introducing spirituous liquors into the common Gaols of this Province : *Be it therefore enacted* by the Queen'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 after the passing of this Act, give, convey or supply, to any prisoner confined in any common Gaol or House of Correction in any District in this Province, any rum, brandy, whiskey or other spirituous liquors, contrary to such rules and regulations as have been or shall be hereafter, from time to time, established by law, every such offender being duly convicted thereof before two Justices of the Peace, shall be liable to pay a fine not exceeding five pounds.

Preamble.
[See 32 Geo. III. Chap. 8,
Sec. 15;
1 Vic. Chap. 5]

If any person shall supply spirits to a prisoner in gaol;

And be convicted before two Justices, he may be fined £5.

II. *And be it further enacted by the authority aforesaid*, That when any person shall be charged on the oath of one or more credible witness or witnesses, before any one Justice of the Peace, with any offence against this Act, such Justice may summon the person charged to appear at a time and place to be named in such summons; and if he shall not appear accordingly, then (upon proof of the due service of the summons upon such person, by delivering the same to him personally) any two Justices of the Peace for the District where the offence is alleged to have been committed, may either proceed to hear and determine the case *ex-parte*, or issue their warrant for apprehending such person; or any one of the said Justices may, if he shall so think fit, without any previous summons, issue such warrant.

Any one Justice may summon the party accused;

And in default of appearance;

Two Justices may hear and determine the case *ex-parte*;

Or issue a warrant to apprehend the accused; One Justice may issue such warrant without any summons.

No conviction or committal to be quashed for want of form.

III. *And be it further enacted by the authority aforesaid, That no conviction under this Act shall be quashed for want of form, and no warrant of committal shall be held void by reason of any defect therein: Provided, it be alleged that the party has been convicted, and there is a good and valid conviction to sustain the same.*

Power to summon witnesses;

Fine for non-attendance.

IV. *And be it further enacted by the authority aforesaid, That such Justices shall have full power and authority to summon witnesses, either in support of the prosecution or for the defendant; and if any person having been personally summoned to attend as a witness, shall neglect or refuse to attend, or shall fail to shew some reasonable excuse for his non-attendance, he may be fined for such non-attendance by the Justices assembled to try the offence, in any sum not exceeding five pounds.*

In default of payment of fines and costs;

Warrant may issue to levy same;

And if no distress;

Offender may be committed;

Not longer than one month.

V. *And be it further enacted by the authority aforesaid, That in default of payment of any fine imposed under the authority of this Act, together with the costs attending the same, within the period specified for the payment thereof, at the time of the conviction by the Justices before whom such conviction shall have taken place, it shall and may be lawful for such Justices to issue their warrant, directed to any Constable, to levy the amount of such fine and costs within a certain time, to be in the said warrant expressed; and in case no distress sufficient to satisfy the amount shall be found, it shall and may be lawful for them to commit the offender to the common Gaol or House of Correction of the District wherein the offence was committed, for any time not exceeding one calendar month, unless the fine and costs be sooner paid.*

CHAP. XV.

AN ACT to continue an Act passed in the sixth year of His late Majesty's reign, intituled, "An Act to repeal and amend certain Acts of this Province, in relation to the Gold and Silver Coin made current by law, and to make further provision respecting the rates at which certain Gold and Silver Coins shall pass current in this Province."

[Passed 10th February, 1840.]

Preamble.
[See Statutes of Canada,
4 & 5 Vic. Ch. 93.]

WHEREAS it is expedient to continue the Law now in force for the regulation of certain coins current in this Province: *Be it therefore enacted* by the Queen'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 an Act passed in the sixth year of the reign of His late Majesty William the Fourth, intituled, "An Act to repeal and amend certain Acts of this Province, in relation to the gold and silver coin made current by law, and to make further provision respecting the rates at which certain gold and silver coins shall pass current in this Province," be and the same is hereby continued for two years, and from thence to the end of the then next ensuing Session of Parliament, and no longer.

6 Wm. IV. Chap. 27, continued.

C H A P. XVI.

AN ACT to authorise Her Majesty to take possession of Lands for the erection of Fortifications in this Province, under certain restrictions.

[Passed 10th February, 1840.]

WHEREAS it is desirable that Her Majesty should have authority to procure ground which may be wanting for erecting Forts and Batteries, and preserving the necessary approaches thereto free from obstruction, as far as may, from time to time, become necessary for the public service and the defence of this Province: *Be it therefore enacted* by the Queen'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 of this Province to authorise any General Officer or Officers, or other person or persons duly authorised by the Commander-in-Chief, for the time being, of Her Majesty's Forces in this Province, to survey and mark out any piece of ground which may be required for the erection of any Fort, Barrack, Battery or other Military work, and for preserving such work free from obstruction; and to treat and agree with the owner or owners thereof, or any person or persons having any interest therein, for the purchase, possession or use thereof, either in feo or for such time as the exigency of the service shall require; and in ease the owner or owners of such ground, or any person or persons having an interest therein, shall refuse or decline to sell or enter into such contract touching the same, as shall be satisfactory to such officer or officers, or other person or persons commissioned, as aforesaid, or shall

Preamble.

Governor may authorise survey of land for erection of military works;

And to agree with owners, &c.

For purchase or possession thereof;

If owner refuse, or be under disability;

Governor may require two Justices ;

To issue their warrant to the Sheriff to put military officer into possession ;

And to summon a jury ;

To ascertain proper compensation to the owner ;

Sheriff may administer oaths ;

Verdict to be certified to Governor ;

Expenses, how paid ;

No ground to be taken without consent of owner, unless the necessity for same be first certified by Commander of Forces, or in case of invasion.

be unable to do so by reason of infancy, coverture or other disability, it shall be lawful for the Governor to require two or more Justices of the Peace, for the District, City, Town or place, where such piece of ground shall be, to put Her Majesty's Military Officers into immediate possession of such piece of ground, which such Justices shall accordingly do ; and shall for that purpose issue their warrant, under their hands and seals, directed to the Sheriff of the District within which such land is ; and shall also issue their warrant to such Sheriff, commanding him to summon a jury to appear and be on a day and at a place in such warrant to be mentioned, (the most convenient that may be) to inquire of and ascertain the compensation which ought to be made for the purchase, possession or use, of such piece of ground, accordingly as the same may be required for the public service, in fee or for a limited period, to the several persons interested therein, and to whom the same ought to be paid ; and the Sheriff shall have power to administer an oath to the Jury, to render a true verdict on the question submitted to them according to the evidence ; and also to administer an oath to all witnesses produced before such jury ; and the verdict of such jury shall be certified by such Sheriff to the Governor of this Province, in order that proper compensation and the reasonable expenses of such Sheriff in summoning the jury, and also of their attendance, may be paid to the persons severally entitled thereto, out of any funds at the disposal of Her Majesty, granted and made applicable to such purpose by the Imperial Parliament of the United Kingdom of Great Britain and Ireland : *Provided always*, that no such piece of ground shall be so taken for the public service without the consent of the owner or owners thereof, unless the necessity for the same shall be first certified by the Commander of Her Majesty's Forces in this Province, or unless the enemy shall have actually invaded this Province, when such piece of ground shall be taken.

CHAP. XVII.

AN ACT to alter and amend an Act passed in the thirty-second year of the reign of His late Majesty King George the Third, intituled, "An Act to establish the Winchester Measure throughout this Province."

[Passed 10th February, 1840.]

Preamble.

[See 4 Geo. IV. Chap. 16.]

WHEREAS by the seventh clause of an Act passed in the fourth year of the reign of His late Gracious Majesty George the Fourth, intituled, "An Act to repeal an Act passed in the thirty-second year of His Majesty's reign, intituled, 'An Act to establish the Winchester Measure, and a standard for other weights and measures throughout this Province, and to appropriate a sum of money for the purpose of obtaining a standard for weights and measures for this Province,'" it is enacted, that one half

of the said penalty so forfeited, as aforesaid, shall be paid to the informer or informers, and the other half to His Majesty's Receiver-General, to be applied and appropriated towards the Civil Government of this Province, and to be accounted for to His Majesty through the Lords Commissioners of His Treasury: *And whereas* for carrying into effect the intentions of the said Act, it is necessary that the Inspector of Weights and Measures for each of the Districts of the Province should attend certain public places in each of the several Districts of the said Province, with the stamps and copies of the standard weights and measures in his custody, by which weights and measures used in buying and selling may be examined, compared and stamped: *Be it therefore enacted* by the Queen'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 be lawful for the Inspectors of Weights and Measures in the several Districts in this Province, and they are hereby required so to do, to publish in one or more newspapers of the District in which they are acting, from time to time, the different places and times in their Districts where and when they shall attend with the stamps and copies of the standard weights and measures in their custody, to examine, compare and stamp, if found correct, all weights and measures made use of in buying or selling.

Inspectors of weights and measures to give public notice;

Of the place and time where they will attend with the standards.

II. *And be it further enacted by the authority aforesaid*, That so much of the seventh Section of the said Act as enacts, that the one half of the penalty so forfeited shall be paid to the informer or informers, be and the same is hereby repealed.

Part of the 7th Sec. 4 Geo. IV. Ch. 16, repealed.

III. *And be it further enacted by the authority aforesaid*, That the information of the Inspector upon oath shall in future be considered *prima facie* sufficient evidence for a conviction, in not complying with the other requisitions and provisions of the said Act.

Inspector's information on oath to be prima facie evidence sufficient for a conviction.

CHAP. XVIII.

AN ACT to regulate the weight of Salt.

[Passed 10th February, 1840.]

WHEREAS by an Act passed in the fourth year of the reign of His late Majesty King George the Fourth, intituled, "An Act further to regulate by law the commercial intercourse of the Province of Upper Canada

Preamble.
[See 4 Geo. IV. Sec. 2, Ch. 1;
11 Geo. IV. Ch. 21;
3 Wm. IV. Chap. 25.]

with the United States of America," a duty of six-pence per bushel was imposed on salt imported from the said United States, which duty has been continued in force by subsequent enactments; *And whereas* difficulties are frequently experienced at the several Ports of Entry in ascertaining and determining the exact quantities of salt on which the said duty should be paid; *And whereas* it is important to the just protection of the revenue that an uniformity of practice upon this point should be established throughout the Province: *Be it therefore enacted* by the Queen'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 said duty of six pence per bushel shall be paid, levied and collected, upon every bushel of fifty-six pounds weight of salt imported at any Port of Entry in this Province from the United States of America.

The duty of six pence per bushel on salt declared to be payable on every 56 lbs. weight.

CHAP. XIX.

AN ACT to authorise certain duties to be imposed and collected on Wooden Stills within this Province, and for other purposes therein mentioned.

[Passed 10th February, 1840.]

Preamble.

1 See H. G. o. III. Ch. 11;
43 Geo. III. Chap. 9;
41 Geo. III. Chap. 7;
45 Geo. III. Chap. 1;
56 Geo. III. Chap. 3;
59 Geo. III. Chap. 6;
4 Geo. IV. Ch. 13, Sess. 1;
1 Wm. IV. Chap. 49.]

WHEREAS the law authorising the levying a duty upon Wooden Stills has expired, and it is expedient that a duty should be continued on the same, and to provide for the more effectual collection thereof; and also for the sufficient remuneration of the Inspectors of Districts: *Be it therefore enacted* by the Queen'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 sixth clause of an Act passed in the forty-third year of the reign of King George the Third, Chapter nine, intituled, "An Act for the better securing to His Majesty, His Heirs and Successors, the due collection and receipt of certain duties therein mentioned;" also the tenth clause of an Act passed in the fifty-eighth

Section 6, 13 Geo. III,
Chap. 9;

year of the reign of His said Majesty King George the Third, Chapter first, intituled, "An Act to impose a duty upon persons selling wine, brandy, and other spirituous liquors, by wholesale;" and also the fifth clause of an Act passed in the fifty-ninth year of His late Majesty King George the Third, intituled, "An Act granting to His Majesty an additional duty on Stills used for the distillation of spirituous liquors for sale, and for ascertaining the manner in which certain wooden Stills shall be gauged in this Province," so far as the above recited Acts relate to any per centage that the Inspectors of Districts are authorised to retain for their own use, or to any limitation thereof, be and the same are hereby repealed.

Section 10, 38th Geo. III, Chap. 1;

Section 5, 59th Geo. III, Chap. 6;

Repealed, so far as relates to per centage of Inspectors of Districts.

II. *And be it further enacted by the authority aforesaid,* That from and after the first day of March next, there shall be raised, levied, collected and paid, yearly and every year, unto Her Majesty, Her Heirs and Successors, to and for the use 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 six pence, of lawful money of this Province, for every gallon which such Still or Stills, or other vessels more particularly described in a subsequent clause of this Act, shall or may be capable of containing.

After 1st March, 1840, a duty of 1s 6d. per gallon imposed on stills used for distilling spirituous liquors.

III. *And be it further enacted by the authority aforesaid,* That every person or persons desirous of obtaining a license under this or any former Act now in force for keeping a Still or Stills, shall and is, and are hereby directed and required to apply for the same, in manner hereinafter prescribed, to the District Inspector, within the period of one month from the first day of March in the present year, and the sixth day of January in each and every succeeding year; and further, that all persons not having taken out license for the now current year, before the passing of this Act, shall be required to take out the same, according to the provisions and regulations contained in this Act, or in default thereof shall be proceeded against as directed by this or any former Acts on this subject, not heretofore or hereby repealed.

Licenses to be applied for to the District Inspector;

At what time;

Persons not having taken a license during the current year, required to do so.

IV. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, every person requiring a license to work or use a Still or Stills, shall furnish a requisition according to the following form to the District Inspector, containing the entire capacity of the said Still or Stills, and the exact location of the same.

Requisition to be furnished by persons wanting a license.

"I, A. B., do hereby require a license for a Distillery, situate on Lot No. —, in the — Concession (or as the case may be) of the Township of —, in the — District; and I hereby declare that the entire capacity of every Beer Still, Faint Still, double or other vessel containing or intended to contain the Beer or Wash for running the low wines, or in any way acting as a Still in the said Distillery, without any deduction

Form thereof.

on account of allowance for steam, or any other cause whatever, is — gallons; and that no other vessel than is mentioned in this requisition is used, or intended to be used as a Still, or in any way to answer the purpose of a Still in the said Distillery. As witness my hand this — day of —, one thousand eight hundred and —. Signed A. B. owner and proprietor of the said Distillery. To C. D. Inspector of the — District.”

District Inspector may enter any distillery to search and examine between sunrise and sunset;

For the purpose of ascertaining the correctness of the requisition;

Or whether stills are used without license.

Penalty for refusing or hindering entry and search by District Inspector;

How recovered;

Imprisonment;

So much of 2d Section 6th Wm. IV, Chap 4, as prevents any part of the penalty being paid to the informer, repealed.

[See post Chap 20, Sec. 11, and Chaps. 21 & 22.]

V. *And be it further enacted by the authority aforesaid*, That from and after the passing of this Act, the District Inspector, and any person or persons acting under him or by his directions, shall and may at any time between sunrise and sunset enter into any Distillery, Still House or other place where a Still is kept, or supposed to be kept, whether the same be licensed or unlicensed, and to make all and every necessary search or searches therein, or in any part thereof, and to admeasure or gauge such Still or Stills, and to make all and every necessary inquiry and examination upon or about any such premises, either for the purpose of ascertaining the correctness of the requisition sent into the District Inspector, or of ascertaining whether any Still or Stills might or might not be in operation in or upon such premises without having the required license.

VI. *And be it further enacted by the authority aforesaid*, That from and after the passing of this Act, any person or persons refusing to permit the District Inspector, or those acting under him, from entering into any Distillery, Still House or other place containing a Still or Stills, between sunrise and sunset, as aforesaid, or of obstructing, preventing or hindering, the said District Inspector, or any of those acting under him, in his or their lawful search or entry, as aforesaid, shall forfeit and pay not exceeding the sum of ten pounds, to be recovered in a summary manner before one or more Justice or Justices of the Peace, or to be imprisoned in default of payment for a period not exceeding the space of three months, as is more particularly set forth and directed by the fourth Section of an Act passed in the forty-fourth year of the reign of King George the Third, intituled, “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,” which said Act is and remains in full force and virtue, save and except where its provisions are altered or repealed by this Act.

VII. *And be it further enacted by the authority aforesaid*, That so much of the second Section of an Act passed in the sixth year of the reign of His late Majesty King William the Fourth, intituled, “An Act to repeal and amend certain parts of an Act passed in the thirty-sixth year of the reign of King George the Third, intituled, ‘An Act to amend an Act for regulating the manner of licensing Public Houses, and for the more easy conviction of persons selling spirituous liquors without license, and for other purposes therein mentioned,” as provides that no part of

the fines levied under the authority of this or any former Act shall be paid to any informer, any provision in any former Statute of this Province to the contrary notwithstanding, be and the same is hereby repealed.

VIII. *And be it further enacted by the authority aforesaid,* That the duty of one shilling and six pence per gallon shall be calculated on the entire capacity of every Beer Still, Faint Still, Double or other Vessel of any kind or description whatever, in which the Beer or Wash is heated or prepared, or which may in any wise act or be used as attached to or connected with by pipes, or otherwise assistant or auxiliary to the vessel ordinarily denominated the Beer Still; and every vessel of any kind or description whatever, or known by any name whatever, into which the Beer or Wash is put, or into which steam is put or forced, or any vessel by the use of which the process of distillation is carried on with greater facility or productiveness than would be effected by the use of one Beer Still only; and further, that no allowance be made in calculating the said duty for the practice or working of the steam, or for any other cause or reason whatever; and that every Tub or other Vessel placed on the top or in any way attached to any Still or Vessel containing Beer or Wash, serving for the purpose of a cap or receiver of steam, shall be liable, according to its capacity, to the payment of the duty above mentioned.

How the duty of 1s. 6d. per gallon on wooden stills is to be calculated.

IX. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, the District Inspector, and those acting under him, shall and may measure and gauge any Still or Stills in his jurisdiction, as he or they may deem most convenient or advisable, for the purpose of testing the accuracy of the requisition furnished by the owner thereof, whether the same be specified to have been measured or gauged or not, any thing herein, or in any other Act or Acts, contained to the contrary notwithstanding.

District Inspectors may measure or gauge stills to ascertain correctness of investigation.

X. *And be it further enacted by the authority aforesaid,* That for the better enabling the Inspector of the District to ascertain the number of Distilleries in his District, there be put, placed, assessed, imposed, levied and collected, in each and every Distillery in this Province, the yearly tax or rate of five shillings, to be levied and accounted for in like manner as the taxes now levied and imposed on ratable property in each District; and that each Assessor do and is hereby required and empowered to return in his Assessment Roll or List, in a separate column or division, the number of Distilleries or Stills, with the name of the owner or owners thereof within his Township, District or Division; and that the Clerk of the Peace in each District shall, and he is hereby required and empowered to make an annual abstract from the Assessment Rolls or Lists, of the number of such Distilleries or Stills, which said abstract or a copy thereof he is hereby directed to deliver, when thereto required, to the District Inspector.

Every distillery to be subject to an annual District rate or assessment of five shillings; (See 56 Geo. III. Ch. 3, Sec. 4.)

Assessor to include every distillery in his roll, with the name of the owner, &c.;

Clerk of the peace to make an annual abstract of the number of distilleries, and to furnish same to District Inspector.

Penalty for distilling
without a proper license;

XI. *And be it further enacted by the authority aforesaid,* That any person or persons who shall use or work a wooden Still or Stills without having first obtained a license for the same, or who shall use any other or larger wooden Still or Stills than may be specified in his, her or their requisition, or who shall have or use any tub or vessel as a cap, or otherwise attached to any such wooden Still or Stills for the purpose of receiving the steam, or who shall have or use any wooden Still or Stills on which there shall be any false head or heads by which such Still may be separated into different Divisions, or who shall use any beer Still, faint Still, double or other vessel, in which the beer or wash may be heated or prepared, in which the low wines are run, and who shall not state and specify the same in his, her or their requisition, at the time of applying for and taking out such license, as aforesaid, and shall be convicted thereof before any two or more of Her Majesty's Justices of the Peace in and for the District in which the offence may be committed, shall forfeit and pay a fine or penalty not exceeding ten pounds, to be levied by distress and sale of the goods and chattels of the offender, and be incapacitated from receiving a license to work any Still or Stills for the space of two years next following such conviction.

How to be recovered.

Power of District In-
spector in gauging or
measuring stills.

XII. *And be it further enacted by the authority aforesaid,* That when and so often as the District Inspector, or those under him, may be desirous of gauging or measuring any wooden Still or vessel on which duty is chargeable, he or they may bore one or more holes in the same not exceeding two inches in diameter for the said purpose.

Penalty for neglecting to
appear or refusing to
give evidence on com-
plaint made by District
Inspector;

(See 56 Geo. III. Ch. 34,
Sec. 11.)

XIII. *And be it further enacted by the authority aforesaid,* That any person or persons neglecting or refusing to appear before any Justice or Justices to give evidence, when summoned, in any complaint made by the District Inspector, or those acting under him, for any breach or evasion of the Laws relating to the granting of licenses, shall for every such offence (upon proof of the service of a summons to appear, and in the absence of reasonable excuse being offered for such non-attendance) forfeit and pay a sum not exceeding twenty pounds, to be recovered by distress and sale of the goods and chattels of the party offending, and to be paid into the hands of the Local Officers now entitled to receive the fines and penalties imposed by the Laws for the punishment of petty trespasses; and in default of such distress, to be committed to the common Gaol of the District, for a period not exceeding six months.

How to be recovered;

Imprisonment in default
of distress.

One moiety of penalties
to the Receiver General
for public uses,

XIV. *And be it further enacted by the authority aforesaid,* That all monies collected, and the moiety of all penalties imposed by virtue of this or any other Act of this Province on the same subject, shall be paid into the hands of Her Majesty's Receiver-General, for the general uses of this Province.

Inspector's per centage
regulated.

XV. *And be it further enacted by the authority aforesaid,* That every Inspector shall be authorised to retain twelve pounds and ten shillings

out of every hundred pounds of duties he shall collect, until such duties shall amount to the sum of one thousand pounds, and the sum of five pounds out of every hundred pounds of duties he shall collect over and above the said sum of one thousand pounds.

XVI. *And be it further enacted by the authority aforesaid,* That no Inspector shall be authorised to retain a sum exceeding three hundred pounds, either as per centage or otherwise, on the amount of duties by him collected in each year, any thing in this or any other Act of this Province contained to the contrary notwithstanding.

Limitation of per centage to £300 per annum.

XVII. *And be it further enacted by the authority aforesaid,* That in respect of such Inspectors as shall or may collect duties to the amount of one thousand pounds and upwards annually, this Act shall be taken to be and is hereby declared to be in force from the first day of January last.

As to per centage this Act to take effect from 1st January, 1840.

CHAP. XX.

AN ACT for further regulating the manner of granting Licenses to Inn-keepers, and to the Keepers of Ale and Beer Houses, within this Province.

[Passed 10th February, 1840.]

WHEREAS the several Acts now in force in this Province for granting licenses to Inn-keepers, and also providing for licensing houses for the sale of beer, ale and cider, and other liquors not spirituous, require amendments: *Be it therefore enacted* by the Queen'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 first clause of an Act passed in the fourth year of the reign of His late Majesty King George the Fourth, intituled, "An Act to repeal part of, continue and amend, the Laws now in force imposing a duty on licenses to inn-keepers within this Province," so far as relates to the adjournment of the General Quarter Sessions to the last Monday in December, be and the same is hereby repealed.

Preamble.

(See 33 Geo. III, Ch. 13;
34 Geo. III, Chap. 12;
36 Geo. III, Chap. 3;
43 Geo. III, Chap. 9;
45 Geo. III, Chap. 1;
56 Geo. III, Chap. 3;
59 Geo. III, Sess. 2, Ch. 1;
2 Geo. IV, Chap. 8;
4 Geo. IV, Sess. 1, Ch. 15;
4 Geo. IV, Sess. 2, Ch. 18;
8 Geo. IV, Chap. 11;
11 Geo. IV, Chap. 9;
3 Wm. IV, Chap. 13;
6 Wm. IV, Chap. 4;
2 Vic. Chap. 25;
3 Vic. Chs. 19, 20, 21, 22.)

1st Section 4th Geo. IV,
Chap. 18, partially
repealed.

5th Section 34 Geo III,
Chap. 12; and,

1st, 2d, 3d and 8th Sec-
tions 4th Geo. IV, Ch. 15,
repealed.

II. *And be it further enacted by the authority aforesaid,* That the fifth clause of an Act passed in the thirty-fourth year of the reign of King George the Third, intituled, "An Act for regulating the manner of licensing public houses, and for the more easy convicting of persons selling spirituous liquors without license;" and the first, second, third and eighth, clauses of an Act passed in the fourth year of the reign of His late Majesty King George the Fourth, intituled, "An Act to restrain the selling of beer, ale, cider and other liquors not spirituous, in certain Towns and Villages in this Province, and to regulate the manner of licensing ale houses within the same," be and the same is hereby repealed.

When applications from
innkeepers to be received
by Justices.

III. *And be it further enacted by the authority aforesaid,* That the Magistrates in General Quarter Sessions assembled, in each and every District of this Province, at their meeting next preceding the twentieth of December, shall have power and authority to adjourn the General Sessions to the twentieth day of December in each and every year, or if the same shall be on a Sunday, then to the Monday following, for the purposes of receiving applications and granting certificates to inn-keepers, and for other purposes relating thereto, and they shall have power to adjourn the Court from day to day, until such applications shall have been gone through with.

Restrictions on re-
considering applications
which have been refused.

IV. *And be it further enacted by the authority aforesaid,* That whenever any application for a license shall have been taken up at such Session, and the Justices or the majority then present, shall refuse to grant a certificate, it shall not be lawful at any subsequent Session in that year to re-consider such application, unless a greater number of Justices shall be present than were on the Bench when the same was refused.

Persons obtaining their
certificate must take out
their license before
5th January;

V. *And be it further enacted by the authority aforesaid,* That whenever any person applying for a license to keep an inn, shall have obtained a certificate according to the provisions of this Act, it shall be obligatory upon such person, and he or she is hereby required to take out such license on or before the fifth day of January in each and every year; and in case such person shall neglect to take out such license on or before that day, then the said certificate shall be null and void, and it shall not be lawful for the Inspector to issue a license upon such certificate.

Penalty on neglect.

If person licensed, die
or remove;

Quarter Sessions may
allow transfer of license;

Transferree to produce
certificate;

And enter into re-
cognizance;

VI. *And be it further enacted by the authority aforesaid,* That in case any licensed person shall die before the expiration of his license, or if he or she shall remove from such licensed house, it shall and may be lawful for the Justices in General Quarter Sessions, to allow such person or his or her executors, administrators or assigns, to transfer such license to any other person to continue open such house, under and by virtue of such license until the expiration thereof: *Provided,* such person shall produce a certificate, signed in the manner herein-before mentioned, and shall enter personally into such recognizance, with such sureties as is

directed by the before recited Act of thirty-fourth George the Third; and if such transfer and recognizance be not executed, as aforesaid; within thirty days after the death or removal of such person, then in such case immediately from and after the expiration thereof such license shall be null and void; and in order to give due opportunity for such applications to transfer licenses, it shall not be lawful for the Justices to adjourn the Quarter Sessions for a longer period than thirty days at any one time.

Within thirty days.

VII. *And be it further enacted by the authority aforesaid,* That every owner or person in charge of any steam-boat or vessel in this Province, who shall sell or vend, or allow to be sold and vended, wine, brandy or other spirituous liquors on board of such steam-boat or vessel, shall be entitled to receive from the Inspector of the District in which such steam-boat or vessel shall be laid up during the winter season, a license for that purpose, without entering into bonds or recognizances to keep an inn according to the laws of this Province, upon payment of seven pounds ten shillings currency: *Provided always,* that no owner or person in charge of any steam-boat or vessel, shall allow any wine, brandy or other spirituous liquors, to be sold on board such vessel during the time the same shall be laid up during the winter, under the same penalty as is now imposed for selling spirituous liquors without license.

License to be granted for selling wine or liquors on board of steam-boats;

From what Inspector;

On payment of £7 10s.

Penalty on selling while steam-boat laid up for the winter.

VIII. *And be it further enacted by the authority aforesaid,* That every owner or person in charge of a steam-boat or vessel, who shall after the passing of this Act vend or sell, or allow to be sold or vended any wines or spirituous liquors, on board of any steam-boat or vessel, without having previously obtained such license from the Inspector of the District within which such steam-boat or vessel shall be laid up during the winter season, or from the Inspector of the District in which the Port or steam-boat landing next adjacent to the wintering-place of such steam-boat or vessel shall happen to be situated, such owner or person in charge shall be subject to all the penalties now imposed by the laws of this Province upon persons selling spirituous liquors without license; which penalties shall be recovered before any two or more Justices of the Peace, and be levied by distress and sale of the tackling or furniture of such steam-boat or vessel on board of which such liquors shall have been sold or vended, by warrant under the hands and seals of the Justices before whom the offender or offenders shall have been convicted.

Penalty for selling wines or liquors on board a steam-boat without a license;

How recovered.

IX. *And whereas* by an Act passed in the third year of the reign of His late Majesty King William the Fourth, intituled, "An Act to define the limits of the Town of Hamilton, in the District of Gore, and to establish a Police and Public Market therein," it is among other things enacted, that the Corporation in the said Town shall have power to license victualling houses and ordinaries where fruit, victuals and liquors not distilled shall be sold: *And whereas* the said clause has been so construed as to allow the sale of wine in said Town, (being a liquor not distilled,

3rd William IV, Chap. 16 recited; and,

Part of the 18th clause repealed;

Police of Hamilton to grant certificates for certain purposes.

under a license for the sale of ale, beer, cider and other liquors not spirituous: *Be it therefore further enacted by the authority aforesaid,* That so much of the eighteenth clause of the above-recited Act as relates to liquors not distilled, be and the same is hereby repealed; and that from and after the passing of this Act, the said Corporation shall have power to grant certificates to the keepers of victualling houses and ordinaries, where fruits, victuals and liquors not spirituous shall be sold, to enable such person to apply for and obtain a license from the inspector of the District.

50th Geo. III, Chap. 6, recited;

(See 3 Vic. Ch. 9, Sec. 9.)

Every innkeeper, &c. having a billiard table, subjected to the provisions of that Act.

X. *And whereas* by an Act passed in the fiftieth year of the reign of His Majesty King George the Third, intituled, "An Act for granting to His Majesty a duty upon billiard tables," it is enacted, that it shall not be lawful for any person or persons to have in his, her or their possession, custody or power, any billiard table set up for hire or gain, directly or indirectly, unless a license shall have been obtained for such billiard table: *And whereas* the payment of the duty under said Act is evaded: *Be it therefore further enacted by the authority aforesaid,* That from and after the passing of this Act, every keeper of an inn, ale house, ordinary or recess, and all and every other person or persons who shall keep a house of entertainment, resort or boarding, who shall have and keep a billiard table in such house, out-house or room, or building connected with or attached thereto, shall be subject as by the said recited Act is directed.

Part of 2d Section 6th Wm. IV, Chap. 4, repealed;

One half of the fine to informer, and residue to improvement of highways.

(Post. Chap. 21, Sec. 4.)

XI. *And be it further enacted by the authority aforesaid,* That so much of the second clause of an Act passed in the sixth year of the reign of His late Majesty King William the Fourth, intituled, "An Act to repeal and amend certain parts of an Act passed in the thirty-sixth year of King George the Third, intituled, 'An Act to amend an Act for regulating the manner of licensing public houses, and for the more easy conviction of persons selling spirituous liquors without license, and for other purposes therein mentioned,'" as directs that no part of the fines levied under that Act shall be paid to any informer, but that the same should be expended upon the highways, shall be and the same is hereby repealed; and that from and after the passing of this Act, one moiety of said fines shall be paid to the informer, and the remainder only expended in the improvement of the highways, in the manner in the said recited Act directed.

If prosecution by Inspector fail for want of evidence;

Justices may tax costs, and Inspector may charge them in his accounts;

If Justices certify.

XII. *And be it further enacted by the authority aforesaid,* That whenever any prosecution shall be instituted by any Inspector in this Province, against any person for the sale of spirituous liquors without a license, in case such prosecution shall fail for want of evidence, then it shall and may be lawful for such Inspector to require the Justices before whom the party or parties have been tried, to tax the necessary costs of such prosecution, and the said Inspector shall pay the same out of any monies in his hands arising from the duties imposed upon the sale of spirituous liquors, and charge the same in his accounts: *Provided,* the Justices, or

a majority of them, shall certify that it did appear to them that there was sufficient cause for commencing such prosecution.

XIII. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, it shall be the duty of each and every Inspector in this Province, and he is hereby required, in his own person; or by his deputy duly appointed, to visit every part of the District for which he shall act, at least twice in each and every year, to inspect all licensed houses, distilleries and shops, where spirituous liquors are sold, and to ascertain by every means in his power whether the payment of the duties by law imposed upon the sale and distillation of spirituous liquors are evaded, and whether the licensed inns have the necessary accommodation for travellers required by law, and to make a report of the state of the different inns and ale houses in his District to the Justices of the Peace, previous to the general licensing day; and that for the performance of such duty, and defraying the expenses attending the same, such Inspector shall be entitled to the sum of fifteen shillings per day, during the period he is actually engaged therein, and is hereby authorised to deduct the amount of the same from any monies coming into his hands as Inspector: *Provided always,* that previous to his making such deduction his account be audited by the Court of General Quarter Sessions.

Inspector required to visit every part of the District twice a year;

For what purposes;

Allowance for expenses;

Account to be audited by Quarter Sessions.

XIV. *And be it further enacted by the authority aforesaid,* That from and after the first day of June next, all and every person or persons who shall open a house of public entertainment, or a house for the sale of ale, beer, cider, or other liquors not spirituous, within this Province, by retail, he, she or they, are hereby required to take out a license for so doing; which license shall be applied for and granted in the same manner, and subject to the same regulations and restrictions, as licenses are now granted to inn-keepers.

License to be taken out for selling beer, ale, &c.

XV. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Inspectors in each and every District to demand and receive from the persons applying for a license for vending beer, cider, or other liquors not spirituous, the like fees for issuing the same as are now by law authorised to be received for licenses issued to inn-keepers.

Fees to Inspectors on licenses to sell beer, &c.

XVI. *And be it further enacted by the authority aforesaid,* That it shall not be lawful for the said Justices, or the Police Magistrates of any Incorporated Town, or the majority of them, to order or direct the Inspector of the District to receive, or the keeper of such ale house or house of public entertainment to pay for any such license, as aforesaid, a greater sum than five pounds, nor a smaller sum than one pound.

Amount payable on license to sell beer, &c.

XVII. *And be it further enacted by the authority aforesaid,* That the revenue arising, or which may be received from the duty imposed upon ale and beer houses, and other houses of public entertainment under this

Duties on licenses to sell beer, &c. appropriated to public uses.

Act, shall be paid over by the Inspectors of Licenses to Her Majesty's Receiver-General, to and for the use of Her Majesty, Her Heirs and Successors, for the public uses of this Province.

No justices concerned in any way as a distiller, &c. to act in granting certificates for licenses :

XVIII. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, no Justice of the Peace, who shall be a common brewer, distiller or retailer of any spirituous liquors, or who shall be concerned in partnership with any common brewer, distiller or retailer of spirituous liquors, shall act or be present at any general annual licensing meeting, or at an adjournment thereof, or at any Sessions for transferring licenses under this Act, or shall take part in the discussion or adjudication of the Justices upon any application for a license, or upon any appeal therefrom; and no Justice shall act upon any of the aforesaid occasions in the case of any house licensed, or about to be licensed under this Act, of which such Justice shall be the owner.

Or for licensing a house whereof such Justice is the owner.

CERTIFICATE, No. 1.

Forms.

(Sec 59 Geo. III, Sess. 1,
Chap 2, Sec. 2.)

We do hereby certify, that A. B. C. has conducted the house for which he obtained a license last year, to the satisfaction of the public, and that he has maintained his good character for loyalty and sobriety, and we recommend that his license should be renewed for the coming year.

A. B. C., *J. P.*
D. E. F., *J. P.*
G. H.

No. 2.

We do hereby certify, that A. B. is a person of sober habits, good fame and conversation, and also a good and loyal subject of Her Majesty, and that he is a proper person to be entrusted with a license to keep an inn, which we further certify is much required in the neighbourhood of the house for which he desires to obtain a license; and we also declare that, to our knowledge, he has the accommodation for travellers required by law. We therefore recommend him to the Justices as a proper person to keep an inn.

C H A P. XXI.

AN ACT to continue and make perpetual parts of an Act passed in the fifty-ninth year of the reign of His late Majesty King George the Third, intituled, "An Act to alter the Laws now in force for granting Licenses to Innkeepers, and to give to the Justices of the Peace, in General Quarter Sessions assembled for the respective Districts, authority to regulate the Duties hereafter to be paid on such Licenses," and for other purposes therein mentioned.

[Passed 10th February, 1840.]

WHEREAS it is necessary to repeal certain parts of an Act passed in the eleventh year of the reign of His late Majesty King George the Fourth, intituled, "An Act to revive and continue with certain modifications an Act passed in the fifty-ninth year of the reign of His Majesty King George the Third, intituled, 'An Act to alter the laws now in force for granting licenses to Innkeepers, and to give to Justices of the Peace in General Quarter Sessions assembled for their respective Districts, authority to regulate the duties hereafter to be paid on such licenses,'" and also to make perpetual certain parts of an Act passed in the fifty-ninth year of the reign of His Majesty King George the Third, intituled, "An Act to alter the law now in force for granting licenses to Innkeepers, and to give to Justices of the Peace in General Quarter Sessions assembled for their respective Districts, authority to regulate the duties hereafter to be paid on such licenses:." *Be it therefore enacted* by the Queen'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 third and fifth clauses of the said recited Act, passed in the eleventh year of the reign of His late Majesty King George the Fourth, be and the same are hereby repealed.

3rd and 5th Sections
11th Geo. IV, Chap. 9,
repealed.

II. *And be it further enacted by the authority aforesaid,* That in granting the certificate required by law, it shall and may be lawful for the Justices to direct the Inspectors of the several Districts to receive from the person taking out any license for keeping a Public House or Inn, such sum as they, or the majority of them assembled as by law provided, shall adjudge just and proper, according to the situation of such Inn: *Provided always* that no greater or less sum shall be imposed or required than is authorised by the fourth section of the said recited Act, passed in the eleventh year of the reign of His said Majesty King George the Fourth.

Amount of duties on
licenses to keep inns;

[See 6 Wm. IV, Ch. 4,
Sec. 5.]

Sum to be regulated by
4th Section 11th Geo. IV,
Chap. 9.

1st, 5th, 6th and 7th Sections, 59th Geo. III, Chap. 2, made perpetual.

III. *And be it further enacted by the authority aforesaid,* That the first, fifth, sixth and seventh clauses, of the said above-recited Act, passed in the fifty-ninth year of the reign of His Majesty King George the Third, be and the same are hereby continued and made perpetual.

Notices accruing from innkeepers' licenses, and fines for not taking the same, appropriated to public uses.

IV. *And be it further enacted by the authority aforesaid,* That all moneys arising from the granting of licenses to Innkeepers, and all fines and penalties levied and collected upon and from persons keeping a house or place of public entertainment for retailing wine, brandy, rum or any other spirituous liquors, without a license, shall be appropriated and applied to the general uses of this Province, and the support of the Civil Government thereof.

6th Wm. IV, Chap. IV, made perpetual, with one exception as to informers.

[Compare with 3 Vic. Chap. 20, Sec. 11, and next Act.]

V. *And whereas* it is expedient to amend and make permanent, with the exception of so much of the same as provided that no part of any penalty shall be given to any Informer, an Act passed in the sixth year of His late Majesty's reign, intituled, "An Act to repeal and amend certain parts of an Act passed in the thirty-sixth year of the reign of King George the Third, intituled, 'An Act to amend an Act for regulating the manner of licensing Public Houses, and for the more easy convicting of persons selling spirituous liquors without license, and for other purposes therein mentioned:'" *Be it therefore further enacted by the authority aforesaid,* That the said Act passed in the sixth year of His late Majesty's reign, shall be and the same is hereby continued and made perpetual, with the exception of so much of the same as provides that no part of any penalty shall be given to any Informer.

CHAP. XXII.

AN ACT to make perpetual an Act passed in the sixth year of the reign of His late Majesty King William the Fourth, intituled, "An Act to repeal and amend certain parts of an Act passed in the thirty-sixth year of the reign of King George the Third, intituled, 'An Act to amend an Act for regulating the manner of Licensing Public Houses, and for the more easy convicting of persons selling Spirituous Liquors without License," and also for regulating the duty to be levied upon Licenses to Shopkeepers.

[Passed 10th February, 1840.]

Preamble.

[See last Act.]

36 Geo. III, Chap. 3.

WHEREAS the duty imposed by the fifth section of an Act passed in the sixth year of the reign of His late Majesty King William the Fourth, intituled, "An Act to repeal and amend certain parts of an Act passed in the thirty-sixth year of the reign of King George the Third, intituled,

'An Act to amend an Act for regulating the manner of licensing public houses, and for the more easy convicting of persons selling spirituous liquors without license, and for other purposes therein mentioned," ought to be made perpetual: *Be it therefore enacted* by the Queen'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 passed in the sixth year of the reign of His late Majesty, be and the same is hereby made perpetual.

6th Wm. IV, Chap. 4,
made perpetual.

II. *And be it further enacted by the authority aforesaid*, That notwithstanding any thing in the said recited Act contained, the duty of seven pounds ten shillings shall be levied and required upon all licenses to vend wine, brandy and spirituous liquors by retail, granted or issued to shopkeepers in this Province.

£7 10s. duty imposed on
licenses to sell liquors
by retail, in shops.

CHAP. XXIII.

AN ACT to revive and make perpetual an Act granting to Her Majesty a duty on Licenses to Auctioneers, and on Goods, Wares and Merchandise, sold by Auction.

[Passed 10th February, 1840.]

WHEREAS an Act passed in the fifty-eighth year of the reign of His late Majesty King George the Third, intituled, "An Act granting to His Majesty a duty on licenses to auctioneers, and on goods, wares and merchandize, sold by auction," has expired; *And whereas* it is necessary to revive and continue the same: *Be it therefore enacted* by the Queen'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, and every clause thereof, except the first clause, be and the same is hereby declared to be re-enacted, revived and made perpetual.

Preamble.

[See 58 Geo. III. Ch. 6;
4 Geo. IV. Ch. 17;
4 & 5 Vic. Chap. 21.]

58th Geo. III, Chap. 6,
made perpetual, except-
ing Section 1.

When auctioneer's
licenses to be taken out;

How long to continue
in force.

II. *And be it further enacted by the authority aforesaid,* That the license by the said Act required to be taken out by any person exercising the calling or occupation of an auctioneer, shall be taken out by such person on or before the first day of April in the present year, by such persons as shall then be exercising the said calling or occupation, and thence-forward at such time as the same may be applied for and required; and that all and every license shall continue in force until the sixth day of January next ensuing the date thereof.

CHAP. XXIV.

AN ACT to regulate the Inspection of Fish, and to prevent non-residents in this Province from fishing within the waters of the same.

[Passed 10th February, 1840.]

Preamble.

WHEREAS it is expedient that Inspectors of fish should be appointed in this Province, and that the packing, salting and inspection of fish, should be regulated by law, and that non-residents should not be permitted to interfere in our trade in the same : *Be it therefore enacted* by the Queen'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, or Lieutenant Governor of this Province, to appoint in each and every District of this Province, when the same may be required, one or more Inspectors of fish.

Inspectors of fish may
be appointed.

Inspectors to take this
oath;

Justice may administer
same;

Inspector to give security
to be approved by Clerk
of the Peace.

II. *And be it further enacted by the authority aforesaid,* That such Inspector or Inspectors shall, before entering upon the duties of his or their office, take the following oath or affirmation:—"I do solemnly swear, or affirm (as the case may be,) that I will faithfully, truly and impartially, according to the best of my judgment, skill and understanding, execute, do and perform, the duty and office of an Inspector of fish, according to the true intent and meaning of the Act, intituled, "An Act to regulate the inspection of fish, and to prevent non-residents in this Province from fishing within the waters of the same;" (which oath any Justice of the Peace in the District in which he or they shall be appointed to act, may administer;) and shall enter into bonds with Her Majesty, with two sufficient sureties, in the penal sum of one hundred pounds; which bond

shall be approved of by the Clerk of the Peace for such District, and deposited with the Treasurer.

III. *And be it further enacted by the authority aforesaid,* That each Inspector of fish shall annually, in the month of January, make a return to the Clerk of the Peace in the District in which he resides, of the quantity of fish inspected by him during the year preceding the first day of January, and in such return he shall specify the quantity of each quality so inspected.

Inspector to make return to Clerk of the Peace.

IV. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Inspector or Inspectors so to be appointed, on application being made to any one of them for that purpose, to proceed to inspect all fish by opening one of the heads of each barrel or half barrel, and if the same is found to contain sound and merchantable fish, with a sufficient quantity of salt to preserve the same, he shall then brand the same, as hereinafter provided, on the head of such barrel or half barrel; and if the fish are found unsound or not merchantable, the same shall be destroyed by the Inspector; and if the barrel or half barrel is not full, or not salted with a sufficient quantity of salt, that in that case the said Inspector shall fill the same with sound or merchantable fish, or add such quantity of salt as he may deem requisite, as the case may be.— Each barrel shall contain two hundred pounds, and each half barrel one hundred pounds.

Duty of Inspector of fish;

Contents of barrels and half-barrels.

V. *And be it further enacted by the authority aforesaid,* That each barrel or half barrel shall be filled with fish of one and the same kind; and the Inspectors shall brand, in plain legible letters, on the head of each barrel or half barrel of fish inspected by them, respectively, No. 1, or No. 2, representing the quality of the fish packed or re-packed; and they shall also brand on the head of each barrel or half barrel the species of the fish, the initials of the Christian name, and the whole of the Surname of the Inspector, the name of the District in which such fish was inspected, and the words "Upper Canada."

How barrels to be filled and branded,

VI. *And be it further enacted by the authority aforesaid,* That if any person shall intermix, take out or shift, any fish of any barrel or half barrel inspected and branded as by this Act required, or put into any barrel or half barrel inspected and branded, any other fish for sale or exportation, or alter the face of, or change the brand or mark of any Inspector, contrary to the true intent and meaning of this Act, the person or persons so offending, shall for every such offence, forfeit and pay the sum of five pounds, on conviction before any two of Her Majesty's Justices of the Peace, upon the oath of one or more credible witness or witnesses; such fine or penalty, if not paid in three days after conviction, may be made and levied of the goods and chattels of the person or persons so convicted, in manner aforesaid, as hereinafter provided.

Penalty on mixing, &c. fish branded or inspected, or changing the brand;

How recovered and levied.

Fish inspected in one District, not liable to inspection in another.

VII. *And be it further enacted by the authority aforesaid,* That all pickled fish which shall have been duly inspected in any District in this Province, shall not be subject to re-inspection in any other District, and may be shipped and exported to any foreign port.

Materials of barrels for packing fish, prescribed;

Hoops;

Fee for inspecting;

For re-packing, &c.

Salt.

VIII. *And be it further enacted by the authority aforesaid,* That all barrels or half barrels used for packing and re-packing pickled fish, shall be manufactured in this Province, and shall be made of sound well-seasoned white, red or black oak, white ash, or white pine timber; the barrels and half barrels shall be well hooped with at least ten good hoops each, and shall be made in a workmanlike manner; the fees for inspecting and branding shall be for each barrel sixpence currency, and for each half barrel four-pence currency; and for overhauling, re-packing, inspecting and branding, for each barrel one shilling, and for each half barrel seven-pence half-penny, exclusive of cooperage; and for every bushel of salt or part thereof so consumed, as aforesaid, the value of such salt according to the market price thereof at the time and place of such inspection; the said fees and charges shall be paid by the person employing the Inspector.

If inspectors guilty of fraud, &c. in office;

IX. *And be it further enacted by the authority aforesaid,* That if any or either of the Inspectors, so to be appointed under the authority of this Act, shall be guilty of any fraud or neglect in inspecting any fish, or of offering any fee or reward to owners of fish, or their agents, or to any other person, in order to obtain the profits of inspecting or re-packing the same, on any pretence whatever, or shall brand any barrel or half barrel containing fish contrary to the true intent and meaning of this Act; or which has not been actually inspected agreeably to the provisions of this Act, or shall permit any other person to use his brand, in violation or evasion of the provisions of this Act, he shall on conviction thereof before any two of Her Majesty's Justices of the Peace residing within the District where the offence is committed, upon the oath of one or more credible witness or witnesses, forfeit and pay the sum of ten pounds; and in default of such payment within six days after conviction, the said Justices of the Peace, or any one of them, shall and may issue an execution against such Inspector's goods and chattels so convicted, as by any law of this Province is authorised in judgments awarded in the Court of Requests.

And convicted before two Justices;

He shall forfeit £10;

Execution may issue to levy same.

Non-residents not allowed to fish in waters of this Province;

Penalty on offending.

X. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, it shall not be lawful for any person not residing in this Province to fish within the waters of Upper Canada, or be directly or indirectly engaged in the same, either as owner or part owner of a seine, or as a partner, or to haul any seine, net or line, upon any part of the beach of the waters of this Province; and every person found so offending against the provisions of this Act, shall be liable to be imprisoned for a period not less than thirty days, nor exceeding ninety days, upon conviction before any two of Her Majesty's Justices of the Peace, upon the oath of one or more credible witness or witnesses.

XI. *And be it further enacted by the authority aforesaid,* That if it shall appear to the Inspector that a part of the fish in any barrel or half barrel inspected by him is sound and part unsound, then it shall and may be lawful for the said Inspector to separate the sound from the unsound, and re-pack the sound fish, and add such salt or pickle as he may judge necessary, and brand the same, as aforesaid, and such fish as the Inspector shall judge not capable of preservation, he shall condemn as bad.

Inspector's duty when part of the fish in a barrel is unsound.

XII. *And be it further enacted by the authority aforesaid,* That nothing in this Act contained shall be taken or deemed to apply to any fish put up and packed out of the Province, and imported into the same.

Act not to apply to fish packed out of the Province,

CHAP. XXV.

AN ACT to alter and amend an Act passed in the forty-fifth year of the reign of His late Majesty King George the Third, intituled, "An Act to regulate the packing, curing and inspection, of Beef and Pork."

[Passed 10th February, 1840.]

WHEREAS it hath been found expedient to repeal part of and to amend an Act passed in the forty-fifth year of the reign of King George the Third, intituled, "An Act to regulate the curing, packing and inspection of beef and pork," and to extend the provisions of the same: *Be it therefore enacted* by the Queen'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 eleventh and thirteenth clauses of the aforesaid Act be and the same are hereby repealed.

Preamble.

[See Statutes of Canada, 4 & 5 Vic. Chap 88.]

11th and 13th Sections 45th Geo. III, Chap. 8, repealed.

II. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, if any person shall wilfully alter, erase, obliterate or otherwise deface, any of the brand marks mentioned in the aforesaid and present Acts, or counterfeit, or impress or brand the same on any casks of beef or pork, he, she or they, shall be deemed guilty of a misdemeanor, and being thereof lawfully convicted, shall forfeit the sum of twenty pounds, of current money of this Province, recoverable

Penalty on altering, &c. brand on barrels of beef or pork;

How recoverable.

and to be disposed of in the manner provided by the sixteenth clause of the aforesaid Act.

Quality of pork to be packed, and manner of sorting it;

Mess pork;

Prime mess pork;

Prime pork;

Cargo pork;

Contents of barrels and half-barrels;

Quantity of salt;

Saltpetre;

Branding.

This Act not to vary 45 Geo. III, Chap. 8, except as is directly expressed.

III. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, there shall be four qualities of pork, known and distinguished by the names of Mess, Prime Mess, Prime and Cargo: Mess Pork shall consist of the rib pieces of good fat hogs only, not weighing less than two hundred pounds each; barrels containing such pork shall be branded on one of the heads with the words "Mess Pork." Prime Mess Pork shall consist of pieces of good fat hogs, not weighing less than one hundred and ninety pounds, the barrel to contain coarse pieces of one hog only, that is to say: two half heads, not to exceed together sixteen pounds in weight, with two shoulders and two hams, and the remaining pieces of a hog; and barrels containing such pork shall be branded on one of the heads with the words "Prime Mess Pork." Prime Pork shall consist of the pieces of good fat hogs, of not less than one hundred and fifty pounds weight, to contain the coarse pieces of one hog and a half only, that is to say: one and a half heads not exceeding together twenty-four pounds in weight, three hams, three shoulders, and the remaining pieces of a hog and a half hog; and barrels containing such pork shall be branded on one of the heads with the words "Prime Pork." Cargo shall consist of the pieces of good fat hogs of not less than one hundred pounds weight, to contain the coarse pieces of two hogs only, that is to say: two heads not exceeding together thirty pounds in weight, four shoulders, four hams, and the remaining pieces of two hogs, and shall be otherwise merchantable pork; and barrels containing such pork shall be branded on one of the heads with the words "Cargo Pork;" and the pork so to be packed shall be cut in pieces as nearly square as may be, and not exceeding six or less than four pounds in weight, but in all cases the following parts shall be cut off and not packed, namely: the ears close to the head, the snout above the tusks, the legs above the knee joint; the tail shall be cut off, and the tongue and bloody grizzle taken out; and each barrel in which pork of any of the foregoing descriptions may be packed or re-packed, shall contain two hundred pounds, and each half barrel shall contain one half that quantity of the several kinds and qualities above-mentioned; and that each barrel shall be salted with not less than fifty pounds of the same quality of salt and the same kind of pickle, and to each barrel of pork shall be added not less than two ounces of salt petre, as in the aforesaid Act is provided for packing and inspecting of beef; and that each barrel or half barrel of pork, when so inspected and packed, shall be branded in the same manner as in the aforesaid Act is provided for the branding of beef, designating the different qualities or denominations herein described:

IV. *And be it further enacted by the authority aforesaid,* That nothing in this Act shall extend, or be construed to extend, to repeal or vary any of the provisions of the said recited Act, excepting so far as the same is expressly repealed in this Act, and that the said Act, and every clause,

matter and thing, therein contained, except the said eleventh and thirteenth clauses, shall be and the same is hereby declared to be in full force and effect.

CHAP. XXVI.

AN ACT to appoint the time for holding the Court of General Quarter Sessions of the Peace for the Home District, and to repeal the Law now in force for that purpose.

[Passed 10th February, 1840.]

WHEREAS it is expedient to alter the times of holding the Quarter Sessions in the Home District: *Be it therefore enacted* by the Queen'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 seventh year of the reign of His late Majesty King William the Fourth, intituled, "An Act to appoint the time and place for holding the Court of General Quarter Sessions of the Peace in each of the several Districts of this Province, and to repeal the several laws now in force for that purpose," as relates to the time of holding the General Quarter Sessions of the Peace in the Home District, be and the same is hereby repealed.

Preamble.

[Sec 7 *Wm. IV. Ch. 11.*]

Quarter Sessions of the Home District when to be holden.

II. *And be it further enacted by the authority aforesaid,* That the Court of General Quarter Sessions of the Peace for the Home District, from and after the passing of this Act, shall be holden at the times following, that is to say: on the first Tuesday in the months of January, April, July and October, respectively, in each and every year.

CHAP. XXVII.

AN ACT authorising the payment of Pensions to Militiamen, and Widows of deceased Militiamen, under certain restrictions, and for other purposes therein mentioned.

[Passed 10th February, 1840.]

Preamble.

WHEREAS it is expedient to provide for the payment of pensions to persons who may have been disabled while in actual service, during the late war with the United States, and also from advanced age and impoverished circumstances, are unable to maintain themselves by labour: *And whereas* it is necessary to guard against frauds, which may be attempted to be practised by persons claiming pensions for wounds received while in actual service as Militiamen, or as the Widows of deceased Militiamen: *Be it therefore enacted* by the Queen'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 of this Province, from time to time, to appoint a Board, consisting of three or more persons, to be assembled in the City of Toronto, whose duty it shall be to examine such persons as shall be required by the Governor to appear before them for that purpose, claiming pensions for wounds received during the late war with the United States, and to inquire into the nature of such wounds, and the circumstances under which they were received; and if such wounds shall be found and declared by such Board to have disabled the person applying for a pension to maintain himself by labour, it shall and may be lawful for the Governor of this Province to direct the name of such person to be placed on the Pension List; and such person shall thenceforth receive from the public revenues of the Province a pension of twenty pounds annually, in the same manner as pensions are now paid to disabled Militiamen.

Governor may appoint a Board, to examine persons claiming pensions for wounds received in the late war with the United States;

If Board declare party disabled by wounds, he may receive a pension.

Persons now on the pension list, may be required to present themselves before said Board;

If Board report person recovered, his pension shall cease.

II. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the Governor of the Province, in his discretion, to require persons who now are or who may hereafter be placed on the Pension List of this Province as disabled Militiamen, to present themselves once in each year before the Board herein-before authorised to be appointed, for examination; and if such Board shall report that such person has recovered from his disability to earn his livelihood by labour, and is then able to maintain himself by labour, it shall and may be lawful

for the Governor to direct that the name of such person shall be erased from the Pension List, and such person shall thenceforth cease to receive any pension for or on account of any wound by him received when in actual service as a Militiaman.

III. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Governor of this Province to require any person receiving a pension as the Widow of a deceased Militiaman, to adduce proof to the satisfaction of the Board herein-before mentioned; that she is the Widow of such deceased Militiaman, which proof shall not be limited to the oath of such Pensioner; and if the said Board shall be of opinion that such person is not the Widow of such deceased Militiaman, then her name shall be erased from the Pension List, and she shall thenceforth cease to receive any pension as the Widow of a deceased Militiaman.

Widows receiving pensions, may be required to produce proof to said Board of their right;

If proof unsatisfactory pension to cease.

IV. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Governor of this Province to require from any person hereafter claiming a pension as the Widow of a deceased Militiaman, to give such evidence of her being such Widow as he shall from time to time require, besides the oath of such applicant for a pension.

Evidence beyond the oath of the widow, may be required.

V. *And be it further enacted by the authority aforesaid,* That in all cases where a pension has been heretofore granted, or shall hereafter be applied for or be granted to any Widow or Children of a deceased Militiaman, such Militiaman having died after his discharge from actual service, it shall and may be lawful for the Board herein-before mentioned to inquire into and investigate the circumstances under which such Militiaman died, and whether his death was caused by disease contracted or wounds received while in actual service; and if such Board shall report to the Governor of this Province that such Militiaman did not die from disease contracted or wounds received while in actual service, then the names of such Widow or Children shall be erased from the Pension List, and she or they shall no longer receive a pension from the public revenues of this Province as the Widow or Children of such deceased Militiaman.

If pension granted to widow or children of militiaman, who died after his discharge;

Board may investigate, and report on the cause of such death, and names of widow and children may, in certain cases, be erased from pension list.

CHAP. XXVIII.

AN ACT to make permanent an Act passed in the fifth year of the reign of His late Majesty King William the Fourth, intituled, "An Act to amend and continue the Act granting Militia Pensions."

[Passed 10th February, 1840.]

WHEREAS an Act passed in the fifth year of the reign of His late Majesty King William the Fourth, intituled, "An Act to amend and

Preamble.

continue the Act granting Militia Pensions," is about to expire, and it is expedient to continue the said Act and to make it permanent: *Be it therefore enacted* by the Queen'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 recited Act be and the same is hereby continued and made permanent.

5th Vol. W. Chap. 104.
made perpetual.

CHAP. XXIX.

AN ACT to authorise the Court of Queen's Bench to admit John Ford Maddock to practise as an Attorney in that Court.

[Passed 10th February, 1840.]

Preamble; Court of Queen's Bench may admit John Ford Maddock an Attorney.

CHAP. XXX.

AN ACT to provide for the management of the Estate of William Handley, Esquire.

[Passed 10th February, 1840.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXI.

AN ACT to define the Limits of the Town of London, in the District of London, and to establish a Board of Police therein.

[Passed 10th February, 1840.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXII.

AN ACT to Incorporate certain persons under the style and title of the Oakville Hydraulic Company.

[Passed 10th February, 1840.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXIII.

AN ACT to Incorporate certain persons under the name and style of the President, Directors and Company, of the Bronte Harbour.

[Passed 10th February, 1840.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXIV.

AN ACT to Incorporate certain persons under the title of the "York Bridge Company."

[Passed 10th February, 1840.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXV.

AN ACT to establish a College by the name and style of the University at Kingston.

[Passed 10th February, 1840.]

[DISALLOWED.]

CHAP. XXXVI.

AN ACT to authorise the temporary occupation, by the proposed University at Kingston, of the General Hospital at Kingston, upon certain terms therein mentioned.

[Passed 10th February, 1840.]

Preamble; Governor may direct a lease of the Kingston General Hospital to the University of Kingston; Terms how regulated. 2. Annual rent appropriated for the General Hospital at Kingston.

CHAP. XXXVII.

AN ACT to extend the Limits of Port Darlington Harbour.

[Passed 10th February, 1840.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XXXVIII.

AN ACT to attach certain Townships to the County of Huron.

[Passed 10th February, 1840.]

Preamble.

[See 5 Wm. IV. Ch. 45.]

WHEREAS by an Act passed in the fifth year of the reign of His late Majesty King William the Fourth, intituled, "An Act to form certain Townships in the London District into a County, and to attach certain Townships to the Counties of Middlesex and Kent, in the London and Western Districts," it was enacted, "That the Townships of Williams, McGillivray, Stephen, Hay, Stanley, Goderich, Colborne, Hullet, McKillop, Tuckersmith, Hibbert, Logan, Fullarton, Osborne, Biddulph, Blanchard, Downie, Ellice, North East Hope and South East Hope, do constitute and form the County of Huron, in the London District:" *And whereas* by another Act passed in the first year of the reign of Her Majesty, intituled, "An Act to authorise the erection of the County of Huron, and certain other territory adjacent thereto into a separate District," it was enacted, that the said County of Huron should be erected into a separate District, and that on any future survey of the territory lying to the northward of the said County of Huron, one range of Townships lying immediately contiguous to the northerly boundary of the said County should be attached to and become part of the said intended New District: *And whereas* it is expedient that the said range of Townships, being part of the said intended new District, should be added to the County of Huron: *Be it therefore enacted* by the Queen'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 Township of Ashfield, and such other Townships as may hereafter be surveyed, being the first range of Townships lying immediately contiguous to the northerly boundary of the said County, be attached to and form part of the County of Huron, in the said intended new District.

Certain Townships attached to the County of Huron.

CHAP. XXXIX.

AN ACT for dividing the Township of Hallowell, in the District of Prince Edward.

[Passed 10th February, 1840.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XL.

AN ACT to authorise the construction of a Mill-Dam across the River Thames.

[Passed 10th February, 1840.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLI.

AN ACT for stopping up parts of certain Streets in the Town Plot of Sandwich, in the Western District, and for other purposes therein mentioned.

[Passed 10th February, 1840.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLII.

AN ACT to extend the period for which the Magistrates of the District of Victoria are authorised to levy an additional Rate in the said District, by an Act passed in the seventh year of the reign of His late Majesty King William the Fourth, intituled, "An Act to authorise the erection of the County of Hastings into a separate District."

[Passed 10th February, 1840.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLIII.

AN ACT to authorise the raising of a sum of money, in the District of Niagara, for the purpose of relieving the said District from Debt.

[Passed 10th February, 1840.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLIV.

AN ACT to authorise the levying an additional Rate on the Inhabitants of the Midland District, for the payment of the Debt of the District, and for other purposes therein mentioned.

[Passed 10th February, 1840.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLV.

AN ACT authorising the levying of an additional Tax on the District of Dalhousie, for the purpose of building a Gaol and Court House therein.

[Passed 10th February, 1840.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLVI.

AN ACT to confirm and regulate certain Sales of Land for Taxes, in the District of Ottawa.

[Passed 10th February, 1840.]

Preamble.

[See 4 Wm. IV. Chap. 23;

7 Wm. IV. Chap. 19;

1 Vic. Chap. 20.]

WHEREAS doubts have arisen as to the true construction and meaning of certain parts of an Act passed in the seventh year of the reign of His late Majesty King William the Fourth, intituled, "An Act to amend the laws now in force regulating the sale of land for arrears of taxes, and for other purposes therein mentioned;" and also of a certain Act passed

in the first year of Her Majesty's reign, intituled, "An Act to postpone the sale of lands in arrear for taxes." *And whereas* under colour of the said recited Acts, certain lands situate in the District of Ottawa, and which before the passing of the said first-recited Act were in arrear for taxes eight years and upwards, have been sold by the Sheriff of the said District at public auction to satisfy such arrears, although the period for which such sale was advertised commenced before the passing of the said last recited Act: *Be it therefore enacted* by the Queen'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 sales of lands in the said District of Ottawa, which were effected by the Sheriff of the said District, for the arrear of taxes in the month of June now last past, shall be and the same are hereby confirmed and made valid, to the same extent as if the said first-recited Act had never been passed: *Provided nevertheless*, that it shall be the duty of the Sheriff of the said District, and he is hereby required immediately after the passing of this Act, to publish a list of all the lands sold by him, as aforesaid, in the Upper Canada Gazette, and in at least one Newspaper in the Eastern and Bathurst Districts, respectively, and also in not less than four public places in the District of Ottawa; and it shall and may be lawful for the said Sheriff, within two years after the date of such advertisements, to convey to the respective purchasers the lands so sold, as aforesaid, according to the manner and form prescribed by the laws now in force in this Province for the conveyance of lands sold by the Sheriffs of the several Districts therein for the arrears of taxes: *Provided always*, that nothing in this Act contained shall be construed to give effect to or make legal and valid any sale of lands for taxes, where such lands were not liable to the rates and assessments imposed by the laws of this Province, or to be returned by the Treasurer as in arrears for such rates and assessments.

Certain sales of land for taxes, in the District of Ottawa, confirmed;

Sheriff to publish a list of such lands;

And within two years thereafter may convey to purchasers;

Not to make valid sales of lands which were not liable to have been returned by the Treasurer as in arrears.

II. *And whereas* in the month of January, one thousand eight hundred and thirty-four, by an accidental fire, the greater part of the books, papers and accounts of the Treasurer's Office of the said District of Ottawa were burned and destroyed, by reason whereof there is cause to apprehend that the lists which have since been made out, from time to time, of lands in arrear for taxes, have in some instances comprised lands upon which the taxes have really been paid, but of which payment no trace remained on record in the Treasury Office: *And whereas* it is expedient that the fact of any such payment should be duly placed on record in the said Office: *Be it therefore further enacted by the authority*

Recital;

Sheriff of Ottawa to publish a list of lands which have been sold for arrears of taxes since the first January, 1834.

aforsaid, That it shall be the duty of the Sheriff of the said District, immediately after the passing of this Act, to publish in the Upper Canada Gazette, and in at least one Newspaper in the Eastern and Bathurst Districts, respectively, and also in not less than four public places in the District of Ottawa, a list of all the lands which have been sold for arrears of taxes by him or by his predecessor in office, since the first day of January, one thousand eight hundred and thirty-four.

Notice to be published calling on persons who have paid taxes to produce their receipts, or a proper affidavit of payment.

III. *And be it further enacted by the authority aforsaid*, That the said list shall also comprise a notice signed by the said Sheriff, requiring all persons who may have paid the assessed taxes upon any of the lands so advertised, at any period prior to the first day of May, one thousand eight hundred and thirty five, to produce to the Treasurer of the said District; within three years from the day of the publication of the said list and notice, any receipt signed by any Treasurer of the said District, or an affidavit in the manner prescribed by the existing laws of this Province, in cases where the assessed taxes have been actually paid, but not duly credited, in proof of such payment.

If owners neglect to produce such receipt or proof, any sale which the Sheriff may have made of their lands confirmed.

IV. *And be it further enacted by the authority aforsaid*, That in all cases where the owners or claimants of land that may have been erroneously sold, as aforsaid, shall neglect or omit within the period last specified, to produce to the Treasurer of the said District due proof of the payment of the taxes, in the manner herein-before directed, the sales which the Sheriff of the said District may have effected of such lands for the arrears of taxes, shall be and the same are hereby confirmed and made valid.

Sheriff and Treasurer exonerated from actions in certain cases.

V. *And be it further enacted by the authority aforsaid*, That the Sheriff and Treasurer of the said District, respectively, shall be and they are hereby fully exonerated and discharged from all actions for damages which might be brought or maintained against them, or either of them, for the sale of any lands, which by reason of the destruction of the records of the Treasury Office, as above recited, may have been or shall happen to be erroneously disposed of as for arrears of taxes, between the first day of May one thousand eight hundred and thirty-five, and the first day of May one thousand eight hundred and forty-four.

Period to intervene between sale of lands at the rate of 2s 6d. per acre and the final sale defined.

VI. *And be it further enacted by the authority aforsaid*, That the period required by the said first-recited Act, to intervene between the public auction of lands in arrear for taxes, at the rate of two shillings and sixpence per acre, and the final sale of such lands remaining unsold on the terms last mentioned, shall be the interval between the day when such lands shall be offered for sale upon the said terms, and the second day of the Court of General Quarter Sessions of the Peace then next following: *Provided nevertheless*, that in all cases where a longer period has been construed and acted upon by any Sheriff in this Province, such construction and all acts there-under performed by such Sheriff, shall be and the same

are hereby confirmed and made valid, any law to the contrary thereof in any wise notwithstanding.

CXAP. XLVII.

AN ACT to continue an Act passed in the seventh year of the reign of His late Majesty King William the Fourth, intituled, "An Act to alter and amend an Act passed in the fourth year of His Majesty's reign, intituled, 'An Act to extend the Limits of the Town of York, to erect the said Town into a City, and to Incorporate it under the name of the City of Toronto.'"

[Passed 10th February, 1840.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLVIII.

AN ACT to extend the time for completing the expenditure upon the Post Road between Cornwall and L'Original.

[Passed 10th February, 1840.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. XLIX.

AN ACT to extend the time for completing the Erie and Ontario Rail-road.

[Passed 10th February, 1840.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. L.

AN ACT to extend the time for re-paying the Loan to the Oakville Harbour.

[Passed 10th February, 1840.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LI.

AN ACT granting a further sum of three hundred and fifty-nine pounds, for completing the Bridge over the River Thames at Chatham, in the Western District.

[Passed 10th February, 1840.]

Preamble; £359 to be raised by loan on Government Bills or Debentures. 2. Warrant may be issued for £359 in favour of Commissioners for building the bridge at Chatham. 3. Provisions of 7 Wm. IV. Chap. 83, extended to this loan.

Limitation of the right of ferries within a certain distance of this bridge;

[See 7 Wm. IV. Chap. 83.]

Penalty;

How recoverable;

How appropriated.

IV. *And be it further enacted by the authority aforesaid, That from and after the passing of this Act, it shall not be lawful for any person or persons, without the consent in writing of the said Commissioners, or a majority of them, first had and obtained for that purpose, to establish a Ferry across the said River Thames within two miles of the said Bridge, nor to use any boat, scow or other craft, for the conveyance of passengers, horses, cattle or carriages, across the said River, until the tolls shall be taken off the said Bridge, and the same Bridge shall be thrown open to the public to pass over toll free; and any person or persons offending against this Act, shall forfeit and pay a fine or penalty not exceeding the sum of five pounds, nor less than one pound per diem, so long as he, she or they, shall continue such Ferry: such fine or penalty to be recovered before any one or more of Her Majesty's Justices of the Peace for the Western District, in the same manner as fines and penalties are recoverable under and by virtue of an Act of the Parliament of this Province, made and passed in the fourth year of His late Majesty's reign, intituled, "An Act to provide for the summary punishment of petty trespasses and other offences:" and all fines and penalties recovered under this Act shall be applied in the same manner as fines and penalties are directed to be applied and appropriated in and by the said recited Act, of the seventh year of the reign of His late Majesty.*

CHAP. LII.

AN ACT to increase the Capital Stock of the Port Hope Harbour Company, and to extend the period for completing the said Harbour.

[Passed 10th February, 1840.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LIII.

AN ACT to repeal, alter and amend, the Laws now in force for the regulation of the several Macadamized Roads within this Province.

[Passed 10th February, 1840.]

WHEREAS the laws now in force for the regulation of the Macadam-
ized roads within this Province require amendment, and it is of great im-
portance that one uniform system should be adhered to for regulating the
construction, management and maintenance, of the same: *Be it therefore
enacted* by the Queen'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 autho-
rity 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, the eighth, ninth, tenth, eleventh, twelfth, fifteenth, sixteenth, seven-
teenth, eighteenth and nineteenth clauses, of an Act passed in the third
year of the reign of His late Majesty King William the Fourth, intituled,
"An Act to raise a sum of money for the improvement of the roads in the
vicinity of the Town of York, and for other purposes therein mentioned;"
and also the eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth,
fifteenth, sixteenth, seventeenth, twentieth, twenty-first, twenty-second,
twenty-third, twenty-seventh, thirtieth, thirty-first, thirty-fifth, thirty-sixth,
thirty-seventh, thirty-eighth and thirty-ninth clauses, and so much of the
third clause of an Act passed in the sixth year of the reign of His said late
Majesty, intituled, "An Act to continue the improvement of certain roads
in the Home District," as relates to the power of Trustees; and also the
third, sixth, seventh, eighth and ninth clauses, of an Act passed in the
seventh year of His said late Majesty, intituled, "An Act for granting a
further sum for completing the Macadamization of Yonge Street, and
other roads in the Home District;" and also the third clause of an Act
passed in the first year of the reign of Her present Majesty Queen Vic-
toria, intituled, "An Act for continuing the improvement of the Lake
Road West of the City of Toronto;" and also so much of an Act passed
in the seventh year of His late Majesty's reign, intituled, "An Act to raise
a sum of money to Macadamize the main road leading from Hamilton to
Brantford, in the District of Gore, and for other purposes therein men-
tioned;" also of an Act passed in the same year, intituled, "An Act to
authorize the construction of a Macadamized road from Dundas to
Waterloo, in the Gore District;" also of an Act passed in the same year,
intituled, "An Act to raise a sum of money to Macadamize the roads
leading from Brockville to Saint Francis, Charleston, Lyndhurst, Bever-
ley and Portland, in the District of Johnstown, and to authorise the erec-

Preamble.

[See 3 Wm. IV, Ch. 37;
4 & 5 Vic. Chaps. 28,
38 & 63]

Sections 8, 9, 10, 11, 12,
15, 16, 17, 18 & 19,
3d Wm. IV, Ch. 37;

Also the 8th, 9th, 10th,
11th, 12th, 13th, 14th,
15th, 16th, 17th, 20th,
21st, 22nd, 23rd, 27th,
30th, 31st, 35th, 36th, 37th
32th and 39th Sections,
and part of the 3rd Sec.
6th Wm. IV, Ch. 30;

Also Sections 3, 6, 7, 8
and 9, of 7th Wm. IV,
Chap. 78;

Also Sec. 3, 1st Victoria,
Chap. 34;

Also part of 7th Wm. IV,
Chap. 78;

Also part of 7th Wm. IV,
Chap. 78;

Also part of 7th Wm. IV,
Chap. 80;

Also part of 7th Wm. IV,
Chap. 81;

Also part of 7th Wm. IV,
Chap. 82;

Also such parts of any
other Statutes as are
contrary to the provisions
of this Act, repealed.

tion of toll gates on the said roads;" also of an Act passed in the same year, intituled, "An Act to raise a sum of money to Macadamize the road between the Town of Kingston and the Village of Napanee, in the Midland District, and for other purposes therein mentioned;" and also of an Act passed in the same year, intituled, "An Act to raise a sum of money to Macadamize the main road from Queenston to the West boundary line of Grimsby, in the Niagara District, and for other purposes therein mentioned;" and of any other Act passed by the Legislature of this Province, as may be contrary to or inconsistent with the provisions of this Act, shall and the same are hereby declared to cease and stand repealed.

Trustees of the several
turnpike trusts in each
District to form a Board
in their Districts;

Powers of such Boards.

II. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the present Trustees of the several Turnpike Trusts in this Province, to form a Board within their respective Districts, to be known by the style and title of the Commissioners of the — District Turnpike Trust; and the said Commissioners, for the time being, shall have power and authority over the several Macadamized roads within the limits of their Districts, respectively, so far as the improvement of the same has been authorised by any Act of the Legislature of this Province.

Oath to be taken by
each Commissioner.

III. *And be it further enacted by the authority aforesaid*, That no person who shall be appointed a Commissioner by virtue of this Act, shall act as such Commissioner, unless he shall, before he shall act as such, take and subscribe before any Justice of the Peace for the District, (who is hereby authorised to administer the same,) the oath following, that is to say: "I, A. B., do swear that I will truly and impartially, according to the best of my judgment, execute and perform the several powers, authorities and trusts reposed in me as a Commissioner, by virtue of an Act passed in the third year of the reign of Her Majesty Queen Victoria, intituled, 'An Act to repeal, alter and amend, the laws now in force for the regulation of the several Macadamized roads within this Province.'"

Powers of Commissioners
as to course of roads;

Over private lands;

Tendering satisfaction;

Width of road;

Powers to enter upon
lands;

IV. *And be it further enacted by the authority aforesaid*, That it shall be lawful for the said Commissioners, and they are hereby authorised and empowered to make, divert, shorten, vary, alter and improve, the course of any part of the above-mentioned roads within their own trusts, upon, through, in and over, any private lands or grounds, making or tendering satisfaction to the owners thereof, or persons interested therein for the same, and for any damages they may sustain thereby, in such manner as they shall think proper, so that any such road shall not exceed one chain in width, together with such footpaths, causeways, bridges, arches, banks, culverts, ditches, drains and fences, on the line of such road, as they shall think necessary and expedient; and it shall also be lawful for such Commissioners, and their Engineer or Surveyor, and workmen, with or without carts or carriages, from time to time, to enter upon the lands and grounds through which or whereupon such roads, footpaths, causeways, bridges, arches, banks, culverts, ditches, drains and fences, is or are intended

to be made or pass, and also upon any adjoining lands or grounds, to stake out the same in such manner as the said Trustees shall think necessary and expedient, without being deemed a trespasser or trespassers, and without being subject or liable to any fine, penalty or punishment, for entering or continuing upon such lands or premises, respectively, for any of the purposes of this Act; and if any person shall pull up, remove or destroy, any stakes or other marks used for the purposes aforesaid, every person so offending shall forfeit and pay for every such offence, a sum not exceeding twenty shillings: *Provided always*, that it shall not be lawful for the Commissioners appointed under and by virtue of this Act, in altering or diverting the course of any part of the turnpike roads under their care and management, to take or pull down any dwelling house, or to take or make use of any orchard, garden, planted walk, or avenue to a house, or any enclosed ground planted as an ornament or shelter to a house, or set apart as a nursery for trees, or any part thereof, respectively, without the consent of the owner or proprietor thereof in writing first had and obtained: *Provided always*, that if the owners or occupiers of any lands or grounds taken by the Commissioners for the purposes of this Act, shall not be satisfied with the allowance offered, the same shall be decided by a jury of the District in which such road shall be situated, at the Court of Quarter Sessions, to be empaneled and sworn for that purpose, at the request of the party aggrieved; and if such verdict shall not exceed the amount offered, the owner of the said land shall pay the costs of the Court on the assessment of such damages, and in case the verdict of the said jury shall exceed the offer made by the said Commissioners, then the costs of such trial and assessment shall be paid by the said Commissioners out of any moneys in their hands for the purposes of the said Act,

Penalty for removing stakes, &c.;

Commissioners not to pull down a dwelling house, or make use of an orchard, &c.;

Without consent of owner;

If owner of lands dissatisfied with tender, to be decided by a jury;

Costs, by whom payable.

V. *And be it further enacted by the authority aforesaid*, That it shall be lawful for the Commissioners under this Act to treat, contract and agree, with the owners of and persons interested in any lands, tenements, hereditaments and premises, with their appurtenances, which they shall deem necessary to purchase for the purpose of widening, diverting, altering and improving, any of the turnpike roads, for the purchase thereof, and for the loss or damage such owners or persons may otherwise sustain; and also to contract and agree with any person or persons whomsoever, for the purchase or demise from him, her or them, of and to hold any land or ground for the purpose of digging stones, gravel and materials therefrom for the repair or use of the said roads; and at any time after to sell the ground so purchased by public auction or tender: *Provided always*, that the entering into any such agreement or contract shall not be compulsory against any person or persons unwilling to enter into the same; and after any new road shall be completed, the lands or grounds constituting any former road or roads, or so much and such part thereof as in the judgment of the Commissioners may thereby become useless or unnecessary, or shall and may be stopped up as public highways, shall be vested in and shall and may be sold and conveyed by the said Commissioners, in the manner before-mentioned; and the money arising from

Commissioners may treat for the purchase of lands with the owners;

For altering the road;

Or for obtaining materials;

And may afterwards sell land purchased by them;

Not compulsory on any owner;

Old roads not required may be stopped up, and the land sold;

Or exchanged with -
owners for lands taken
from them.

such sale, shall be applied for the purposes of this Act, for repairing and maintaining the turnpike roads; or it shall be lawful for the said Commissioners, instead of making such sale, as aforesaid, to give up to the owners of any adjoining lands, whose building, land or ground, shall be taken for the purposes of this Act, any part or parts of the present or old roads, in lieu of and in exchange for the same, in such way and manner as such Commissioners and owners or proprietors, shall agree upon and think fit.

Commissioners to hold
no office of profit, nor
have any interest in any
contract in any way
relating to the roads;

Nor in any way receive
any of the monies appro-
priated to making the
roads;

Penalty for breach of
these regulations;

After conviction Com-
missioner incapable of
serving;

And all his acts as Com-
missioner, declared void
thence forward;

Acts as Commissioner
before conviction valid;

Not to extend to monies
paid for sale of or
damages to lands;

VI. *And be it further enacted by the authority aforesaid,* That no Commissioner shall, from and after this Act shall be in force, enjoy any office or place of profit, or have any share or interest, or be in any manner, directly or indirectly, concerned in any contract or bargain for making or repairing, or in any way relating to the roads for which he shall act, or for building or repairing any Toll House, Toll Gate or Weighing Engine thereon, or for supplying any materials for the use thereof, nor shall any such Commissioner let out for hire any waggon, cart or other carriage, or any horse, cattle or team, for the use of the turnpike roads for which he shall act as Commissioner; nor by himself or by any other person for or on his account, directly or indirectly, receive any sum or sums of money to his use or benefit, out of the sums appropriated by any Act of the Legislature for making said roads, or out of the Tolls collected out of the said roads; and if any person after having been appointed a Commissioner of said roads, shall, without having first duly resigned such office at some meeting of the Commissioners of the said roads, hold any such office or place, or be concerned in any such contract or bargain, or shall sell any such tools or implements, or let out for hire any waggon, cart, carriage, horse, cattle or team, or receive any money out of the appropriations aforesaid, or out of the Tolls collected on said roads, every Commissioner so offending shall for every such offence, forfeit and pay the sum of one hundred pounds, to be recovered in the manner hereinafter provided; and from and after the conviction of any such offence, be incapable of acting as a Commissioner of said roads; and all acts, orders, matters and things, made or done as a Commissioner, by the party so convicted, shall from thence forward be null and void to all intents and purposes, and all and every such contract or bargain, shall be and is hereby declared to be void, and shall not be enforced or carried into effect by the other Commissioners entering into the same: *Provided always,* that all acts, orders, matters and things, made or done by such Commissioner previous to his being convicted of any such offence, shall be good, valid and effectual: *And further provided,* that nothing in this enactment contained, shall extend or be deemed or construed to extend, to any Commissioner who shall receive any sum or sums of money paid out of the appropriation aforesaid, or out of the Tolls collected on said roads, by way of purchase money, damages, rent, recompense or satisfaction, agreed upon or awarded to such Commissioner for any lands, grounds or tenements, purchased or taken for the purpose of diverting or altering, or for the use of said roads, or for a repository for materials to be used thereon; or for

damage done to any enclosed or private grounds of such Commissioner in taking materials therefrom, or in carrying and conveying them over the same; or to prevent any such Commissioner from selling or disposing of, for the use of the turnpike roads, any materials or any timber grown or growing on the grounds of such Commissioner.

Or for materials taken;

Or to prevent his selling for the use of the road any materials or timber.

VII. *And be it further enacted by the authority aforesaid.* That it shall and may be lawful for the Commissioners acting under the authority of this Act, and they are hereby empowered and required by writing under their hands, to appoint a competent Engineer or Surveyor, whose duty it shall be to superintend the construction and repairing of the turnpike roads under their care or management, to inspect and measure materials, make surveys, and report upon all proposed alterations, and generally to assist under the directions of the Commissioners in or about the execution of this Act, for making and maintaining such roads; and the said Commissioners are hereby empowered, by writing under their hands, to appoint such Collector or Collectors of the Tolls arising on such roads, and a Clerk or Clerks, and such other officers as the said Commissioners shall think necessary; and such Engineer or Surveyor, Clerks, Collectors and other officers, or any of them, from time to time to remove, or on removal, death or resignation, of any such Engineer, Clerks, Collectors and other officers, to appoint others in their stead; and may and are hereby authorised, out of any moneys arising on such turnpike roads, to allow and pay to such Engineer, Collectors, Clerks and other officers, and to such other persons as shall be assisting them, or any of them, in or about the execution of this Act, in making and repairing such roads, such salaries, rewards and allowances for their attendance, care, labour and services, as such Commissioners shall deem reasonable: *Provided always,* that it shall not be lawful for the Commissioners to appoint, or continue the person who may be appointed to act as their Clerk in the execution of this Act, or the partner of any such Clerk, to be or to hold the offices of Clerk and Engineer or Surveyor, for the purposes of this Act, or to appoint or continue the person who may be appointed Engineer or Surveyor, or the partner of such Engineer or Surveyor, to be Clerk and Engineer or Surveyor, for the purposes of this Act; and if any person shall act in both capacities of Clerk and Engineer or Surveyor, or if any person being the partner of such Clerk, shall act as Engineer or Surveyor, or being the partner of such Engineer or Surveyor shall act as Clerk, in the execution of this Act, every person shall for every such offence forfeit and pay the sum of fifty pounds, to be recovered in the manner hereinafter provided:

Commissioners to appoint an Engineer or Surveyor,

His duty;

Commissioners to appoint Collectors of tolls, Clerks and other necessary officers;

And to remove them;

And appoint others;

And to fix and pay their salaries;

The same person not to act as Clerk and as Engineer or Surveyor;

Penalty for breach of this enactment.

VIII. *Provided always, and be it further enacted by the authority aforesaid.* That the Commissioners shall and they are hereby required to take sufficient security from the Engineer or Surveyor, Clerks and Collectors of Tolls; and if they shall so think proper, shall and may also take such security from any other officer to be appointed under and by virtue of this Act.

Commissioners to take security from Engineer, Clerks and Collectors;

And from any other officer they may think fit

Penalty on Engineer, Clerk or officer, being concerned in any contract, &c.

IX. *And be it further enacted by the authority aforesaid,* That if the Engineer or Surveyor, or Clerk, or other officer to be appointed by the Commissioners under and by virtue of this Act, shall have any part, share or interest in any contract or bargain for work, materials or tools, to be done or provided, upon, for or on account, of the turnpike roads, or any part thereof, under his or their care and management, or shall upon his or their own accounts, directly or indirectly let to hire any team, or sell and dispose of any timber, stone or other materials, to be used or employed in making or repairing such roads, he or they shall forfeit for every such offence the sum of fifty pounds.

Power of Engineer, &c. to search for, dig and take materials, in private grounds;

X. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the Engineers or Surveyors to the Commissioners under this Act, and for all such persons as he or they shall appoint, to search for, dig, gather, take and carry away, any materials for making or repairing the turnpike roads, in or out of the lands of any person or persons where the same may be had or found, in any Township or place in which any of such roads shall lie or be situate, or in any adjoining Township or place, not being an orchard, garden, planted walk or avenue to any house, or any enclosed ground planted as an ornament or shelter to an house, or set apart as a nursery for trees, making and tendering such satisfaction for such materials, and for the damage done to the owners or occupiers of the land where or from whence the same shall be dug, gathered and carried away, or over which the same shall be carried, as the said Commissioners shall judge reasonable; and also to carry through and over any enclosed lands or ground, not being an orchard, garden, planted walk or avenue to any house, or any enclosed ground planted as an ornament or shelter to a house, or set apart as a nursery for trees, paying or tendering for the damage done in going through or over any enclosed lands or grounds for or with such materials, such sum or sums of money as the said Commissioners shall deem reasonable; and in case of any difference between such Commissioners, Engineers or other persons appointed or employed, as aforesaid, and the owners and occupiers of such lands, or any of them, concerning such payments and damages, as aforesaid, any two or more Justices of the Peace for the District, on ten days notice thereof being given in writing by either party to the other, shall hear, settle and determine, the matter of such payment and damages, and the costs attending the hearing and determining the same.

Not being an orchard, &c.;

Making and tendering satisfaction;

As Commissioners may approve;

In case of difference;

To be settled by two Justices.

No materials to be taken without notice to the owner of the premises, to appear before two Justices to oppose it;

XI. *Provided always, and be it further enacted by the authority aforesaid,* That it shall not be lawful for any Engineer, or any other person or persons acting under the authority of this Act, to dig, gather, get, take or carry away, any materials for making and repairing the turnpike roads from any enclosed land or ground, until notice in writing signed by the Engineer, shall have been given to the owner or owners of the premises from which such materials are intended to be taken, or his or their known agent, or to the occupiers of the premises from which such materials are intended to be taken, or left at the house or last or usual place of abode of such

owner or occupier, to appear before any two or more Justices of the Peace acting in and for the District, to shew cause why such materials shall not be had therefrom; and in case such owner, agent or occupier, shall attend pursuant to such notice, but shall not shew sufficient cause to the contrary, such Justices shall, if they think proper, authorise such Engineer or other person to dig, get, gather, take and carry away such materials, at such time or times as to such Justices shall seem proper; and if such owner, agent or occupier, shall neglect or refuse to appear, the said Justices shall and may, upon proof on oath of the service of such notice, which oath they are hereby empowered to administer, make such order therein as they shall think fit, as fully and effectually to all intents and purposes as if such owner or occupier had attended: *Provided always*, that the Commissioners shall not be required to pay any larger sum, as a satisfaction for any materials raised, taken or carried away, from any lands or grounds for making or repairing the turnpike roads, than such sum of money as shall appear to the two or more Justices settling and determining such satisfaction that such materials might or could have been actually sold for, in case the same had not been raised, taken or carried away by such Commissioners; and in case the said Justices shall be of opinion that the said materials, before they had been so raised, taken or carried away, could not have been sold or disposed of, then the said Justices shall only assess the damage done to lands or grounds of the owners or occupiers thereof, by the raising, gathering and carrying away the same.

If owner appear, Justices may decide;

If owner neglect to appear, Justices may decide, on proof of service of notice;

Proviso as to sum which Commissioners may be called on to pay.

XII. *And be it further enacted by the authority aforesaid*, That if the Engineer or Surveyor, or any other person employed by him, shall by reason of the searching for, digging or getting any gravel, sand, stone or other materials for repairing the turnpike roads, make or cause to be made any pit or hole in any lands or grounds, as aforesaid, wherein such materials shall be found, the said Engineer or Surveyor shall forthwith cause the same to be sufficiently fenced off, and such fence supported and repaired, during such time as the said pit or hole shall continue open, and shall within three days after such pit or hole shall be opened or made where no gravel, stones or materials shall be found, cause the same forthwith to be filled up, levelled and covered with the turf or clod which was dug out of the same, and where any such materials shall be found, within fourteen days after having dug up sufficient materials in such pit or hole, if the same is not likely to be further useful, cause the same to be filled up, sloped down or fenced off, and so continued, and if the same is likely to be further useful, the said Engineer shall secure the same by posts and rails, or other fences, to prevent accidents to persons or cattle; and in case such Engineer or Surveyor shall neglect to fill up, slope down or fence off such pit or hole, in manner and within the time aforesaid, he shall forfeit the sum of twenty shillings for every such default.

Proviso in case pit or holes are dug for materials;

To fence same round;

If no materials found to fill up pit;

Penalty for negligence.

XIII. *And be it further enacted by the authority aforesaid*, That it shall be lawful for the Engineer or Surveyor, and such other person and persons

Engineers, &c. may cut drains and water-courses through contiguous lands;

May make ditches, fences and barriers;

Making satisfaction to the owner of lands injured;

Disputes as to value to be settled by two Justices.

Meetings of Commissioners regulated;

No orders to be made unless a majority of Commissioners present concur;

All the powers of Commissioners may be executed by the major part of them;

Number present not being less than five;

Chairman to be appointed;

To have a casting vote;

No order once made to be revoked, unless notice of intention to revoke be given;

And affixed on turnpike gates;

And unless revocation be made by a greater number than made the order;

as shall be appointed by the Commissioners under this Act, from time to time to cut, make and maintain, drains or water-courses upon and through any lands lying contiguous to any of the turnpike roads; and also to make ditches in such places and in such manner as such Engineer, by order of such Commissioners, shall judge necessary; and make sufficient fences and barriers, and other erections, on any part or parts of the said roads, in order to prevent any rivulet or current of water from flooding the same, as such Engineer shall judge necessary, making such satisfaction to the owner or occupier of such lands so to be used, cut through or built upon, for the damages which they, or any of them, may sustain thereby, as such Commissioners shall judge reasonable; and in case of any difference between such owner or occupier and such Commissioners touching such damages, the same shall be finally settled by any two or more Justices of the District,

XIV. *And be it further enacted by the authority aforesaid,* That the Commissioners appointed under and by virtue of this Act, shall and may from time to time, meet at such time and place on or near the turnpike roads as to them shall seem convenient, and may adjourn themselves to meet at any place and time, as the major part of them present at any meeting shall appoint, and all orders and determinations of the Commissioners in the execution of this Act shall be made at meetings to be held in pursuance thereof, and not otherwise; and that no order or determination shall be made unless the major part of the Commissioners present shall concur therein, and that all acts, orders and proceedings, relating to this Act, which are directed to be had, made, done or exercised, by or before the said Commissioners, and all the powers and authorities vested in them generally, shall and may be had, made, done and exercised, by the major part of the Commissioners who shall be present at the respective meetings to be held by virtue of this Act, the whole number present not being less than five, and that all acts, orders or proceedings, had, made or done, by or before such five Commissioners, shall have the same force and effect as if the same were had, made or done, by or before all the said Commissioners; and that a Chairman shall and may, in the first place, be appointed at any meeting to be held by virtue and for the purposes of this Act, who shall have the casting or decisive vote, in case of an equal number of votes, (including the Chairman's vote); and that no order or determination at any meeting of the said Commissioners once made, agreed upon or entered into, shall be revoked or altered at any subsequent meeting, unless notice of the intention to make such revocation or alteration shall have been given by three or more Commissioners, by writing under their hands, to the Clerk to the said Commissioners at a previous meeting, and entered in the book of proceedings of such meeting; and unless notice, signed by any two or more Commissioners, shall have been affixed on all the turnpike gates then erected on such roads, twenty-one days at least before such meeting; nor unless such revocation or alteration shall be agreed to be made by a greater number of Commissioners than concurred in the making of any such order or determination; and at their

several meetings the Commissioners shall pay and defray their own expenses, except any sum not exceeding ten shillings per diem, for the use of the room wherein they shall meet.

Commissioners allowed no expenses, except for the room in which they meet.

XV. *And be it further enacted by the authority aforesaid,* That all orders and proceedings of the Commissioners appointed under and by virtue of this Act, together with the names of the Commissioners present at every meeting, shall be entered in a book or books, to be kept by the Clerk to the said Commissioners for that purpose, and be signed by the Chairman of the meeting or meetings at which such orders or proceedings shall be from time to time made or had; and that such book or books shall be open at all reasonable times to the inspection of any of the Commissioners, without fee or reward, and such orders and proceedings, so entered and signed by the Chairman of such meeting or meetings, as aforesaid, shall be deemed and taken to be original orders and proceedings, and which said book or books, as well as the book or books in which the oath directed to be taken by the said Commissioners shall be entered, shall and may be read in evidence in all Courts whatsoever, in all cases of appeal, and in all prosecutions, suits and actions whatsoever.

Orders and proceedings of Commissioners to be entered in a book;

To be signed by Chairman;

Books open for inspection;

Books may be read in evidence in Courts,

XVI. *And be it further enacted by the authority aforesaid,* That the Commissioners under this Act shall, and they are hereby required from time to time, and at all times, to order and direct a book or books to be provided and kept by their Clerk, for the time being, in which book or books the Clerk shall enter, or cause to be entered, true and regular accounts of all sums of money received, paid, laid out and expended, for or on account of each road, respectively, and of the several articles or things for which such sums of money shall have been disbursed, laid out and paid; and all books containing the accounts and proceedings of the Commissioners in the execution of this Act, shall be admitted in evidence in all Courts, and by all Judges, Justices and others, without proving the facts therein contained, unless such facts, or any of them, shall be first controverted; and all such books shall be preserved and kept by the Clerk for the time being of such Trustees, and shall at all reasonable times be open to the inspection of the said Commissioners, without fee or reward; and the said Commissioners may take copies or extracts from the said book or books, without paying anything for the same; and in case the said Clerk shall refuse to permit the Commissioners to inspect the said book or books, or to take such copies or extracts, as aforesaid, such Clerk shall forfeit and pay any sum of money not exceeding five pounds for every such offence.

Books of account to be kept;

To be admitted in evidence in all Courts;

Books open to inspection

Penalty on Clerk refusing to produce books.

XVII. *And be it further enacted by the authority aforesaid,* That the Commissioners appointed under and by virtue of this Act, may sue and be sued in the name of their Clerk, for the time being; and that no action or suit to be brought or commenced by or against the Commissioners, in the name of such Clerk, shall abate or be discontinued by the death or removal of any Commissioners or Clerk, or any of them, or by the act of

Commissioners may sue and be sued in the name of their Clerk;

Actions not to abate by death of any Commissioner;

Or without consent of Commissioners;

Clerk to be reimbursed all sums which he has become chargeable with as plaintiff or defendant.

Commissioner ordering the expenditure of money not authorised by this Act made personally liable;

Exception.

General meeting of Commissioners;

When;

What to be done there;

Statement there adopted to be sent to Lieutenant-Governor within ten days;

Penalty on Clerk for neglecting.

Officers whenever required by Commissioners to render accounts of all moneys;

any Commissioner or Clerk, without the consent of the said Commissioners, but that the Clerk, for the time being to the said Commissioners shall always be deemed to be the plaintiff or defendant (as the case may be) in every such action or suit: *Provided always*, that such Clerk shall be reimbursed out of the moneys belonging to the Turnpike Road Trust, all such costs, charges and expenses, as he shall be put to or become chargeable with, or liable to, by reason of his so being made plaintiff or defendant.

XVIII. *And be it further enacted by the authority aforesaid*, That every Commissioner who shall order and direct the expenditure of any money, for or towards the making or repairing or altering any road not comprehended in this Act, or for or towards the performance of any act matter or thing not authorised by this Act, such Commissioner shall be personally liable to the Trust for the repayment of the money so expended, at the suit of any person, or of any Commissioner, or of the Clerk to the said Commissioners on behalf of the Trust: *Provided always*, that no Commissioner shall be personally subject or liable (except as next herein-before mentioned) to the payment of any sum or sums of money laid out or expended in or towards the making, repairing or altering the turnpike roads authorised by this Act, nor shall execution issue against the goods and chattels of any Commissioner by reason of his having acted as such Commissioner, or having signed or authorised or directed any contract or security to be entered into relating to any such road, unless in such contract or security such Commissioner shall have in express words rendered himself so personally liable.

XIX. *And be it further enacted by the authority aforesaid*, That it shall and may be the duty of the Commissioners, and they are hereby required to hold a general meeting on the first Monday in November in each year, when they shall examine into the revenues and debts of the Trust; and the Clerk to the Commissioners shall forthwith make out a statement of the debts, revenues and expenditure, received and incurred on account of the Trust, in the form contained in the Schedule to this Act annexed, which said statement shall be submitted to the Commissioners assembled at such meeting, and when approved by the majority of them, shall be signed by the Chairman of said meeting, and the said statement being so approved, and signed by the said Clerk, shall within ten days thereafter transmit the same to the Lieutenant-Governor of the Province, for the information of the Legislature; and if such Clerk shall refuse or neglect to make out such statement, as aforesaid, or to transmit the same within the time herein-before mentioned, the Clerk so offending shall forfeit and pay the sum of fifty pounds, to be recovered as hereinafter directed.

XX. *And be it further enacted by the authority aforesaid*, That all such officers as shall be appointed by the Commissioners under this Act, shall from time to time, when thereunto required by the said Commissioners, deliver to them, or to such person or persons as they shall for that pur-

pose appoint, true, exact and perfect accounts in writing, under their respective hands, of all moneys which they and every of them respectively shall have received to that time by virtue of any Act, and how much thereof has been paid and disbursed, and for what purpose, together with the proper vouchers for such payments, and shall pay all such moneys as shall remain in their or any of their hands to the said Commissioners, or to such person or persons as they shall appoint to receive the same, and not otherwise, within such time as the said Commissioners shall limit and appoint; and if any such officer shall refuse or neglect to produce or deliver up such accounts, and the vouchers relating to the same, or shall refuse or neglect to pay the money due on such account within the time, or in manner aforesaid, or if any such officer or person shall refuse or neglect to deliver up to the Commissioners, or to such person or persons as they shall appoint, within ten days after being thereunto required by the said Commissioners, all the books, papers, writings, tools and implements, in his custody or power relating to the execution of this Act, then in any and every of the said cases, it shall be lawful for any two or more Justices of the Peace for the District, upon complaint made to them by or on behalf of the said Commissioners, and such Justices are hereby required, by warrants under their hands and seals, to summon such officer or officers, person or persons, to appear before them, and upon his or their appearing, or not being to be found, to hear and determine the matter of such complaint in a summary way, and to settle the said account or accounts if produced; and if upon confession of the officer or officers, person or persons against whom any such complaint shall be made, or by the oath or oaths of any witness or witnesses, (which oath such Justice is hereby empowered and required to administer,) or upon inspection of the said accounts if produced, it shall appear to such Justices that any of the money which shall have been collected or received shall be in the hands of such officer or officers, person or persons, such Justices may and are hereby authorised and required, on non-payment thereof, by warrant under their hands and seals, to cause such money to be levied by distress and sale of the goods and chattels of such officer or person, respectively; and if no goods and chattels can be found sufficient to answer and satisfy the said money, and the charges of distraining and selling the same, or if such officer or other person shall not appear before the said Justices at the time and place appointed by them for that purpose, unless for some sufficient reason, or if appearing shall refuse or neglect to give and deliver up to the said Justices an account of all the receipts and payments, as aforesaid, or to produce and deliver up to the said Justices the several vouchers and receipts relating to such accounts respectively, or the books, accounts, papers, writings, tools and implements, in his custody or power relating to the execution of this Act, then and in either of the cases aforesaid, such Justices may and they are hereby authorised and required, by warrant under their hands and seals, to commit such officer or person to the common Gaol of the District, there to remain without bail or main-prize, in case he shall be committed for non-payment of any money received by him or in his hands, until he shall have accounted for and

With proper vouchers;

If officer neglect or refuse to comply in any respect;

Two Justices, on complaint, may summon such officer;

And determine the matter;

If moneys are in hands of such officer;

Justices may cause the same to be levied by distress;

If no goods;

Or if officer do not appear;

Or neglect or refuse to deliver accounts and vouchers, or books, &c;

Justices may commit such officer to gaol;

paid the full amount thereof, or compounded with the Commissioners, and paid such composition in such manner as the said Commissioners may appoint, (which composition the said Commissioners are hereby empowered to make,) or in case he shall be committed for not delivering up any account, books, papers, writings, tools or implements, as aforesaid, or make satisfaction in respect thereof to the said Commissioners: *Provided*, that no person who shall be committed for want of sufficient distress shall be detained in prison, by virtue of this Act, for a longer period of time than six calendar months.

No person committed for want of sufficient distress to be detained longer than six months.

Commissioners to continue present toll gates;

And after public notice;

To direct erection of new and additional toll gates;

And to enclose land on road side for gardens to toll-houses;

And may discontinue any toll gate;

Or change their site.

XXI. *And be it further enacted by the authority aforesaid*, That it shall be lawful for the Commissioners under this Act, and they are hereby authorised and empowered, to continue all and every or any of the Toll Gates or Toll Houses now standing, or being in, upon or across any of the turnpike roads, or on the sides thereof, and from time to time, at any special meeting to be holden for that purpose, of which meeting public notice, specifying the time and place and the purpose thereof, shall have been given in some newspaper published and circulated in the District, and also by affixing a copy of such notice on all the Turnpikes, Toll Gates or Side Bars, (if any) which shall be standing on such road, fourteen days previously to such meeting, to order and direct, by some order in writing, that there be erected and built, in, upon or across any of the turnpike roads, or any part thereof, or upon the sides thereof, or any part thereof, when and where they shall judge necessary, such and so many Turnpikes, Toll Gates, Side Bars and Chains, with Toll-houses, out houses and other conveniences thereto; and also to take in and enclose on the sides of such roads, or any part thereof, suitable garden spots for each of such Toll-houses, not exceeding one-eighth of a statute acre to each Toll-house, as the said Commissioners shall direct or appoint; and also shall and may, from time to time, at any such meeting, or at any other meeting to be called, as aforesaid, and by such order, as aforesaid, from time to time, order and direct any of such Toll Gates, Turnpikes, Side Bars and Chains, to be taken down or discontinued, or to be removed and placed elsewhere, upon, across or on the sides of such roads, in such situations as to them the said Commissioners may appear fit or eligible.

Commissioners may order lamps to be erected at toll-houses;

Collectors refusing or neglecting, liable to a penalty;

Penalty for wilful damage to such lamps.

XXII. *And be it further enacted by the authority aforesaid*, That it shall be lawful for the Commissioners to order and direct one or more lamp or lamps, to be erected and placed on or against, or in front of each and every of the Toll-houses on the roads, and also to order and direct at what times of the year, and during what hours such lamp or lamps, or any of them, shall be kept lighted; and all and every the Collector and Collectors of Tolls on such roads, who shall neglect or omit to observe and fulfil the orders of the said Commissioners in respect to the keeping or lighting such lamp or lamps, shall forfeit and pay any sum not exceeding twenty shillings for every such neglect or omission; and in case any person shall wilfully damage or injure any lamp so set up, as aforesaid, or extin-

guish the light therein, such person shall forfeit and pay any sum not exceeding forty shillings for every such offence.

XXIII. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the said Commissioners, at any of their respective meetings, if they think proper, to order or cause to be built and erected, at any of the Turnpikes or Toll Gates, on the roads under their care and management, one or more crane or cranes, machines or engines, proper for the weighing of waggons or carriages conveying any goods or merchandize whatsoever; and by notice on a board for that purpose to be put up at or near to every such weighing machine, to order and direct all and every such waggons or carriages as shall come within one hundred yards of any such crane, machine or engine, on such turnpike roads, to be weighed, together with the lading thereof.

Commissioners may order the erection of weighing machines.

And may direct waggons, &c. to be weighed.

XXIV. *And be it further enacted by the authority aforesaid,* That the Keeper of every Toll Gate or Bar, where any weighing engine shall be erected, or any other person who shall be appointed by the Commissioners to the care of such weighing engines, shall and he is hereby required to weigh all such waggons, carts and other carriages liable to be weighed, as shall pass laden through such Gates or Bars, respectively, and which he shall believe to carry greater weights than are allowed to pass without paying additional Toll; and if any Collector, or person so appointed, shall permit any such waggon, cart or carriage, to pass by or through any Toll Gate, of which he is in charge, with a greater weight than that allowed, without weighing the same, and receiving the additional Toll, he shall for every offence forfeit the sum of five pounds; and if the owner or driver of any waggon, cart or other carriage, shall refuse to allow the same to be weighed, or shall resist any Gate Keeper or other person appointed in weighing the same, the owner or driver so offending shall forfeit and pay any sum not exceeding five pounds.

Keeper of toll gate, when weighing machine erected, to weigh waggons, &c.;

Penalty for neglect of duty;

Penalty on owner refusing to have his waggon, &c. weighed.

XXV. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the Commissioners appointed under this Act, to continue to demand and receive the Tolls now directed to be taken and collected by any Act passed by the Legislature of this Province, for making and maintaining the Macadamized Roads; and they are hereby also empowered, at a meeting to be held for that purpose, of which meeting one calendar months notice shall have been given in writing, to be affixed at all Turnpike Gates which shall be then erected upon such roads, and in some public newspaper published in the District, from time to time, to lessen or reduce all or any of the Tolls to be taken and collected, as aforesaid, for and during such time as the Commissioners shall think proper; and afterwards at any meeting to be held, as aforesaid, from time to time, as they shall see occasion, to increase all or any of the Tolls so lessened, to any sum or sums of money, and also upon any Toll Gates, Turnpikes, Side Bars and Chains, being removed and placed elsewhere, or upon the

Power of Commissioners as to tolls already imposed;

May lessen tolls;

And increase again the tolls so lessened;

And on removal of gates or erection of new ones;

May impose tolls;

Amount of tolls to be sufficient to pay all charges, the interest of debt and necessary repairs.

Further powers of raising tolls after the expiration of twelve years.

Commissioners may farm out tolls;

Notice to be given;

What notice must contain;

Highest bidder to be the farmer of the tolls;

Sureties to be given;

If highest bidder fail tolls to be put up again immediately;

If no bidder, or if tolls not let at auction;

erection or buildings of such other Toll Gates, Turnpikes, Side Bars or Chains, as the said Commissioners shall direct, they are hereby authorised and empowered at any meeting to be held, as aforesaid, to fix such Toll to be demanded, taken, collected and received, at every such Toll Gate, Turnpike or Side Bar, so removed and placed or erected elsewhere, as may be found necessary and expedient to answer the purposes of this Act: *Provided always*, that the amount of Tolls collected upon each of the Turnpike roads mentioned in this Act, shall not be less annually, after deducting the expense of collection, than will pay the interest of the principal sum expended in constructing the same, respectively, and also pay such further sum as may be found necessary to keep the said roads in repair, together with the salaries of the Engineer or Surveyor, and Clerk or Clerks.

XXVI. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the Commissioners appointed under this Act, to raise such Tolls on the Turnpike roads, from and after the expiration of twelve years from the passing of this Act, as will enable them to keep such in repair, pay the necessary officers employed in the execution of this Act, and redeem the balance of the principal sum expended in constructing said roads, within a period of not less than twenty-six years from the passing of this Act.

XXVII. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the Commissioners of the Turnpike roads, at a public meeting, to let to farm the Tolls of the several Gates erected upon such Turnpike roads, in the manner hereinafter mentioned, that is to say: the Commissioners shall cause notice to be given of the time and place of letting the same, at least one month before the day appointed for that purpose, by affixing the same upon every Toll Gate belonging to such Turnpike roads, and by insertion thereof in some public newspaper circulated in the District, and specifying in every such notice the sum which the said Tolls produced in the preceding year, clear of the salary for collecting the same, in case any hired Collector was appointed, and that they will let such Tolls by auction, to the best bidder, upon his producing sufficient sureties for the payment of the money monthly, and that they will be put up at the sum which they were let for or produced in the preceding year, clear of the salary of the Collector; the highest bidder shall be the farmer or renter of the said Tolls, and shall forthwith enter into a proper agreement for the taking thereof, and paying the money at the time specified in such notice, with such surety or sureties for the payment thereof, and under such conditions and in such manner as the said Commissioners shall think fit; and if the person being the highest bidder shall not forthwith enter into such agreement, it shall and may be lawful to put up the said Tolls again immediately for another bidder, and in like manner to continue putting up the same until a bidder shall be found who shall enter into such agreement; and in case no bidder shall offer, or in case the same shall not be let at such auction, it shall be

lawful for the said Commissioners to accept a private tender for the same, and to demise or let to farm all or any of such Tolls, at any sum not less than the sum at or for which they shall then have been last let; or the said Commissioners may appoint a Collector of such Tolls, or fix some future day for the letting thereof, as they shall judge most proper, upon giving such notice thereof, as aforesaid, and shall and may in that case put them up at such sum as they shall think fit; and if the person who shall be the Farmer, Renter or Collector of such Tolls, shall take a greater or less Toll from any person than what is authorised and directed by the Commissioners under this Act, he shall for every such offence forfeit the sum of five pounds, and the said agreement for renting the Tolls shall, if the Commissioners think fit to vacate the same, become null and void: *Provided always*, that when the Commissioners shall put up the Tolls to let or farm, the said Commissioners may, if they think fit, appoint some person to bid for the same on their account, to the intent that such Tolls may not be let for less than an adequate value; and also that nothing in this Act shall be construed to empower the Commissioners to let to farm the said Tolls for a longer period at one time than twelve calendar months.

Commissioners may accept a private tender;

At not less than the sum for which they were last let;

Or may appoint a Collector;

Or fix a future day for letting the same;

Penalty for taking a greater or less toll than that regulated;

Commissioners may appoint a person to bid for tolls;

Not to be let for more than twelve months at a time.

XXVIII. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the Commissioners under this Act, or any person appointed Collector of the Tolls to be taken by virtue of this Act, to demand and take every day, (such day for the purposes of this Act being computed from twelve of the clock at night, to twelve of the clock at the next succeeding night,) the several and respective Tolls directed to be taken by the Commissioners at the several and respective Toll Gates and Turnpikes, Side Bars and Chains, in, upon, across or on the sides of the Turnpike roads, or any part thereof; and which Tolls or sums of money shall be demanded and taken, as aforesaid, before any horses, cattle or carriage whatsoever, shall be permitted to pass through any Toll Gate, or Turnpike, or Side Bar or Chain, and the Tolls or sums of money to be levied and collected by virtue of this Act, are hereby vested in the Commissioners for the purposes thereof, in manner to be thereby directed.

Commissioners and their Collectors may daily demand and receive tolls

Tolls payable before any horse, &c. allowed to pass.

XXIX. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the Commissioners, and they are hereby empowered, from time to time, as they shall see convenient, to compound and agree, for any term not exceeding one year at any one time, with any person for the Tolls payable for any horses, cattle or beasts, or carriages, passing through any of the Turnpikes or Toll Gates of the roads under their care and management, and collected and taken under the authority of this Act; and also that the Commissioners shall have power to make such equitable arrangement with any person desiring or having occasion merely to cross, or not travelling a greater distance than three hundred yards on any Turnpike road, and without any intention to evade the Tolls, as to them may appear just and reasonable.

Commissioners may compound with any person for tolls;

And make arrangement with any person having only to cross the road or travel a short distance thereon.

A board containing a table of tolls, &c. to be kept up at every toll gate;

How to be painted;

Particulars to be contained in the table;

Tickets to be provided;

What they are to contain.

XXX. *And be it further enacted by the authority aforesaid,* That the Commissioners under this Act shall and they are hereby required to put up, or cause to be put up, and afterwards to be continued at every Toll Gate within the District, a table painted in distinct and legible black letters, on a board with a white ground, containing at the top thereof the name of the Gate at which the same shall be put up, and also a list of all the Tolls payable at every such Gate, distinguishing severally the total amount of Tolls payable under this Act, and also a list of the several Gates which shall be wholly or partially cleared by the payment of Tolls at the Toll Gate or Bar where such table of Tolls shall be affixed; and the said Commissioners shall also provide tickets denoting the payment of Toll, and on such several tickets shall be specified the name of the Gate at which the same respectively shall be delivered, and also the names of the several Gates freed by such payment, one of which tickets shall be delivered gratis to the person paying the Toll, and on the production of such ticket therein mentioned, as being cleared, as aforesaid, by the payment of the Toll at the Gate where such ticket was delivered, the person producing the same, shall pass through the Gate or Gates therein mentioned without paying any further or additional Toll.

In case of death, &c. of Collector two Commissioners may appoint a temporary successor;

Who shall exercise the same powers, and be in the same manner liable as his predecessor;

Possession of toll-house, &c. may be taken if refused, under the authority of any Justice.

XXXI. *And be it further enacted by the authority aforesaid,* That upon the death, incapacity, refusal, neglect or absconding, of any Collector or Receiver of Tolls at any Turnpike or weighing machine, upon any of the Turnpike roads, any two or more of the Commissioners, though not assembled at any meeting, by writing under their respective hands, shall and may nominate and appoint a proper person in his place, to continue until the next meeting of the Commissioners, in the stead of such Collector or Receiver as shall so die, become incapable, refuse, neglect or abscond; which person so nominated and appointed shall have the like power and authority and be answerable and accountable, in the same manner, in all respects, as the person who shall die, become incapable, refuse, neglect or abscond, would have had and been subject to if living; and if any Collector or Receiver of Tolls, as aforesaid, who shall be discharged from his office by the said Commissioners, or the wife or widow, or any of the children, family or representatives of any Collector or Receiver, who shall die, abscond, refuse or neglect to perform his duty, or be discharged, or any other person having the possession of any Toll-house or building, or weighing machine, erected by virtue of this Act, shall neglect or refuse to deliver up such possession for the space of three days after demand thereof made, and notice in writing given for that purpose by any two or more of such Commissioners, or by their Clerk, then and in any of the said cases it shall and may be lawful for any Justice of the Peace for the District, by warrant under his hand and seal, to order any Constable, or other Peace Officer for the same place, with such assistance as shall be necessary, to enter such house or building, or weighing machine, in the day time, and to remove the person who shall be found therein, together with his goods, out of the same, and to put the said Commissioners, or any of their officers in possession thereof.

XTXXII. *And be it further enacted by the authority aforesaid,* That during such time as the Tolls arising on any of the Turnpike roads, or any part or parts thereof, shall be leased, demised or let to any person whatsoever, it shall and may be lawful to and for the lessee or farmer thereof, or such other person as he shall authorise and appoint, to occupy and enjoy the Toll-house or houses at which the said Tolls so let are to be collected and to arise, with all the appurtenances and conveniences to the same Toll-house or Toll-houses belonging, for the purpose of collecting such Tolls during so long time only as such lessee or farmer shall duly and regularly pay his rent or rents, and perform the covenants, agreements and conditions of such lease, demise or letting, but no further or otherwise.

While tolls are leased lessee to have possession of toll-house and appurtenances;

Paying his rent, &c.

XXXIII. *And be it further enacted by the authority aforesaid,* That in case all or any of the Tolls arising by virtue of this Act, shall be demised or let to farm to any person, in any manner whatsoever, and the lessee or farmer thereof shall neglect or refuse to perform the terms and conditions on which the same shall be so demised or let, or in case the rent or rents agreed to be paid by such lessee or farmer, shall be in arrear for the space of seven days next after any of the days on which the same ought to be paid, pursuant to the agreement for letting to farm thereof, or in case any such lease or agreement shall in any other manner become void, then and in any of those cases it shall and may be lawful for any Justice of the Peace for the District, by warrant under his hand and seal, to order a Constable or other Peace Officer, with such assistance as shall be necessary, to enter upon and take possession of any Toll-house or Toll-houses, Toll Gate, Bar or Chain or Weighing Machine, and the buildings or appurtenances thereto belonging, and to remove and put out such lessee or farmer of the Tolls arising thereat, respectively, or other person who shall be found therein, together with his goods, out of and from the possession of the said Toll-house or Toll-houses, and from the collection of Tolls, and to put the said Commissioners, or any of them, or their new appointed officer, or other person acting by or under their authority, into the possession thereof, and thereupon it shall be lawful for the said Commissioners (if they shall think fit) to vacate and determine the contract and agreement (if any) for demising or letting the said Tolls to such lessee or farmer, and the same shall be from that time utterly void to all intents and purposes, (save as to covenants or agreements,) for payment up to that time of the rent or rents thereby reserved, or other covenant or agreements on the lessee's part which shall have been holden, as if such demise or agreement had never been made; and it shall be lawful for the said Commissioners, in every such case, to demise or let to farm the said Tolls again to any other person, or cause them to be collected, as if no former demise, contract or agreement, had been made relative thereto, any rule of law or right to the contrary notwithstanding.

If lessee of tolls neglect to fulfil the conditions of lease, or if rent in arrear seven days;

Lessee may be removed by warrant of a Justice;

And Commissioners be put in possession;

And Commissioners may annul the agreement.

XXXIV. *And be it further enacted by the authority aforesaid,* That every Toll Collector upon the Turnpike roads, shall place, or cause to

Every toll Collector to keep up a board with his name painted thereon at length;

be placed on some conspicuous parts of the front of the several Toll-houses at which they shall be respectively stationed, and so that the name shall appear to public view, their Christian and Surnames, painted in black on a board with a white ground, each of such letters of such name or names, to be at least two inches in length, and of a breadth in proportion, and that such board shall be and remain at such Toll-house during the whole of the time that the person whose name shall be expressed thereon shall be on duty thereat; and if any Collector of the said Tolls shall not place such board, and keep the same there during the time he shall be such Collector, as aforesaid, or shall demand and take a greater or less Toll from any person than he shall be authorised to do by virtue of the orders and resolutions of the Commissioners, made in pursuance of this Act, or shall demand and take a Toll from any person who shall be exempt from the payment thereof, and who shall claim such exemption, or shall refuse or permit or suffer any person to read, or shall in any wise hinder any person from reading the inscriptions on such board, or shall refuse to tell his Christian and Surname to any person who shall demand the same, on being paid the said Tolls, or any of them, or shall in answer to such demand give a false name, or shall refuse or omit to give to the person paying the Toll a ticket denoting the payment of the Tolls, and naming and specifying the Toll Gate at which such ticket has been delivered, and the Toll Gate or Toll Gates (if any) freed by such payment, or upon legal Toll being paid or tendered, shall unnecessarily detain or wilfully obstruct, hinder or prevent any passenger from passing through any Turnpike or Toll Gate, or shall make use of any scurrilous or abusive language to any Commissioner, traveller or passenger, then and in every such case, every such Toll Collector shall forfeit and pay any sum not exceeding five pounds for every such offence.

Penalty for this or any other breach of duty by Collectors of tolls.

Lessee to have same powers of collecting tolls, &c. as a Collector appointed by the Commissioners;

XXXV. *And be it further enacted by the authority aforesaid,* That during such time as the Tolls, or any part thereof, shall be leased to any person whomsoever, it shall be lawful for the lessee or farmer thereof, or such other person as he shall by writing or writings under his hand authorise and appoint, to demand and take such Tolls so leased, demised or farmed, and to use all such means and methods for the recovery thereof, in case of non-payment or evasion, as any Collector of such Tolls appointed under this Act is authorised and empowered to use; and such lessee or farmer, or other person, as aforesaid, so demanding and taking such Tolls, shall be subject to the like pains and penalties and forfeitures, and shall be liable to the like actions and prosecutions as any Collector of such Tolls appointed by the Commissioners is subject or liable.

And to be subject to the same liabilities.

Competency of witnesses respecting tolls.

XXXVI. *And be it further enacted by the authority aforesaid,* That in case any dispute, suit or litigation shall arise, touching or in any wise relating to the Tolls granted by this Act, the person appointed to collect the same, or any other person acting under the authority of the Commissioners, shall not be incompetent to give evidence in any such

dispute, suit or litigation, on account of his being appointed to collect such Tolls.

XXXVII. *And be it further enacted by the authority aforesaid,* That the right, interest and property, of and in all the Toll Gates and Toll-houses, weighing machines and other erections and buildings, lamps, bars, toll boards, direction boards, mile stones, posts, rails, fences and other things, which shall have been or shall be erected and provided, in pursuance of any Act of the Legislature for improving the Turnpike roads in this Province, with the several conveniences and appurtenances thereunto belonging, and the materials of which the same shall consist, and all materials, tools and implements which shall be provided for making and repairing said road, shall be vested in the Commissioners under this Act, for the time being, and they are hereby authorised and empowered to apply and dispose of the same as they shall see fit.

Property in toll gates, toll-houses, &c. &c. vested in the Commissioners.

XXXVIII. *And be it further enacted by the authority aforesaid,* That if any person shall drive any wheeled carriage upon that part of the road between the stones or hard road and the ditch, when that part of the road is not sufficiently firm to resist the pressure of the wheels without forming ruts, further than may be necessary in passing any other vehicle, or in turning on, off or upon such road; or shall cause any injury or damage to be done to the posts, rails or fences; or shall wilfully pull down or damage any bridge, wall or any other building or erection made by the Commissioners under this Act, or repairable by them; or shall haul or draw, or cause to be hauled or drawn upon any part of the Turnpike roads, any timber, stone or other thing which shall be carried principally or in part upon wheeled carriages or sleighs; to drag or trail upon such road to the prejudice thereof; or if any person shall leave any waggon, cart or other carriage whatever upon such road, without some proper person in the sole custody or care thereof, longer than may be necessary to load or unload the same, except in cases of accident, and in cases of accident for a longer time than may be necessary to remove the same; or shall lay any timber, stones, rubbish or other thing whatever upon such road, to the prejudice interruption and danger of any person travelling thereon; or if any person shall after having blocked or stopped any cart waggon or other carriage in going up a hill or rising ground, cause or suffer to lie and remain on such road, any stone or other thing with which such cart or carriage shall have been blocked or stopped; or if any person should pull down, damage, injure or destroy any lamp or lamp-post put up, erected or placed in or near the side of the Turnpike road or Toll-houses erected thereon, or shall wilfully extinguish the light of any such lamp; or if the occupier of any land or premises adjoining said roads, shall suffer his cattle to lie about the same; or if any person shall wilfully pull down, break, injure or damage any table of Tolls put up or fixed at any Toll Gate or Bar, or any part of the Turnpike roads, or wilfully or designedly deface or obliterate any of the letters, figures or marks thereon; or if any person shall throw any earth, rubbish or other matter

Penalty for driving off the hard road;

Doing damage to fences;

Or to bridge, walls or other building;

Or trailing timber, &c. along the road;

Or leaving waggon, &c. without any one in charge of it;

Or laying timber, &c. on the road;

Or leaving blocks or stones in the road;

Or injuring lamps;

Suffering cattle to lie about the road;

Damaging toll-board, defacing the same;

Or throwing rubbish, &c. into any drain;

Or carrying away soil, &c. from the road;

Or digging holes;

Or wilfully preventing any person from passing.

or thing into any drain, ditch, culvert or other water-course, made or repairable by virtue of this Act, so as to obstruct the waters from running or draining off the Turnpike roads; or if any person shall without being thereto authorised by the Engineer or Surveyor for the time being, shovel up, scrape together, or carry away any stones, gravel, sand or other materials, dirt or soil, from any part of the Turnpike roads, or dig any holes or ditches on the allowances for the same; or if any person shall in any manner wilfully prevent any other person from passing him, or any carriage under his care upon such roads, every person offending in any of the cases aforesaid, shall forfeit and pay a sum not exceeding forty shillings for such offence.

Maliciously throwing down, &c. gates or other fence belonging to the turnpikes, a misdemeanor.

XXXIX. *And be it further enacted by the authority aforesaid, That if any person shall unlawfully and maliciously throw down, level or otherwise destroy, wholly or in part, any Turnpike Gate, or any chain, rail, post, bar or other fence, belonging to any Turnpike Gate or Bar, set up or erected to prevent passengers passing by without paying the Toll directed to be paid by the Commissioners under this Act, every such offender shall be deemed guilty of a misdemeanor, and being convicted thereof shall be punished accordingly.*

Exemption from tolls;

Lieutenant Governor;

Officer or soldier on duty;

Waggons, &c. carrying their baggage or arms;

Or wounded officer or soldier;

Or public stores for the use of Her Majesty's Forces;

Provided that such waggon, &c. belong to Her Majesty;

Or is impressed for such service;

Or for any horse, &c. carrying compost;

Or implements of husbandry;

Or hay, &c. under certain circumstances;

Or for any horse, &c. going or returning while employed in husbandry;

XL. *And be it further enacted by the authority aforesaid, That no Toll shall be demanded or taken by virtue of this Act, for any horses or carriages attending the Lieutenant Governor of the Province, for the time being; or for the horse of any officer or soldier on the march or on duty; or for any horse or other beast, or any cart, carriage or waggon employed in conveying or carrying the arms or baggage of any such officer or soldier; or in carrying or conveying any sick, disabled or wounded officer or soldier; or for any waggon, cart or other carriage, or the horse, horses or beasts drawing the same, employed in conveying any ordnance or barrack, or commissariat or other public stores of or belonging to Her Majesty, Her Heirs or Successors, for the use of Her Majesty's Forces: Provided always, that such waggon, cart or other carriage, and such horse or other beast, so employed in carrying and conveying such officers or soldiers, arms, munitions or stores, as aforesaid, shall belong to Her Majesty, or be impressed for the performance of such services; or for any horse or carriage that shall only cross any Turnpike road, and not pass above one hundred yards thereon; or for any horse, beast or other cattle, or carriage employed in carrying or conveying, having been employed only in carrying or conveying on the same day any dung, soil or compost, or manure for improving lands, or any ploughs, harrows or implements of husbandry, unless laden also with some other thing not hereby exempted from Toll, or any hay, straw, fodder for cattle, and corn in the straw, which has grown or arisen on the land or ground in the occupation of the owner of any such hay, straw, fodder or corn in the straw; potatoes or other agricultural produce, and which has not been bought, sold or disposed of, nor is going to be sold or disposed of; or for any horse or other beast employed in husbandry, going to or returning from plough or harrow, or to or from*

pasture or watering place, or going to or returning from being shod or farried, such horse or other beast not going or returning on those occasions more than one mile on the Turnpike road ; or of or from any person or persons going to or returning from his, her or their usual place of religious worship on Sundays ; or from any persons attending funerals ; or from any waggon, cart or other carriage, employed at days' wages by the Commissioners, in carrying or conveying materials for making or repairing the Turnpike roads ; or from the Engineer or Surveyor, or from the Commissioners appointed under this Act, when personally passing through any Turnpike, Toll Gate, Side Bar or Chain, upon or across any of the Turnpike roads in the District.

Or from persons going to or returning from public worship on Sundays ;

Or funerals ;

Or from waggons, &c. employed at days wages for the roads ;

Or from Engineer or Commissioners when personally passing.

XLI. And be it further enacted by the authority aforesaid, That if any person shall claim or take the benefit of the exemption mentioned in this Act, not being entitled to the same, every such person shall for every such offence forfeit any sum not exceeding forty shillings, and in all cases the proof of exemption shall be upon the person claiming the same.

Penalty on persons taking the exemption who are not entitled thereto.

XLII. And be it further enacted by the authority aforesaid, That if any person shall with any horse, cattle, beast or carriage, go off or pass from any Turnpike road through or over any land or ground near or adjoining thereto, not being a public highway, and such person not being the owner or occupier or servant, or one of the family of the owner or occupier of such land or ground, with the intent to evade the payment of the Tolls directed to be taken by any order of the Commissioners under this Act ; or if any owner or occupier of such land shall knowingly or willingly permit any person, except as aforesaid, with any horse, cattle or beast, or carriage whatsoever, to go or pass through or over such land or ground, with intent to evade any such Toll ; or if any person shall give or receive from any person other than the Collector of the Tolls, or shall forge, counterfeit or alter any note or ticket directed to be given, with intent to evade the payment of the Tolls, or any part thereof ; or if any person shall fraudulently or forcibly pass through any such Toll Gate, with any horse, cattle, beast or carriage, or shall leave upon the said road any horse, cattle, beast or carriage whatsoever, by reason whereof the payment of any Tolls or duties shall be evaded or lessened, or shall take off, or cause to be taken off, any horse or other beast or cattle from any carriage, either before or after having passed through any Toll Gate, or having passed through any Toll Gate, shall afterwards add or put any horse or other beast to any such carriage, and draw therewith upon any of the Turnpike roads, so as to increase the number of horses or other beasts drawing the said carriage, after the same shall have passed through any Toll Gate, whereby the payment of all or any of the Tolls may be evaded or lessened ; or if any person shall do any other act whatsoever, in order and with evident intent to evade the payment of all or any of the Tolls, and whereby the same shall be evaded or lessened, every such person

Penalty for evading tolls

Or knowingly permitting any person to cross land off the road to evade tolls ;

Or counterfeiting tickets ;

Or forcibly passing with any horse, &c. through a toll gate ;

Or otherwise lessening the tolls or evading the same.

shall forfeit and pay for every such offence any sum not exceeding forty shillings.

Commissioners may make a temporary road, under certain exceptions, over adjoining lands till the road be repaired, &c. making recompense;

XLIII. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the Commissioners to make, or cause to be made, a road through the grounds adjoining any ruinous or narrow part, or any part making and not completed of any Turnpike road, (not being the site or ground whereon any buildings stand, nor being an orchard, yard, garden, planted walk or avenue, or any ground planted as an ornament or shelter for an house, or any enclosed ground set apart as a nursery for trees,) to be made use of by all passengers, cattle and carriages, as a public highway, whilst the old road is repairing or widening, or a new road making, and till such time as it shall be convenient for passengers and carriages to pass along the same, making such recompense to the owners and occupiers of such private grounds, respectively, for the damage they shall or may thereby sustain, as shall be adjudged reasonable by the Commissioners; and in case of any difference concerning such damages between such owners or occupiers and such Commissioners, then it shall and may be lawful for any two or more Justices of the Peace, acting in and for the District, on fourteen days notice in writing being given by either party to the other, to settle, adjudge and finally determine, what recompense shall be made to such owners and occupiers for the damages they shall have sustained, as aforesaid.

If recompense disputed, two Justices may determine the same.

Penalty on forcibly opposing Collector in the execution of his duty.

XLIV. *And be it further enacted by the authority aforesaid,* That in case any person shall resist, or make forcible opposition against any Collector of the Tolls in the execution of his office, every such person offending therein, shall for every such offence forfeit any sum not exceeding five pounds, at the discretion of the Justices of the Peace before whom he shall be convicted.

Vacancy by Trustees neglecting to attend meetings;

XLV. *And be it further enacted by the authority aforesaid,* That if any of the present Trustees shall neglect to attend three successive meetings of the Commission, after due notice of such meetings shall have been personally served upon such Trustees, unless they shall have been prevented by sickness, or absence from the District, he or they shall be deemed and taken to have vacated their office of Trustee, and upon a representation of such absence being made to the Governor, Lieutenant Governor, or Person Administering the Government, by a majority of the Trustees, it shall and may be the duty of the said Governor, Lieutenant Governor, or Person Administering the Government, to nominate and appoint another or other Trustee or Trustees, in the place of such Trustee or Trustees neglecting to attend, as aforesaid.

To be filled by Governor.

No waggon, &c. to be driven by a person under 13 years of age;

XLVI. *And be it further enacted by the authority aforesaid,* That no cart or waggon, travelling on any of the Turnpike roads, shall be driven by any person who shall not be of the full age of thirteen years, under a penalty not exceeding ten shillings, to be paid by the owner of such cart

or waggon; and if the driver of any carriage whatsoever, on any part of the Turnpike roads, shall by negligence or wilful misbehaviour, cause any hurt or damage to any person or carriage passing, or being upon such road, or shall quit the road and walk on the footpath, or wilfully be at such distance from such carriage, or in such a situation whilst it shall be passing upon such Turnpike road, that he cannot have the direction or government of the horses or cattle drawing the same, or if any person shall by negligence or misbehaviour prevent, hinder or interrupt, the free passage of any carriage, or of Her Majesty's subjects on any of the Turnpike roads, every such driver so offending in any of the cases aforesaid, and being convicted of any such offence, either by his own confession, the view of a Justice of the Peace, or by the oath of one or more credible witness or witnesses before any Justice of the Peace for the District, shall for every such offence forfeit any sum not exceeding forty shillings, and in default of payment, be committed to the common Gaol, for any time not exceeding one month, unless such forfeiture shall be sooner paid, and every such driver offending in either of the said cases, shall and may by the authority of this Act, with or without any warrant, be apprehended by any person who shall see such offence committed, and shall be conveyed before some Justice of the Peace, to be dealt with according to law.

Penalty on negligent driving;

Fine;

Imprisonment in default of payment.

XLVII. *And be it further enacted by the authority aforesaid,* That if any person shall erect, make, or cause to be erected and made, any dwelling house, building or fence, on any part of the allowance of one chain for the Turnpike roads, or shall make any drain, gutter, sink or water-course, without the consent of the Commissioners first had and obtained, across, or otherwise break up or injure the surface of any such road, or of any part thereof, every person so offending shall forfeit and pay for every such offence any sum not exceeding forty shillings; and it shall be lawful for the Commissioners under this Act, to cause such dwelling house or other building, fence, drain, gutter, sink or water-course, to be taken down or filled up at the expense of the person to whom the same shall belong; and it shall and may be lawful for any two or more Justices of the Peace of the District, upon proof thereof to them made upon oath, to levy as well the expenses of taking down or filling up such dwelling house or other building, drain or other encroachments, as aforesaid, as the several and respective penalties hereby imposed, by distress and sale of the offender's goods and chattels, rendering the overplus (if any) to the owner on demand.

Penalty for obstructing the road by buildings;

Or making drains, &c.

Commissioners may remove buildings, &c.

Or fill up drains, &c. at party's expense;

Two Justices may levy the penalty and these expenses.

XLVIII. *And be it further enacted by the authority aforesaid,* That no person shall be capable of holding any place of profit under the Commissioners of the Turnpike roads, who shall sell any wines, ale or spirituous liquors, or provisions by retail.

No person retailing wine, &c. to hold office under the Commissioners.

XLIX. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, all persons living within half a mile of

All persons living within half a mile of either side these roads, required

to commute their statute labour at 2s. 6d. per diem;

Town Clerk required to deliver lists to Commissioner's Clerk, of persons liable to such commutation;

Ten shillings allowed Town Clerk;

Commissioners may demand such commutation;

And on refusal two Justices may levy the same by distress.

Penalty on Town Clerk for not furnishing lists.

5th and 28th sections 1st Victoria, Ch. 21, repealed as far as relates to the operation of this Act.

Money collected at toll gates to be paid to Commissioners;

Commissioners to pay half yearly to Receiver General the interest on loan for Macadamizing the roads;

either side of the roads, placed by this Act under the care and management of the Commissioners, and who are by the existing laws of the Province liable to perform statute labour, shall and they are hereby required to commute the same, and pay the amount in money, at the rate of two shillings and six-pence per day for every day for which they are assessed; and the Town Clerks for the several Townships in which the said roads are situate, are hereby required to deliver to the Clerk of the Commissioners, on or previous to the first day of May in each and every year, true and perfect lists, in writing, of the names of the several persons within such Township who are liable to pay such commutation, together with the number of days, he, she or they, are assessed, for which lists each Town Clerk, upon delivering the same, shall be entitled to demand and receive the sum of ten shillings from the Clerk of the Commissioners, to be paid out of the funds of the Trust; and the Commissioners shall have full power and authority, and are hereby required to demand and receive, or cause to be demanded and received, the amount of commutation for statute labour to be paid under this Act; and in case any person shall neglect or refuse to pay the same, for the space of fourteen days after it shall be so demanded, it shall and may be lawful for any two or more Justices of the Peace of the District, upon proof thereof to them made upon oath, to levy the same by distress and sale of the goods and chattels of the person so neglecting or refusing; and the money so arising from such commutation, shall be applied by the Commissioners for the purposes of this Act, for repairing and maintaining the Turnpike roads.

L. *And be it further enacted by the authority aforesaid,* That if any Town Clerk shall fail or neglect to furnish the list aforesaid, by the time before specified, he shall forfeit and pay for every such neglect, a sum not exceeding five pounds.

LI. *And be it further enacted by the authority aforesaid,* That so much of the fifth and twenty-eighth clauses of an Act passed in the first year of the reign of Her present Majesty Queen Victoria, intituled, "An Act to alter and amend sundry Acts, regulating the appointment and duties of Township Officers," as relates to the elections of Overseers of Highways, and the wilful stopping up of any highway or road in any Township, be and the same are hereby repealed, so far as relates to the operation of this Act.

LII. *And be it further enacted by the authority aforesaid,* That all the money collected at the different Toll Gates on each road, shall be paid by the Collector to the Commissioners of such road, when required by them; and that it shall be the duty of the said Commissioners, and they are hereby required, on or before the first day of January and the first day of July, in each and every year, to pay over to Her Majesty's Receiver General, such part of the said Tolls as shall amount to the interest of the principal money borrowed and expended in Macadamizing said roads, to be by him applied to the payment of the interest on the said

loans as it becomes due: *Provided always*, that the Commissioners shall state the amount paid on account of each road, respectively, and the money so paid shall be applied only to the debentures issued for such roads.

Separate account of sum paid on each road to be kept.

LIII. *And whereas* the Commissioners are authorised and empowered, from and after the expiration of eleven years from the passing of this Act, to raise such Tolls on the said roads as will enable them (besides keeping the same in repair) to pay the interest on the said loans, and redeem the balance of the principal sum, within a period of not less than twenty-six years: *Be it therefore further enacted by the authority aforesaid*, That the said Commissioners are hereby required to pay over the same to Her Majesty's Receiver General, at least once in every six months, at the periods before-mentioned, to be by him applied to the purpose and in the manner before specified.

Commissioners to pay to Receiver General half yearly monies raised to redeem debentures.

LIV. *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, from time to time, to nominate and appoint such person or persons as he may think fit to fill any vacancy or vacancies which may happen in the said Board of Commissioners by death, resignation or otherwise.

Lieutenant-Governor to fill vacancies in the board of Commissioners.

LV. *And be it further enacted by the authority aforesaid*, That all persons who shall have been employed by the Trustees under any Act for Macadamizing the roads, who shall have received any Tolls or other money for the purposes of such Act, which may have been repealed, or who may have or shall have had in their custody or possession any money, books, papers, writings or other things, relating to any such Turnpike road, shall account for and pay and deliver over the same, and every part thereof, to the Commissioners appointed under this Act, in like manner and under the like penalties as the several Collectors and other persons receiving any money by virtue of this Act, are by the said Act required to pay or account for the same; and it shall and may be lawful for the Commissioners appointed under and by virtue of this Act, and they are hereby empowered and required to carry into effect all such parts, provisions and enactments of the before-recited Acts of the third, sixth and seventh years of the reign of His late Majesty William the Fourth, and of the first year of the reign of Her present Majesty Victoria, for Macadamizing the roads, as shall not have been repealed.

All persons who have been heretofore employed by the Trustees to be henceforth in all respects accountable to Board of Commissioners;

Commissioners empowered to carry into effect such parts of the several statutes before-mentioned as have not been repealed.

LVI. *And whereas* several of the Trustees appointed by the above recited Acts, have for the purposes of such Acts become personally responsible for large sums of money, in anticipation of the sale of Debentures, which sale has not yet been effected, and which sums of money have actually been expended in the improvement of the Turnpike roads: *Be it therefore further enacted by the authority aforesaid*. That the Commissioners under this Act shall, out of the first money arising from the sale of

Commissioners out of the first money arising from sale of debentures to relieve former Trustees from certain responsibility.

such Debentures, pay and discharge the said sums of money, and so soon as the same shall have been paid by the said Commissioners, the said Trustees shall be and they are hereby declared to be fully exonerated and discharged from all personal responsibility respecting such sums, as aforesaid.

Commissioners to keep certain roads within the City of Toronto, and its Liberties, in repair;

And need not remove their toll gates without the Liberties of the City until the Corporation assume the payment of part of the debt.

All penalties over £5, may be recovered in any Court of Record;

Mode of proceeding to recover penalties;

Notice to offenders;

Action to be brought within three months;

Penalty under £5, recoverable before two Justices.

No distress unlawful for want of form in proceeding;

LVII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Commissioners under this Act, and they are hereby required to maintain, keep in repair, and retain under their care and management, all such portions of the Turnpike roads, situate within the Liberties and City of Toronto, as have been made by the Trustees under and by virtue of any of the before-recited Acts for Macadamizing the roads; and it shall not be compulsory upon the said Commissioners to remove their Toll Gates without the Liberties of the said City, until such times as the Corporation shall assume the payment of such parts of the loan and interest as have been expended by the Trustees in constructing the said portions of road, and shall further undertake to keep the same in repair.

LVIII. *And be it further enacted by the authority aforesaid,* That all penalties imposed by this Act, exceeding five pounds, may be sued for in any of Her Majesty's Courts of Record in this Province; and that every prosecutor or informer shall sue for and recover any forfeiture or penalty imposed by this Act, in the manner hereinafter mentioned, (that is to say:) if the same shall exceed the sum of five pounds, it shall be recoverable by action of debt in any of Her Majesty's Courts of Record, in which it shall be sufficient to declare that the defendant is indebted to plaintiff in the sum of ———, being forfeited by an Act passed in the third year of the reign of Her Majesty Queen Victoria, intituled, "An Act to repeal, alter and amend, the laws now in force for the regulation of the several Macadamized roads within this Province;" and the plaintiff, if he recover, shall have full costs: *Provided,* that there shall not be more than one recovery for the same offence, and that twenty-one days notice be given to the party offending previous to the commencement of such action, and that the same be brought and commenced within three calendar months after the offence for which such action is brought shall have been committed; and if the said penalty or forfeiture shall not exceed the sum of five pounds, the same shall be recoverable only by information before two or more Justices of the Peace, and no writ of *certiorari* to remove the same shall be allowed.

LIX. *And be it further enacted by the authority aforesaid,* That when any distress shall be made for any sum or sums to be levied by virtue of this Act, the distress itself shall not be deemed unlawful, nor the party or parties making the same, be deemed a trespasser or trespassers on account of any default or want of form in any proceeding relating thereto, nor shall the party or parties be deemed a trespasser or trespassers *ab-initio*, on account of any irregularity which shall be afterwards done in

making the distress, but the person or persons aggrieved by such irregularity, may recover the satisfaction for the special damage in an action on the case: *Provided always*, that no plaintiff or plaintiffs shall recover in any action for such irregularity, trespass or wrongful proceedings, if tender of sufficient amend shall be made by or on behalf of the party or parties who shall have committed, or cause to be committed, any such irregularity or wrongful proceedings, before such action brought; and in case no such tender shall have been made, it shall and may be lawful for the defendant in any such action; by leave of the Court where such action shall depend, at any time before issue joined, to pay into Court such sum of money as he or they see fit, whereupon such proceedings, orders and judgments, shall be had, made and given in and by such Court, as in any other actions where the defendant is allowed to pay money into the Court.

Action on the case for irregularity;

Tender of amend;

If no tender defendant may pay money into Court.

LX. *And be it further enacted by the authority aforesaid*, That if any action or suit shall be commenced against any person or persons, for any thing done in pursuance of this Act, then and in every such case such action or suit shall be commenced or prosecuted within three months after the fact committed, and not afterward; and the same, or every such action or suit shall be brought in the District and not elsewhere; and the defendant in every such action or suit shall and may plead the general issue, and at the trial thereof give this Act and the special matter in evidence; and if the matter or thing complained of shall appear to have been done under the authority and in the execution of this Act, or if any such action or suit shall have been brought after the time limited for bringing the same, or be brought and had in any other District or place, then, as afore-mentioned, the jury shall find for the defendant or defendants; and if the plaintiff shall become non-suit, or discontinue his action, after the defendant shall have appeared, or have a verdict against him, or if upon demurrer judgment shall be given against the plaintiff, the defendant shall and may recover treble costs, and have the like remedy for recovery thereof as any defendant or defendants hath or have in any cases by law.

Limitation of actions for any thing done in pursuance of this Act;

Venue;

Defendant may plead general issue;

Treble costs given to defendant in certain cases.

LXI. *And be it further enacted by the authority aforesaid*, That all penalties and forfeitures and fines, by this Act inflicted or authorised to be imposed, not exceeding five pounds, (the manner of levying and recovering of which is not herein otherwise directed,) shall upon proof and conviction of the offence, respectively, before any two or more Justices of the Peace for the District, either by confession of the party offending, or by the oath of any credible witness, (which oath every Justice is in every such case authorised to administer,) be levied, together with the costs attending the information and conviction, by distress and sale of the goods and chattels of the party offending, by warrant under the hand and seal of such Justices, which warrant they are hereby empowered and required to grant; and the overplus (if any) after such penalties, forfeitures and fines, and the charges of such distress and sale are deducted, shall be returned upon demand unto the owner of such goods and chattels;

Penalties under £5, on conviction of parties before two Justices;

To be levied with costs by distress and sale of goods;

Overplus;

If penalties not paid on conviction;

Offender may be kept in custody till he gives security to appear;

If no sufficient distress, offender to be imprisoned.

No person to be convicted summarily after the expiration of six months.

Monies arising from fines, &c. to be paid to Commissioners;

How applied.

and in case such fines, penalties and forfeitures, shall not be forthwith paid upon conviction, then it shall be lawful for such Justices to order the offender so convicted, to be detained and kept in safe custody, until return can be conveniently made, unless the offender shall give sufficient security to the satisfaction of such Justices for his appearance before such Justices, on such day as shall be appointed for the return of such warrant of distress, such day not being more than seven days from the time of taking such security, and which security such Justices are hereby empowered to take, by way of recognizance or otherwise; but if upon the return of such warrant, it shall appear that no sufficient distress can be had thereupon, then it shall be lawful for such Justices of the Peace, as aforesaid, and they are hereby authorised and required by warrant under their hands and seals, to cause such offender to be committed to the common Gaol of the District, there to remain without bail or mainprize, for any time not exceeding one calendar month, unless such penalties, fines and forfeitures, and all reasonable charge attending the same, shall be sooner paid or satisfied.

LXII. *And be it further enacted by the authority aforesaid,* That no person shall or may be convicted of any offence contrary to the provisions of this Act in a summary way, after the expiration of six months from the time when such offence shall or may have been committed.

LXIII. *And be it further enacted by the authority aforesaid,* That all moneys arising from such penalties, forfeitures and fines, as are inflicted or authorised to be imposed by this Act, shall be from time to time paid to the Commissioners, to be by them applied in repairing and maintaining the Turnpike roads, and disposed of for the purposes of this Act.

GENERAL STATEMENT of the Income and expenditure of ——— Turnpike Trusts, between the first day of November and the thirty-first day of October, on ——— road.

INCOME.			EXPENDITURE.		
£	s.	D.	£	s.	D.
Balance in the Commissioners hands brought forward			Balance due to the Commissioners brought forward.		
Revenue received from tolls			Manual labour		
Composition in lieu of Statute labour			Team work, carriages and materials		
Revenue from fines			Materials for surface repairs		
Revenue from incidental receipts			Land purchased		
Amount of money received for Debentures sold			Damages done in obtaining materials		
	£		Tradesmen's bills		
			Salaries—Engineer or Surveyor		
			Do. Clerk's		
			Law Charges		
			Interest of debt		
			Improvement		
			Debt paid off		
			Incidental expenses		
			Balance due to the Commissioners		
			Arrears of income		
			Arrears of toll for the current year		
			Arrears of composition for statute labour		
			Arrears of other receipts		
			Arrears of former years		
DEBTS.					
Amount of money loaned and expended					
Unpaid interest					
Balance (if any) due to the Commissioners					
Total debt	£		Total arrears	£	

AN ESTIMATE of the expense of maintaining the Turnpike Road on ——— Road, in the ——— District, between the first day of November and the thirty-first day of October.

	£	s.	d.
Manual labour			
Team labour and carriage			
Materials delivered on the road, exclusive of carriage			
Land purchased			
Damages done in obtaining materials			
Tradesmen's bills			
Salaries.....			
Law charges			
Interest of debt			
Incidental expenses			
	£		

State the length of the road, and the number of miles finished; the rate of toll per mile; description and quality of materials used; with the price and damages, &c. paid for by the ton or yard.—State the price.

CHAP. LIV.

AN ACT to provide for the relief of William Kingsmill and William Chisholm, Esquires.

[Passed 10th February, 1840.]

Preamble; Governor in Council may allow to William Chisholm and William Kingsmill, Esquires, certain sums to which but for the omission of making returns they would have been entitled.

CHAP. LV.

AN ACT for the relief of Allan MacDonell, Esquire, the Sheriff of the Midland District.

[Passed 10th February, 1840.]

Preamble; Justices of the Midland District, at their next Quarter Sessions, may authorise certain payments to the Sheriff of that District out of the District Funds.

CHAP. LVI.

AN ACT for the relief of Philip De Grassi.

[Passed 10th February, 1840.]

Preamble; Certain Commissioners appointed by 7 Wm. IV. Chap. 107, directed to pay £35 to P. De Grassi.

CHAP. LVII.

AN ACT to authorise the Receiver-General to dispose of the Provincial Stock, in the Bank of Upper Canada.

[Passed 10th February, 1840.]

WHEREAS it is expedient that the Stock of the Bank of Upper Canada, Preamble.
 owned by this Province, be sold, and the proceeds placed at the disposal [See 59 Geo. III. Ch. 24.]
 of the Legislature thereof: *Be it therefore enacted* by the Queen'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 Pro-
 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
 Her Majesty's Receiver-General of this Province shall, and he is hereby Receiver-General, under
 the sanction of Governor
 in Council, may sell the
 Bank Stock held on
 behalf of the Province.
 authorised and required to sell and dispose of two thousand Shares of
 the Stock of the Bank of Upper Canada, held by this Province, with the
 sanction of His Excellency the Governor-General, or Person Administering
 the Government in Council.

II. *And be it further enacted by the authority aforesaid,* That an Act 1 Vic. Chap. 50 repealed.
 passed during the third Session of the present Legislature, intituled, "An
 Act to authorise the Receiver-General to raise a loan on the security of
 the Provincial Stock in the Bank of Upper Canada," be and the same is
 hereby repealed.

III. *And be it further enacted by the authority aforesaid,* That so much Part of Sec. 1, 4 Geo. IV.
 Chap. 11, repealed.
 of the first clause of an Act passed in the fourth year of the reign of His
 late Majesty George the Fourth, Chapter eleven, intituled "An Act to
 amend and repeal part of an Act, intituled, 'An Act to incorporate sundry
 persons under the style and title of the President, Directors and Company,
 of the Bank of Upper Canada," as authorises the Lieutenant Governor
 of this Province to nominate and appoint annually four Directors of the
 said Bank of Upper Canada, be and the same is hereby repealed.

Directors to be appointed by Governor until Stock sold;

And after sale the whole number of Directors to be chosen by the Stockholders.

IV. *Provided always nevertheless, and be it further enacted by the authority aforesaid,* That the Directors appointed under the authority of the said last-recited clause, shall be named in the manner therein provided, so long as the Stock in this Act authorised to be sold shall not be disposed of; and that when the said Stock shall be sold or disposed of, as is hereinbefore provided, then the whole number of fifteen Directors, elected or appointed for the management of the said Bank, shall be elected in the manner now prescribed for the election of Directors, by the Stockholders of the said Institution, any thing in the said recited Act, or in this Act, to the contrary notwithstanding.

CHAP. LVIII.

AN ACT to authorise the Receiver-General of this Province to borrow a certain sum of money upon Debentures, for the purposes therein mentioned.

[Passed 10th February, 1840.]

Preamble.

WHEREAS the Houses of Baring, Brothers and Company, and Glynn, Halifax, Mills and Company, of London, have advanced a large sum of money for the use of this Province: *And whereas* it is necessary to provide means to repay the same: *Be it therefore enacted* by the Queen'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 the event of no other arrangement being made with the said Firms of Baring, Brothers and Company, and Glynn, Halifax, Mills and Company, or other means of payment being at the disposal of the Executive Government, it shall and may be lawful for the Governor of this Province, to authorise the Receiver-General thereof to cause any number of Debentures to be made out for such sums of money, not exceeding seventy thousand pounds, currency, as any person or persons, bodies corporate or politic, shall agree to advance on the credit of the resources of this Province; which Debentures shall be prepared and made out in such method and form as has heretofore been in use, and shall be signed by the Receiver-General, and made redeemable in not more than twenty years from their respective dates, payable in London.

Under certain circumstances Governor may authorise Receiver-General to issue Debentures to the amount of £70,000;

Debentures when to be payable.

Proceeds of Debentures how to be disposed of.

II. *And be it further enacted by the authority aforesaid,* That from and out of the moneys to be obtained by the issue and sale of such Debentures,

it shall be the duty of the Receiver-General, without delay to pay to the said Houses of Baring, Brothers and Company, and Glynn, Halifax, Mills and Company, the debt due and owing to them by or on account of this Province, and that the residue of the moneys so obtained, shall be applicable to the general uses of the Province, under the authority of the Legislature.

III. *And be it further enacted by the authority aforesaid,* That all and every the provisions contained in a certain Act of Parliament of this Province, passed in the seventh year of the reign of His Majesty King George the Fourth, intituled, "An Act to authorise the Government to borrow a certain sum of money upon Debenture, to be loaned to the Welland Canal Company," regulating or affecting the issue of Debentures authorised thereby, or their passing current with certain public accountants; the suspension of interest thereon in certain cases; the submitting to the Legislature accounts of such Debentures, and the interest paid thereon; the expense attending the same; paying off and cancelling such Debentures; the punishment for forging any such Debentures, or any matter or thing relating to or affecting such Debentures, or the knowingly uttering any such forgery, shall apply to and be in force, in respect to the provisions of this Act.

Provisions of law applicable to Debentures issued under 7 Geo. IV. Chap. 20, declared to be in force as to Debentures authorized by this Act.

CHAP. LIX.

AN ACT to provide for the support and maintenance of the Provincial Penitentiary.

[Passed 10th February, 1840.]

Preamble; £5300 granted for the support of the Provincial Penitentiary. 2. Accounts to be laid before the Legislature. 3. Gratuity to the Deputy Warden granted.

[SEE 4 & 5 VIC. CHAP. 69.]

IV. *And be it further enacted by the authority aforesaid,* That the Guards of the said Penitentiary now appointed, or hereafter to be appointed, shall severally take and subscribe, before the President of the Board of Inspectors, the following oath:—I, A. B., do promise and swear, that I will faithfully, diligently and justly, serve and perform the office and duties of Guard of the Provincial Penitentiary in Upper Canada, according to the best of my abilities. So help me God.

Guards of the Penitentiary to be sworn;

Oath.

V. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful, to and for the President of the Board of Inspectors, to administer all oaths required to be taken by the Warden and other officers of the said Penitentiary, any thing in the ninth section of an Act passed in the fourth year of the reign of His late Majesty; intituled, "An

President of the Board of Inspectors may administer oaths.

[See 4 Wm. IV. Chap. 37, Sec. 9.]

Act to provide for the maintenance and government of the Provincial Penitentiary erected near Kingston, in the Midland District," to the contrary thereof in any wise notwithstanding.

CHAP. LX.

AN ACT to enable Her Majesty to remunerate the services of Sir Allan Napier MacNab, Knight, Speaker of the Commons House of Assembly.

[Passed 10th February, 1840.]

MOST GRACIOUS SOVEREIGN:

Preamble.

WHEREAS the Honourable Sir Allan Napier MacNab, Knight, has discharged the arduous and important duties of Speaker of the House of Assembly, during a period of great public difficulty, to the entire satisfaction of that House, at a personal inconvenience and expense, for which the salary attached to that office does not provide an adequate remuneration.—We, Your Majesty's dutiful and loyal Subjects, the Commons of Upper Canada, in Provincial Parliament assembled, therefore humbly beseech Your Majesty that it may be enacted, &c.

£600 granted by way of additional remuneration to the Speaker of the House of Assembly.

CHAP. LXI.

AN ACT to extend the provisions of an Act passed in the seventh year of the reign of His late Majesty King William the Fourth, intituled, "An Act to remunerate the Honourable John Henry Dunn, for services rendered to this Province."

[Passed 10th February, 1840.]

Preamble; A quarter per cent to be reserved by the Receiver-General on loans negotiated heretofore by him. 2. This per centage not to exceed £1500 in the whole.

[SEE 7 WM IV. CHAP. 101.]

CHAP. LXII.

AN ACT to remunerate John Kidd for certain services.

[Passed 10th February, 1840.]

Preamble; £150 granted to remunerate John Kidd for services.

CHAP. LXIII.

AN ACT granting a sum of money to Samuel B. Smith, to make good a deficiency in his salary, as one of the Junior Clerks in the Executive Council Office, for the year of our Lord one thousand eight hundred and thirty-nine.

[Passed 10th February, 1840.]

Preamble; £20 granted to make good a deficiency in the salary of Samuel B. Smith, for the year 1839.

CHAP. LXIV.

AN ACT to remunerate Lewis Bright, for his long and faithful services, by granting a Pension to him and his aged Wife, or the survivor of them during their natural lives.

[Passed 10th February, 1840.]

WHEREAS from the great age and long and faithful services of Lewis Bright to his Sovereign, it is just and right to grant a pension to protect him and his aged wife from want, in their declining years, &c.

A pension of £62 10s. per annum granted to Lewis Bright and his wife, during their joint and several lives.

CHAP. LXV.

AN ACT granting a Pension to Joseph Randal, who lost his arm in the service of Her Majesty.

[Passed 10th February, 1840.]

WHEREAS Joseph Randal, of the Town of Chatham, in the Western District of this Province, suffered the loss of his left arm while serving as a Volunteer at the said Town of Chatham, on the thirtieth day of June, one thousand eight hundred and thirty-eight, when engaged by order of the Magistrates of the said Town, in cleaning and proving a piece of cannon which had been taken from the enemy at Fighting Island, and it is just and expedient to grant a Pension to the said Joseph Randal, &c.

A Pension of £20 per annum granted to Joseph Randal.

CHAP. LXVI.

AN ACT granting a Pension to the Widow and Children of the late William Kerry, who was killed in the service of Her Majesty.

[Passed 10th February, 1840.]

Preamble.

WHEREAS William Kerry, late a Captain in Her Majesty's Kent Militia, was killed in attempting to capture a Brigand who had invaded this Province from the United States of America: *And whereas* the Widow and Children of the said William Kerry are left without the means of support, and it is just and expedient to grant a Pension to the said Widow and orphan Children.

A Pension of £20 per annum granted to the Widow and Children of Captain William Kerry.

CHAP. LXVII.

AN ACT to afford assistance to the House of Industry in the City of Toronto.

[Passed 10th February, 1840.]

Preamble; £350 granted in aid of the House of Industry in the City of Toronto.

CHAP. LXVIII.

AN ACT granting a sum of money for the support of Common Schools, for the year of our Lord one thousand eight hundred and forty.

[Passed 10th February, 1840.]

Preamble; £5,650 additional granted in aid of Common Schools; Disposition thereof. 2. To be paid in discharge of Lieutenant-Governor's warrants.

Third and fourth Sections,
1 Vic. Chap. 60, revived
and continued.

III. *And be it further enacted by the authority aforesaid.* That the third and fourth clauses of an Act passed in the first year of Her Majesty's reign, intituled, "An Act granting a sum of money for the support of Common Schools for the year eighteen hundred and thirty-eight," be and the same are hereby revived and continued.

CHAP. LXIX.

AN ACT to continue an Act passed in the seventh year of His late Majesty's reign, intituled, "An Act granting a Salary to the Clerk of the Crown in Chancery, and for other purposes therein mentioned."

[Passed 10th February, 1840.]

MOST GRACIOUS SOVEREIGN:

WHEREAS an Act passed in the seventh year of His late Majesty's reign, intituled, "An Act granting a salary to the Clerk of the Crown in Chancery, and for other purposes therein mentioned," will shortly expire, and it is expedient to continue the same.—We, Your Majesty's dutiful and loyal Subjects, the Commons of Upper Canada, in Provincial Parliament assembled, do therefore humbly beseech Your Majesty that it may be enacted: *And be it enacted* by the Queen'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 recited Act be and the same is hereby continued and made perpetual.

Preamble.

[This Act ceased with the Union.]

[See 2 Geo. IV. Chap. 26;
1 Wm. IV. Chap. 16;
7 Wm. IV. Chap. 110.]

7 Wm. IV. Chap. 110,
made perpetual.

CHAP. LXX.

AN ACT to make good certain monies advanced in compliance with the Address of the House of Assembly, during the last Session of the Legislature, for the contingent expenses thereof.

[Passed 10th February, 1840.]

Preamble; £7,911 0s. 6½d. granted to make good advances for contingencies of last Session: 2. How to be accounted for.

CHAP. LXXI.

AN ACT granting to Her Majesty a certain sum of money to defray the expenses of the Civil Government, for the year one thousand eight hundred and forty.

[Passed 10th February, 1840.]

Preamble; £16,779 4s. 6d. granted for the support of the Civil Government of this Province for the year 1840.

CHAP. LXXII.

AN ACT for the relief of John Stuart.

(Royal Assent promulgated on the 18th June, 1841.)

[See Local and Private Acts, in 2nd Volume.]

CHAP. LXXIII.

AN ACT to amend an Act passed in the ninth year of the reign of King George the Fourth, Chapter two, intituled, "An Act for the relief of the Religious Societies therein mentioned."

(Royal Assent promulgated 3rd December, 1841.)

Preamble.

9 Geo. IV, Chap. 2;

WHEREAS it is expedient and desirable to allow the several Christian denominations recognised by the Statutes of this Province, to hold lands for the support of public worship, and the propagation of Christian knowledge: *And whereas* an Act passed in the ninth year of the reign of His late most Gracious Majesty King George the Fourth, intituled, "An Act for the relief of the Religious Societies therein mentioned," does not permit them to hold land for any other purpose than for the site of a Church, Meeting-House or Chapel, and Burying-ground, nor to a greater extent than five acres: *Be it therefore enacted* by the Queen'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 said Act as limits the powers of the several denominations mentioned in said Act to the quantity of five acres, and to the purposes for which lands shall be held, be and the same is hereby repealed.

Repealed.

Religious Societies
entitled to hold lands.

II. *And be it further enacted by the authority aforesaid,* That the several Religious Societies mentioned in the said Act, shall and are hereby authorised to hold lands in the manner specified in said Act, for the support of public worship and the propagation of Christian knowledge, as well as for the purposes mentioned in said Act, any thing in the Statutes commonly called the Statutes of Mortmain, to the contrary notwithstanding.

III. *And be it further enacted by the authority aforesaid,* That all the rights and privileges by this Act conferred upon the religious denominations in the first recited Act mentioned, shall be deemed and taken to extend in every respect to the Roman Catholic Church, to be exercised according to the government of the said Church.

CHAP. LXXIV.

AN ACT to make provision for the management of the Temporalities of the United Church of England and Ireland in this Province, and for other purposes therein mentioned.

[Royal Assent promulgated 3rd December, 1841.]

WHEREAS it is desired on behalf of the United Church of England and Ireland, in the Province of Upper Canada, that provision should be made by law for the internal management by the members of the said Church of the temporalities thereof, and also for allowing the endowment thereof, and it is just and expedient that such provision should be made: *Be it therefore enacted* by the Queen'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 soil and freehold of all Churches of the communion of the said United Church of England and Ireland, now erected or hereafter to be erected in the said Province, and of the Church-yards and Burying-grounds attached or belonging thereto, respectively, shall be in the Parson or other Incumbent thereof for the time being; and that the possession thereof shall be in the Incumbent for the time being and the Church-wardens to be appointed as hereinafter is mentioned, by whatever title the same may now be held, whether vested in Trustees for the use of the Church, or whether the legal estate remains in the Crown, by reason of no Patent having been issued, though set apart for the purposes of such Church, Church-yard or Burying-ground: *Provided* always, that nothing herein contained shall extend to affect the rights of any other Church or body of Christians to any landed property or Church now erected, but that the same shall remain as if this Act had not been passed.

II. *And be it further enacted by the authority aforesaid,* That all pew holders in such Churches, whether holding the same by purchase or

lease, and all persons holding sittings therein by the same being let to them by Church-wardens, and holding a certificate from the Church-wardens of such sitting, shall form a Vestry for the purposes in this Act mentioned and declared.

Ordinary meetings and proceedings of Vestry.

III. *And be it further enacted by the authority aforesaid,* That a meeting of such Vestry shall be holden on Monday in Easter week, in each and every year, after due notice thereof given during Divine Service on the morning of Easter Sunday, for the purpose of appointing Church-wardens for the ensuing year; and that at such meeting one Church-warden shall be nominated by the Incumbent of the Parsonage or Rectory to which the said Church belongs, and the other shall be elected by a majority of those present and entitled to vote at such Vestry meeting, as aforesaid: *Provided nevertheless,* that in case of such Incumbent declining or neglecting to nominate a Church-warden, then both of the said Church-wardens shall, for the current year, be elected in the manner aforesaid; and in case the members of such Vestry shall neglect to elect a Church-warden, then both of such Church-wardens shall, for the current year, be nominated by the Incumbent: *Provided always,* that if from any cause a Vestry meeting shall not take place at the time aforesaid, such appointment of Church-wardens may take place at any subsequent Vestry meeting, to be called in manner hereinafter provided; and in case of the death or change of residence to twenty miles or more from any such Church, of either of the said Church-wardens, a Vestry meeting shall be thereupon called for the election, by the said Vestry, of a new Church-warden, in case the one deceased or removed had been elected by the Vestry, or for the nomination of a new Church-warden by the Incumbent, in case the one deceased or removed had been nominated by the Incumbent.

Church-wardens.

IV. *And be it further enacted by the authority aforesaid,* That no person shall be eligible to the office of Church-warden except members of the said Church of the full age of twenty-one years, and who shall also be members of such Vestry.

Church-wardens term of office.

V. *And be it further enacted by the authority aforesaid,* That such Church-wardens shall hold their office for one year from the time of their appointment, or until the election of their successors, except in case of an appointment or nomination to fill up any vacancy occasioned by death or removal, as aforesaid, and in such case the person so appointed or nominated shall hold the said office until the next annual election.

Powers of Church-wardens.

VI. *And be it further enacted by the authority aforesaid,* That such Church-wardens so to be elected and appointed, as aforesaid, shall during their term of office, be as a corporation to represent the interest of such Church and of the members thereof, and shall and may sue and be sued, answer and be answered unto in all manner of suits and actions whatsoever, and may prosecute indictments, presentments and other criminal proceedings, for and in respect of such Churches and Church-

yards, and all matters and things appertaining thereto; and shall and may, in conjunction with the Rector or Incumbent, make and execute faculties or conveyances, or other proper assurances in the law, to all pew holders holding their pews by purchase, or leases to those holding the same by lease, and shall and may grant certificates to those who shall have rented sittings, such conveyances, leases and certificates, to be given within a reasonable time after demand made, and at the charges of the person applying for the same; and further, it shall be the duty of such Church-wardens, from time to time, to sell, lease and rent pews and sittings, upon such terms as may be settled and appointed at Vestry meetings to be holden for that purpose as hereinafter provided: *Provided always*, that any such sale, lease or renting, shall be subject to such rent charge, or other rent, as may from time to time be rated and assessed in respect thereof at such Vestry meetings.

VII. *And be it further enacted by the authority aforesaid*, That in case of the absolute purchase of any pew in any such Church, as aforesaid, the same shall be construed as a Freehold of Inheritance, not subject to forfeiture by change of residence, or by discontinuing to frequent the same; and the same may be bargained, sold and assigned to any purchaser thereof, being a member of the Church of England, and such purchaser, provided the same be duly assigned and conveyed to him, shall hold the same, with the same rights and subject to the same duties and charges as the original purchaser thereof.

VIII. *And be it further enacted by the authority aforesaid*, That any pew holder, whether by purchase or lease, and any person renting a pew or sitting, shall and may during their rightful possession of such pew or sitting, have a right of action against any person injuring the same, or disturbing him or his family in the possession thereof.

IX. *And be it further enacted by the authority aforesaid*, That such Church-warden, so to be appointed as aforesaid, shall yearly and every year, within fourteen days after other Church-wardens shall be nominated and appointed to succeed them, deliver into such succeeding Church-wardens a just, true and perfect account, in writing, (fairly entered in a book or books to be kept for that purpose, and signed by the said Church-wardens) of all sums of money by them received, and of all sums rated or assessed, or otherwise due and not received; and also of all goods, chattels, and other property of such Church or Parish in their hands as such Church-wardens, and of all monies paid by such Church-wardens so accounting, and of all other things concerning their said office; and shall also pay and deliver over all sums of money, goods, chattels, and other things, which shall be in their hands, unto such succeeding Church-wardens, which said account shall be verified by oath before one or more of Her Majesty's Justices of the Peace, who are hereby authorised to administer the same; and the said book or books shall be carefully preserved by such Church-wardens, and they shall and are

hereby required to permit any member of such Vestry, as aforesaid, to inspect the same at all reasonable times, paying one shilling for such inspection; and in case such Church-wardens shall make default in yielding such account, as aforesaid, or in delivering over such money, goods, or other things, as aforesaid, it shall be in the power of the succeeding Church-wardens to proceed against them at law for such default, or to file a bill in Equity for discovery and relief; and in case of the re-appointment of the same Church-wardens, then such account, as aforesaid, shall in like manner as is aforesaid, be made and rendered before an adjourned meeting of such Vestry, fourteen days after such re-appointment.

Extraordinary meetings
of Vestry,

X. *And be it further enacted by the authority aforesaid,* That it shall be in the power of the Incumbent of any such Parsonage, Rectory or Parish, as aforesaid, or of the Church-wardens thereof, to call a Vestry meeting whenever he or they shall think proper so to do, and it shall be his and their duty so to do upon application being made for that purpose in writing, by six at least of the members of such Vestry, as aforesaid; and in case, upon such written application being made as aforesaid, such Incumbent and Church-wardens shall refuse to call such meeting, then one week after such demand made, it shall be in the power of any six of such members of the Vestry to call the same by notice, to be affixed on the outer Church door (or Church doors where more than one) at least one week previous to such intended meeting.

Chairmen of Vestry
meetings.

XI. *And be it further enacted by the authority aforesaid,* That in all Vestry meetings, the Rector or Incumbent of the Church shall preside as Chairman when present, and in his absence such person as the majority present at such meeting shall name; and the Vestry Clerk, when there is one and present, or in case there be no Vestry Clerk, or he be absent, then such person as the Chairman shall name shall be Secretary of such Vestry meeting; and the proceedings of such Vestry meetings shall be entered in a book to be kept for that purpose, and preserved in the custody of the Church-wardens.

Regulation of pew rents.

XII. *And be it further enacted by the authority aforesaid,* That the rent-charge to be paid upon pews holden in freehold, and the rent to be paid for pews and sittings in pews, leased or rented, shall be regulated from time to time at such Vestry meetings, as aforesaid: *Provided nevertheless,* that no alterations shall be made therein except at Vestry meetings called for such special purpose, and so expressed in the notice calling the same; and further, that the charges to be made in respect of such conveyances, leases and certificates, shall in like manner be regulated at such Vestry meetings as aforesaid.

Appointment of Clerk,
Sexton, &c.

XIII. *And be it further enacted by the authority aforesaid,* That the Clerk of the Church, the Organist, the Vestry Clerk, the Sexton and other subordinate Servants of the Church, shall be nominated and ap-

pointed by the Church-wardens for the time being, and that their salary and wages shall be brought into the general account, to be rendered as aforesaid by such Church-wardens.

XIV. *And be it further enacted by the authority aforesaid, That the* Fees.
 fees on marriages, baptisms, and other services of the Church of the like nature, and the charges payable on breaking the ground in the cemeteries or Church-yards, and in the said Churches for burying the dead, shall be regulated by the Ordinary, or in case of there being no Ordinary, by the Bishop of the Diocese.

XV. *And be it further enacted by the authority aforesaid, That it shall* Vestry by-laws
 be in the power of the members of such Vestries, at such Vestry meetings, as aforesaid, to make by-laws for the regulation of their proceedings, and the management of the temporalities of the Church or Parish to which they belong, so as the same be not repugnant to this Act, nor contrary to the canons of the said United Church of England and Ireland.

XVI. *And be it further enacted by the authority aforesaid, That any* Grants of land, &c. for Church uses to be valid;
 deed or conveyance of land; or of personalty that may be made to any Bishop of the said Church, in the said Province, and to his successors, for the endowment of his See, or for the general uses of the said Church, as such Bishop may appoint or otherwise, or for the use of any particular Church then erected, or thereafter to be erected, or for the endowment of a Parsonage, Rectory or Living, or for other uses or purposes appurtenant to such Church in general, or to any particular Church or Parish to be named in such deed, and any such deed or conveyance to any Parson or Rector, or other Incumbent and his successors, for the endowment of such Parsonage, Rectory or Living, or for other uses or purposes appurtenant thereto, shall be valid and effectual to the uses and purposes in such deed or conveyance to be mentioned and set forth, the Acts of Parliament commonly called the Statutes of Mortmain or other Acts, laws or usages, to the contrary thereof notwithstanding: *Provided always,* that in order to the validity of such deeds and conveyances, the same shall be made and executed six months at the least before the death of the person conveying the same, and shall be registered not later than six months after his decease.

Notwithstanding the Statutes of Mortmain, &c.

XVII. *And be it further enacted by the authority aforesaid, That in* Church endowments;
 the event of any person or persons, bodies politic or corporate, desiring to erect and found a Church or Churches, and to endow the same with a sufficiency for the maintenance of such Church, and of Divine Service therein, according to the rites of the said Church of England and Ireland, it shall and may be lawful for him or them to do so, upon procuring the licence of the Bishop under his hand and seal for that purpose; and thereupon, after the erection of a suitable Church, and the appropriation by the founder thereof of such Church so erected, and of lands and hereditaments, or other property adequate to the maintenance thereof, and

Bishop's licence;

of an Incumbent, and adequate to the usual and ordinary charges attendant upon such Church, such provision being made to the satisfaction of the Bishop, such founder, his heirs and assigns being members of the said Church of England, or such body politic or corporate, as the case may be, shall have the right of presentation to such Church, as an advowson in fee presentative, according to the rules and canons of the said United Church of England and Ireland.

Advowson.

No spiritual jurisdiction conferred by this Act.

XVIII. *And be it further enacted by the authority aforesaid; That nothing in this Act contained shall extend, or be construed to extend in any manner, to confer any Spiritual jurisdiction or Ecclesiastical rights whatsoever upon any Bishop or Bishops, or other Ecclesiastical person of the said Church, in the said Province of Upper Canada.*

CHAP. LXXV.

AN ACT to Naturalize Elijah Nellis.

[Royal Assent promulgated by Proclamation the 22nd August, 1840.]

[See Local and Private Acts, in 2nd Volume.]

CHAP. LXXVI.

AN ACT to ascertain and provide for the payment of all just Claims, arising from the late Rebellion and Invasions of this Province.

[Royal Assent promulgated by Proclamation, 22nd October, 1840.]

MOST GRACIOUS SOVEREIGN:

WHEREAS during the late unnatural Rebellion, and on the several hostile invasions of, and lawless aggressions upon this Province, at various points, by Foreigners and others from the United States of America, divers inhabitants of this Province sustained much loss and damage by the destruction of their dwellings, and other buildings and property, and by the seizure and carrying away of their property by the rebels and invaders, and otherwise: *And whereas* other of the said inhabitants essentially contributed to the effectual defence of the Province, by capturing many of the rebels and invaders, by advancing money and supplying meat, drink, lodging, clothing, arms and accoutrements, and also conveyances for the Militia Forces and otherwise, and by performing many important services in various ways, for which they have not hitherto been paid or satisfied, and their claims and demands are still outstanding: *And whereas* it is just and expedient that all such claims and demands should be paid and satisfied, after the same have been ascertained in the manner hereinafter mentioned: We, Your Majesty's dutiful and loyal Subjects, the Commons of Upper Canada, in Provincial Parliament assembled, therefore humbly beseech Your Majesty that it may

Preamble.

(See Statutes of Canada, 4 & 5 Vic. Chap. 30.)

be enacted: *And be it enacted* by the Queen'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 now raised, levied and collected, or hereafter to be raised, levied and collected, and in the hands of the Receiver-General of this Province, and unappropriated, there be granted to Her Majesty, Her Heirs and Successors, a sum not exceeding forty thousand pounds, which said sum, not exceeding the said sum of forty thousand pounds, shall be appropriated, applied and disposed of in the payment of all and every, and so many and such of the claims, or "sums allowed" in the third column of the Schedules hereinafter directed to be made out and delivered or sent to the Governor of this Province, by the Commissioners to be appointed under this Act, and the same shall be paid under the warrants of the Governor, as hereinafter provided.

£40,000 granted for payment of claims.

II. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the Governor of this Province, as soon as may be after the passing of this Act, by several Commissions under the Great Seal of this Province, to appoint three Commissioners for each District of this Province, one of whom shall have been a resident for at least one year within the District, whose duty it shall be to inquire into the losses sustained by Her Majesty's Subjects and other residents within this Province, during and in consequence of the late rebellion and invasions, and also into the said several claims and demands which have accrued in respect of any loss, destruction or damage of property, occasioned by violence on the part of Brigands or Pirates, on the waters of the Lakes or Rivers dividing this Province from the United States; and they or a majority of them, shall ascertain, determine and allow, the amount thereof, respectively.

Governor to appoint three Commissioners in each District;

To inquire into losses during the rebellion, &c

III. *And be it further enacted by the authority aforesaid*, That the said Commissioners, before they enter upon the execution of the duties of their office, shall severally take an oath before any one of Her Majesty's Justices of the Peace, (which he is hereby authorized to administer) to the following effect: "I A. B. do swear, that according to the best of my skill and judgment, I will faithfully, impartially and honestly, execute the duties imposed upon me, under and by virtue of an Act intituled, 'An Act to ascertain and provide for the payment of all just claims arising from the late Rebellion and Invasions of this Province,' without favour or affection, prejudice or partiality, to any person or persons whomsoever.—
So HELP ME GOD."

Oath to be taken by the Commissioners.

Commissioners to examine persons on oath touching claims, &c ;

IV. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the said Commissioners, and they are hereby authorized, to examine upon oath all persons whom they shall think fit to examine upon the several claims and demands which may from time to time come before them, and touching all such matters and things as shall be necessary for the execution of the powers vested in them by virtue of this Act, which oath shall be in the following form, or to the following effect:—"You A. B. do swear, that the evidence which you shall give upon the matter now before us shall be the truth, the whole truth, and nothing but the truth, **So HELP YOU GOD**": and all persons whom they, or a majority of them, shall summon before them, are hereby directed and required personally to attend them the said Commissioners, at such time, and in such places, as they shall from time to time appoint.

Oath of witnesses;

Witnesses summoned to attend the Commissioners.

Commissioners to meet at two places, for six days each.

[See 4 & 5 Vic. Chap. 39, Sec. 1]

V. *And be it further enacted by the authority aforesaid,* That the said Commissioners are hereby authorized to meet and sit from time to time at such two places, (and at two places only) and for a period not exceeding six days at each sitting in each District, as they shall think proper; and to send their precept under their hands for any person whomsoever, and for such books, papers and writings, as they may judge necessary for their information, or the execution of the powers vested in them by this Act.

Notice to be given by Commissioners of times and places of meeting.

VI. *And be it further enacted by the authority aforesaid,* That a printed notice shall be published in the Upper Canada Gazette, and in such newspapers in each District as the said Commissioners may respectively think fit, twice successively, and similar notices shall be posted or fixed up against the Churches, Meeting-houses, and principal Taverns in each County, at least three weeks previous to the said Commissioners holding their first meeting, which notice shall be in the following form, or to the following effect: "Public notice is hereby given, that we the undersigned Commissioners, appointed by His Excellency the Governor, or Lieutenant Governor, (as the case may be) to investigate all claims and demands against the Government of this Province for losses, injuries or otherwise, arising out of the late Rebellion and Invasions of this Province, will hold our first meeting at—, (naming the Tavern or place) in the Township of—, in the County of—, on—, the— day of— next, at nine o'clock in the forenoon; and our second meeting at—, (naming the Tavern or place) in the Township of—, in the County of— on—, the— day of— next, at nine of the clock in the forenoon; and we shall continue our sitting for a period not exceeding three successive days at each place, and no longer; all Farmers, Merchants, Tavern-keepers, Teamsters, and all other persons, who have any claims upon the Country, will punctually attend at the several places and times above mentioned, with their Accounts, Papers and Witnesses, to prove and substantiate the same, or in default thereof their claims will forever thereafter be excluded and barred. Given under our hands this — day of —."

A. B. }
 C. D. } Commissioners.
 E. F. }

VII. *And be it further enacted by the authority aforesaid,* That in False swearing perjury. case any person upon examination upon oath, before the said Commissioners, or a majority of them, as before mentioned, shall wilfully and corruptly give false evidence, every such person so offending; and being duly convicted thereof, shall be and he is hereby declared to be subject and liable to such pains and penalties as by any law now in force persons convicted of wilful and corrupt perjury are subject and liable.

VIII. *And be it further enacted by the authority aforesaid,* That before Schedule of claims allowed or rejected, to be made out by Commissioners; the said several Commissioners shall finally close their sittings, they, or any two of them, shall make out a Schedule of all claims examined and allowed or rejected by them, in the following form, or as near thereto as may be; which said Schedule shall be in duplicate, and free from erasures or interlineations, and shall be signed by the said Commissioners, or any two of them: We, the undersigned persons, appointed by His Excellency Form of Schedule, &c. the Governor, to examine, enquire into, and allow or reject the claims or demands of the inhabitants of the County of — in the — District of this Province, arising out of the late rebellion and invasions of this Province, and having sat at [naming the Tavern or place] in the Township of —, in the said County, on the — days of —, and at [naming the Tavern or place] in the Township of — in the same County, on the — days of —, and having carefully and diligently examined the undermentioned persons, or their witnesses and evidence, touching their several claims, as aforesaid, do allow such claims as we have not rejected altogether, at the several sums set opposite the respective parties names, in the third column of the Schedule hereunder written, that is to say:

Claimants names.	Sums Claimed.	Sums allowed.	Rejected altogether.
	£ s. d.	£ s. d.	£ s. d.

And we do hereby accordingly, by this writing under our hands, allow the above several sums to be due and payable to the several parties, or persons opposite to whose names such sums are respectively entered, as sums allowed in the third column of the Schedule. As witness our hands, this — day of — 18—.

A. B. }
 C. D. } Commissioners.
 E. F. }

Witness—[Two Witnesses.]

IX. *And be it further enacted by the authority aforesaid,* That One copy of Schedule to be sent to the Governor, and another to be deposited with the District Treasurer; the said Commissioners, or any two of them, shall as soon as possible after the determination of their sittings, examinations and proceedings, under and by virtue of this Act, seal up and send to His

Disposition of evidence-papers, &c.;

Schedule to be laid before the Legislature.

Commissioners to receive 20s. per day, not exceeding fourteen days in any one District.

(See 4 & 5 Vic. Chap. 39, Sec. 1.)

Warrants to be issued for payment of fees, &c. due to Commissioners;

And for sums allowed to claimants;

Claims may be paid in Debentures, &c.

If claims allowed exceed amount granted, Governor to apportion the same to the respective claimants.

Excellency the Governor of this Province, one part of their Schedule, and they shall deposite another part with the Treasurer of the District, who is hereby required to accept and receive the same; and they shall retain in their possession, all the evidence-papers and vouchers taken by them, until the said several sums allowed shall be finally paid or settled, when such evidence-papers and vouchers shall, on demand, be handed over to the parties entitled to receive the same; and the copy of the several Schedules hereinbefore directed to be delivered to the Governor, shall be by him laid before the Legislature of this Province, at the then next ensuing Session of Parliament.

X. *And be it further enacted by the authority aforesaid,* That the said Commissioners shall be entitled to receive the sum of Twenty Shillings Currency, and no more, for every day they shall be occupied in the travelling to, and returning from, and sitting at any place for the purpose of hearing and determining any matters under the provisions of this Act: *Provided* that in no case shall any Commissioner be allowed for more than fourteen days occupation in any one District.

XI. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Governor of this Province, as soon as conveniently may be, after he shall have received all the aforesaid Schedules, to issue his Warrant or Warrants, from time to time, to the said Receiver General, for the payment of the fees due to the said Commissioners, and for the expenses of printing and publishing any Notices or Advertisements, or any other reasonable expenses that may be incurred in carrying the provisions of this Act into complete effect; and also for the payment of the several sums allowed to the several Claimants in each District; and the said Receiver General is hereby required thereupon on demand to pay to the said several Claimants or their Attornies lawfully constituted, the several sums in the third column in the said Schedule, set opposite to their respective names, as sums allowed in and by such Schedule; and the Receiver General shall account to Her Majesty, Her Heirs and Successors for the same, through the Lords Commissioners of Her Majesty's Treasury, in such manner and form as Her Majesty, Her Heirs and Successors shall be graciously pleased to direct: *Provided always;* that any claims arising under this Act may be paid whenever the same shall be practicable in the whole or in part in any Debentures or public Bills of Credit, which shall or may hereafter be issued in aid of the Public Service; and such Debentures or Bills of Credit shall be a legal tender for the whole or in part of any such Claims.

XII. *And be it further enacted by the authority aforesaid,* That in the event of the damages authorized to be paid under the provisions of this Act exceeding the sum herein granted, it shall be the duty of the Governor, and he is hereby required to apportion the said sum of Forty Thousand Pounds in proportion to the respective Claims ascertained to be due.

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