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THE PROVINCIAL STATUTES

OF

CANADA.

ENACTED by Her Most Excellent Majesty, our Sovereign Lady, VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, QUEEN, Defender of the Faith, &c., by and with the advice and consent of the Legislative Council and Assembly of the said Province, constituted and assembled by virtue of and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the Third and Fourth year of Her Majesty's Reign, intituled, "*An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada.*"

VOL. I.



KINGSTON :

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

Anno Domini, 1841.



PROVINCIAL STATUTES
OF
CANADA.

ANNO REGNI QUARTO ET QUINTO
VICTORIÆ,

DEI GRATIA, BRITANNIARUM REGINÆ.

HIS EXCELLENCY THE RIGHT HONORABLE

CHARLES, BARON SYDENHAM,

GOVERNOR GENERAL.

Being the FIRST Session of the FIRST Provincial Parliament
of CANADA.

THE UNIVERSITY OF CHICAGO

PHYSICS DEPARTMENT

PHYSICS 435

LECTURE 1

THE CLASSICAL LIMIT

CLASSICAL MECHANICS

THE HAMILTONIAN

THE ACTION

THE CLASSICAL LIMIT OF QUANTUM MECHANICS

END OF LECTURE



ANNO QUARTO ET QUINTO

VICTORIÆ REGINÆ.

C A P. I.

An Act to alter for a limited period the place of sitting of the Heir and Devisee Commission of the late Province of Upper Canada and for other purposes therein mentioned.

[1st July, 1841.]

Preamble.

Sundry parts
of former Acts
repealed.

WHEREAS, it is necessary to prevent the inconveniences which would otherwise result from the removal of certain public officers and offices to the present Seat of Government in relation to the sittings of the Commissioners under the Heir and Devisee Acts: 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 Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of Great Britain and Ireland, intituled *An Act to re-unite the Provinces of Upper and Lower Canada and for the Government of Canada*, and it is hereby enacted by the authority of same, That from and after the passing of this Act, so much of an Act of the Parliament of the Province of Upper Canada, passed in the forty-eighth year of the reign of His late Majesty King George the third, 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

to extend the benefits of the said Act, as relates to the issue of any Commission or Commissions under the said Act, and to the persons to whom such Commission or Commissions shall be issued or addressed, and to the person or persons and the number of persons being such Commissioners who might perform and transact business under or by virtue thereof; and also, so much of an Act of the Parliament of the Province of Upper Canada passed in the fifty-second year of the reign of His late Majesty King George the third, 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 Devises 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, or of the above recited 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 benefits of the said Act, as regards the sittings of such Commissioners to be holden at any particular place, shall be, and the same are hereby repealed.

Governor may
appoint Com-
missioners.

II. And be it further enacted by the authority aforesaid, that it shall and may be lawful for the Governor 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, the Chief Justice and Justices of the Court called and known by the name and style of Her Majesty's Court of Queen's Bench for the Province of Upper Canada, and to the Vice-Chancellor of Upper Canada, and to such and so many other persons as the said Governor shall think fit, which said Commissioners, or any three of them, of whom the said Chief Justice, Vice Chancellor or one of the said Justices shall be one, shall have all and every the powers and authorities, matters and things specified and contained in all or any of the statutes of Upper Canada relating to such Commissioners and their Acts; and that the said Commissioners shall hold their sittings at the Seat of Government in the Province of Canada, and at the time and for the period now authorised by Law.

To hold their
sittings at the
seat of the Go-
vernment.

To be in force
for two years.

III. And be it further enacted by the authority aforesaid, that this Act shall continue and be in force for two years, and shall extend only to that part of this Province which was formerly comprised within the limits of Upper Canada.

Ma-
be
amended
in
this sessio.

IV. And be it further enacted by the authority aforesaid, that this Act may be amended or repealed during the present Session.

V.

V. And be it further enacted by the authority aforesaid, that all notices and other proceedings given or instituted for the next sittings of the Commissioners under the aforesaid acts, shall be valid and effectual to all intents and purposes as if the same had been given for the sittings of the Commissioners to be appointed and holden under this Act.

Notices given shall be valid.

C A P II.

An Act to Amend the Militia Law of that part of this Province formerly constituting the Province of Upper Canada.

[17th August 1841.]

WHEREAS great inconvenience has been experienced in collecting fines from Aliens; And whereas apprehension exists among a numerous and deserving class of Her Majesty's Subjects in this Province, having certain conscientious scruples, that they are subject to excessive fines: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and Assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, that the fifty second and fifty third sections of the Act of the Legislature of the late Province of Upper Canada, passed in the second year of Her Majesty's Reign, chapter nine, and intituled *An Act to repeal, alter and amend the Militia Laws of this Province*, be and the same are hereby repealed.

Preamble.

The 52nd and 53d sections of the Provincial Act of Upper Canada, 2d Vic. c. 9. repealed.

II. And be it enacted, that the persons called Quakers, Mennonists, or Tunkers, shall not be compelled to serve in the Militia within that portion of this Province, which formerly constituted the Province of Upper Canada; but every person who shall profess to be one of the people called Quakers, Mennonists, or Tunkers, and shall if required produce a certificate thereof, signed by the Clerk, Pastor, Minister or Elder of the Meeting or Society to which he shall belong, shall be excused and exempted from serving in the said Militia, in the said portion of this Province: Provided nevertheless, that every such person, from the age of sixteen to sixty, so claiming to be excused or exempted, shall on or before the first day of February, in each and every year after the passing of this Act, give

Quakers, Mennonists and Tunkers not to be liable to serve in the Militia in that part of the Province formerly called Upper Canada.

But such persons shall pay a certain annual sum of money in lieu of so serving.

give in his name and place of residence to the Assessor or Assessors of the Town, Township or Place where he shall reside, and shall pay in each and every year in time of peace, the sum of ten shillings, and in time of actual invasion or insurrection, or when any of the Militia of the district in which such person shall reside shall be called out on actual service, the sum of five pounds; which commutation money shall be in lieu and discharge of such Militia service, and shall be applied as hereinafter provided.

The sum to be so paid.

Assessors to enter the names of all such persons on the Assessment rolls, and the sum each person is liable to pay.

Collection of such sums.

III. And be it enacted, that it shall be the duty of the Assessor or Assessors in each Township within the said portion of this Province, and they are hereby required to annex a column to each and every Assessment roll of each and every Town, Township or Place in his or their respective District, and therein to insert the names of every such Quaker, Mennonist or Tunker, and also affix the sum of money so to be paid opposite thereunto, which sums of money it shall be the duty of each and every Collector in each and every Town, Township or Place within this Province, to collect, in the same manner as he is authorized by Law to collect any ordinary Assessment; and such Collector shall pay the same into the hands of the Town Clerk, to be expended within the Township where the same shall have been levied, in aid of any road tax or Assessment raised or levied therein. And the Assessor or Assessors shall transmit a list of the names of all such Quakers, Mennonists or Tunkers by him or them inserted in the Assessment roll, to the Colonel of Militia for the division in which such persons shall respectively reside, within thirty days after such Assessment Roll shall have been completed.

Application of such sums.

IV. And be it enacted, that it shall be lawful to and for the said Town Clerk for such Town, Township or Place, and he is hereby required to pay out the said monies from time to time, to the order of the Road or Path Master of the division wherein such fine shall have been levied, and to be expended on the public Roads, Highways and Bridges within such division.

Duty of Path Masters applying such sums;

And in accounting for the same.

Penalty on path Masters neglecting so to account.

V. And be it enacted, that it shall be the duty of the Path Masters in every Township or Place, and they are hereby required to apply such sum or sums of money from time to time, to the improvement of the Highways, Roads and Bridges, within such Township or Place after the manner and form, and upon such place or places, as they shall be according to law directed, and to render an account thereof upon oath or affirmation, as the case may be, to the Clerk of such Town, Township or Place, whose duty it shall be to report the same to the Magistrates in General Quarter Sessions assembled; and if any such Path Master, or Town Clerk, shall fail to render such account, or to pay over and distribute such monies as may come into his hands as aforesaid, he shall for such default be subject

subject to a penalty of ten pounds currency, to be recovered with costs by summary process before any one or more Justices of the peace, for the division or district in which such Town, Township or Place may lie.

VI. And be it enacted, that all proceedings in any suit, action or prosecution, which before the passing of this Act, may, under the provisions of the Provincial Act herein first above cited, have been commenced against any such Quaker, Mennonist or Tunker, as aforesaid, for the recovery of any penalty imposed by the said Act, shall cease and be discontinued from and after the passing of this Act.

Prosecution pending against Quakers, Mennonists, or Tunkers, for penalties imposed by the Act first cited, to be discontinued.

C A P . III.

An Act to repeal the Laws now in force in that part of this Province, formerly Upper Canada, for the recovery of Small Debts, and to make other provisions therefor.

[27th August, 1841.]

WHEREAS the system and practice of the Courts of Requests established under and by virtue of certain Acts of the Parliament of the late Province of Upper Canada, require to be amended: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, that from and after the first day of December next ensuing, a certain Act of the Parliament of the said late Province of Upper Canada, passed in the third year of the Reign of His late Majesty King William the Fourth, 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*; and also a certain other Act of the Parliament of the said late Province, passed in the seventh year of the Reign of His late Majesty King William the Fourth, intituled, *An Act to amend the Law relating to the Court of Requests*, shall be and the same are hereby repealed, and all the powers and authorities given by the said Acts or by any other Acts of the Parliament of the said Province, to any Courts

Preamble.

Certain Acts of the Legislature of Upper Canada relating to Courts of Requests, repealed after a certain day.

The powers granted to any Courts of Requests by any other Act to cease from the said day.

B

of

Judgments and orders of discontinued Courts to remain in force.

How and by whom the same shall be enforced and executed.

Each District in Canada West to be divided into divisions by the Justices of the Peace in Quarter Sessions.

And a Court to be holden in each such division, for the purposes of this Act.

Orders made by such Justices in the behalf aforesaid to be recorded, and a copy transmitted to the Governor.

How Division Courts in each District shall be distinguished.

The Judges of the District Courts to preside over the Division Courts, and to

of Requests, and to the several Commissioners thereof, shall then cease and determine: Provided always, that all orders, decisions and judgments of any Court discontinued by virtue of this Act, shall remain and be of the same force as if this Act had not been made, except that when any such order or judgment shall have been made for the payment of money to, or shall have authorized money to be collected by any officer of such discontinued Court, such order or judgment shall stand in force for payment of such money to the Clerk or other officer appointed to receive the same, of the Court created by this Act, and holden for the division including the place in which such discontinued Court was holden; and it shall be lawful for the Judge of the District Court to enforce all orders, decisions or judgments of such discontinued Court, which are unperformed or in course of being performed (employing for that purpose the proper officers of his Division Court) as fully and in like manner as if such orders had been made by the authority of the said Judge.

II. And be it enacted, that it shall and may be lawful for the Justices of the Peace of each District, now or hereafter to be erected in *Canada West*, at the first General Quarter Sessions which shall be holden after the passing of this Act, to declare and appoint the limits and extent of six divisions within their respective Districts, and also, from time to time, in like manner to alter the limits and extent of such divisions; and that a Court shall be holden under this Act once in two months in and for every such division; and that it shall and may be lawful for the said Judge of the said Court to fix and appoint the times and the places within such divisions, when and at which such Courts shall be holden, and in like manner from time to time, to alter the same.

III. And be it enacted, that the divisions of each District so declared and appointed, and the times and places of holding such Courts, and all alterations that may be from time to time made therein as aforesaid, shall be entered and recorded by the Clerk of the Peace, in a book to be by him kept for that purpose; and that it shall be his duty to transmit to the Governor of this Province, a copy of every such entry and record as soon as the same shall have been made.

IV. And be it enacted, that the Justices so assembled as aforesaid, shall be required to number the said divisions, beginning at number one; and that the Court to be held in each division shall be known by the name and style of *The* (first or other as the case may be) *Division Court for the District of*

V. And be it enacted, that the Judges of the District Courts of the several Districts in this Province, shall preside over the Division Courts within their respective Districts, and no such Judge shall during the continuance of his appointment,

pointment, be capable of being elected or of sitting as a Member of the Legislative Assembly of this Province.

VI. And be it enacted, that in case of the illness or unavoidable absence of the Judge of any such District Court, it shall be lawful for such Judge to appoint some other person who would be otherwise qualified to be appointed a Judge of such District Court, to act as his Deputy, and every person so appointed, shall, during the time for which he shall be so appointed, have all the powers and privileges, and be subject to all the duties of the Judge by whom he shall have been so appointed : and notice of every such appointment shall be forthwith sent by the Judge or Deputy Judge to the Governor of this Province, and such notice shall specify the name, residence and profession of the Deputy Judge and the cause of his appointment, and no such appointment shall be continued for more than one calendar month without a renewal of the like notice ; and it shall be lawful for the Governor to annul any such appointment of which he shall disapprove.

VII. And be it enacted, that for every Court holden under the authority of this Act, there shall be a Clerk and one or more Bailiffs ; and the Judge of the District Court shall from time to time appoint, and at his pleasure remove the Clerk and Bailiffs of the Courts holden by him.

VIII. And be it enacted, that it shall be lawful for the Clerk of any such Division Court (with the approval of the Judge thereof) to appoint from time to time, a Deputy to act for him in the office of Clerk of the Court, at any time when he shall be prevented by illness or other unavoidable accident from acting in such office, and to remove such Deputy at his pleasure ; and such Deputy, during the time for which he shall be so appointed, shall have the like powers and privileges, and be subject to the like duties as if he were the Clerk of the Court for the time being ; and the Clerk of the Court shall be civilly responsible for all the acts and omissions of his Deputy.

IX. And be it enacted, that the Treasurer of every District shall be the Receiver General of fees of the several Division Courts within his District ; and every such Treasurer shall be paid a percentage of three pounds on every hundred pounds of the gross produce of the fees of the Courts of which he is Receiver General, and every Judge and Clerk shall be paid by a certain salary ; the salary of a Judge being in no case more than two hundred pounds or less than one hundred pounds and the salary of a Clerk being in no case more than one hundred pounds or less than twenty pounds ; and the Bailiffs of the Court shall be paid by the fees hereby allowed to them : and the Governor in Council shall fix the remuneration to be paid to the Judges and Clerks, having due regard to the population

be ineligible as members of the Legislative Assembly.

The Judge of any District Court may appoint a deputy in certain cases.

Such appointment to be notified to the Governor who may amend it.

A Clerk and Bailiffs to be appointed for each Division Court by the Judge.

Clerk in case of illness to appoint a Deputy.

District Treasurer to receive all fees payable in Division Courts in his District.

Judges and Clerks to be paid by certain salaries.

Bailiffs by the fees allowed them.

Salaries of Judges and Clerks how to be fixed.

population of the several Districts and Divisions; and the remuneration to be paid to the Judges and Clerks, may be increased, or as vacancies shall occur, may be diminished by the same authority by which they shall be first fixed.

Certain duties of the Clerks of Division Courts prescribed.

X. And be it enacted, that the Clerk of each Division Court shall issue all summonses, warrants, precepts, and writs of execution, and register all orders and judgments of the Court, and keep an account of all such summonses, executions, and other process of the Court, and shall take charge of and keep an account of all Court fees and fines payable or paid into Court, and of all suitors, money paid into and out of Court, and shall enter an account of all such fees, fines, and monies in a book to be kept by him for that purpose, which book shall be open to all persons desirous of searching the same, on payment of one shilling for each search, and shall from time to time, at such times as shall be directed and appointed by the Governor, submit his accounts to be audited or settled by the Treasurer of his District; and the Bailiffs of the Court shall serve all summonses and execute all such orders, warrants, precepts and writs.

Duties of Bailiffs.

Certain fees to be payable on proceedings in any Division Court.

XI. And be it enacted, that there shall be payable on every proceeding in the Division Courts holden in pursuance of this Act, and to the Bailiffs of the Court, such fees as are set down in the Schedule to this Act annexed, or which shall be set down in any Schedule of reduced fees under the power hereinafter given for that purpose, and none other; and a table of such fees shall be hung up in some conspicuous place in the Offices of the several Clerks of Division Courts, and the fees on every proceeding shall be paid in the first instance by the Plaintiff on or before such proceeding, and the Bailiff's fees upon executions shall be paid to the Clerk of the Court, at the time of the issue of the warrant of execution, and shall be paid over by such Clerk to the Bailiff upon the return of the warrant of execution and not before. Provided always, that if the Bailiff shall neglect to make a Return within the time required by Law, of any summons, process or execution, he shall for each such neglect forfeit his fees on such summons, process or execution, and all fees so forfeited shall be accounted for and paid by the Clerk of the Court to the Treasurer of the District, to form part of the general fee fund.

Tables of Fees to be posted in the Clerk's offices.

Bailiff's fees on executions, how paid.

Clerks of Division Courts to render accounts to the District Treasurer of all fees by them received under this Act.

XII. And be it enacted, that the Clerk of each Division Court shall from time to time, and as often as he shall be required so to do by the Treasurer of his District, and at least once in every three months, deliver to him a full account in writing of the fees received in such Court under the authority of this Act, and a like account of all fines levied by the Court, (accounting for and deducting the reasonable expenses of levying the same, and any allowance which the Judge may have made out of any such fine in pursuance of the power hereinafter given), and a like account of the monies paid into and received out of Court by the Defendants and Plaintiffs in the said Court, under any orders and decrees of the Court,

Court, or under process of the Court, and of the balance then remaining in Court belonging to the Plaintiffs or Defendants in the Court; and the amount of such fees from time to time received by such Clerk, shall be paid over from time to time to the Treasurer, (such payment being made at least once in every three months) and shall form part of a fund to be called the general fee fund of the Division Courts, which fund shall be applied towards the payment of the salaries of the Judge and Clerks of such Courts.

And to pay over the amount so received.

Application of monies so paid over.

XIII. And be it enacted, that the Treasurer of every District shall, on or before the thirtieth day of June and the thirty first day of December, in every year, render to the Inspector General of this Province, a true account in writing of all monies received and of all monies disbursed by him, on account of the Division Courts holden under the authority of this Act, during the period comprised in such account, in such form and with such particulars as the said Inspector General shall from time to time require, and shall within ten days after the rendering of every such account, pay over the amount of any surplus of such fees to the Receiver General of this Province; and if default shall be made in such payment, the amount due by the said Treasurer shall be deemed a specialty debt to Her Majesty.

District Treasurers to render accounts to the Inspector General of monies received by them under this Act.

And to pay over to the Receiver General any balance in their hands.

XIV. And be it enacted, that in case the amount of fees received in the Division Courts in any District, shall not be sufficient to defray the disbursements required on account of such Courts, during the period comprised in the said account, it shall be lawful for the Governor of this Province, forthwith to issue his warrant on the Receiver General of this Province, in favour of the District Treasurer, for the amount which shall be required to make up the salaries of the Judge and Clerks, and the amount of such warrant shall be charged upon the consolidated fund of this Province.

If the sums so paid over for any District be not sufficient to meet the expenses of the Division Courts therein, the Governor may issue his warrant for the difference.

XV. And be it enacted, that the accounts to be kept by the several Treasurers on account of the said Courts, shall be deemed Public Accounts, and shall be inquired into and audited, and shall be within any provision of law now or hereafter to be in force for auditing Public Accounts.

Treasurers accounts touching Division Courts to be deemed public accounts.

XVI. And be it enacted, that if any person having resigned or having been removed from the Office of Treasurer, or of Clerk of a Division Court, shall neglect after twenty one days notice to such person, to account for and pay to the Treasurer of the District for the time being, or to such person as he shall appoint to receive the same, all such sums as shall remain in his hands of monies received under the authority of this Act, it shall be lawful for such Treasurer for the time being, in his own proper name only, or by his name and description

Any persons removed from the office of Treasurer or of Clerk of a Division Court, to account and pay over any monies in hands under this Act after a certain notice.

Action given to the then Treasurer in default of such account and payment.

Court may refer the account (if disputed) to a referee.

And make certain orders on the report of such referee.

In case of death or removal of District Treasurer or Clerk of any Division Court the then District Treasurer may recover by action monies received under this Act and remaining in their hands.

The Court may refer the disputed account to any person.

The Plaintiff acting as Treasurer to be *primâ facie* evidence of his holding that Office.

cription of office, to sue for and recover the same from such person with double costs of suit, in any Court of Record in this Province having competent jurisdiction, by action of debt; in which action it shall be sufficient for such Treasurer to declare as for money had and received to the use of such Treasurer for the purposes of this Act; and the Court in which the action shall be brought, may at the instance of either of the parties, refer the account in dispute in a summary manner, to be audited by any Officer of the Court or other fit person, who shall have power to examine both plaintiff and defendant upon oath; and upon the report of the referee (unless either of the parties shall shew good cause to the contrary) the Court may make a rule either for the payment of such sum as upon the report shall appear to be due, or for staying the proceedings in the action, and upon such terms and conditions as to the Court shall appear reasonable; or the Court may order judgment to be entered up as by confession for such sum as upon the report shall appear to be due.

XVII. And be it enacted, that in case of the death of any person during the time that he shall be holding the office of District Treasurer, or of Clerk of any Division Court, or after he shall have resigned, or be removed from such office, the Treasurer for the time being, may in his own proper name only, or by his name and description of office, sue for and recover from the Executors or Administrators of such person deceased, all such sums as shall have been remaining in his hands, of money received under the authority of this Act, by an action of debt, in any Court of Record in this Province having competent jurisdiction; in which action it shall be competent for the plaintiff to declare that the deceased was indebted to the plaintiff for money had and received to his use for the purposes of this Act, or that the deceased died possessed of money had and received for the purposes of this Act, whereby an action hath accrued to the plaintiff, to demand and have the same from such Executors or Administrators; and a like action may be brought against any Executors or Administrators of Executors, or Administrators: and in all such actions, the defendant or defendants may plead in like manner, and avail themselves of the like matters in defence as in any action founded upon simple contracts of the original testator or intestate; and the Court may refer the account in dispute to be audited by any officer or person, and may proceed upon the report of such referee in like manner as in the case mentioned in the next preceding section.

XVIII. And be it enacted, that in all actions to be brought, as well as in all proceedings whatsoever to be instituted or carried on by any Treasurer, by virtue of this Act, proof of his acting in the execution of the office of Treasurer, shall be sufficient evidence of his holding such office, unless the contrary shall be shown in evidence by the defendants in such actions, or the parties against whom such proceedings shall be instituted and carried on.

XIX.

XIX. And be it enacted, that the Treasurer, and also every Clerk and Bailiff, who shall receive monies in the execution of their duty, shall give security for such sum, and with so many sureties, and in such manner and form as the Governor of this Province shall see reason to direct, for the due performance of their several offices, and for the due payment of all monies received by them under any provision of this Act.

The Treasurer and Clerks of Division Courts to give security-

XX. And be it enacted, that the Judge of every Division Court established under this Act, shall have power, jurisdiction, and authority to hold plea of all debts and contracts when the subject matter of the demand shall not exceed the sum of Ten pounds, and to hear and determine the same in a summary way; and every such Judge shall have power to make such orders, judgments, and decrees thereupon, as shall appear to him to be just and agreeable to equity and good conscience; and that upon any contract for the payment of a sum certain in labour, or in any kind of goods or commodities, or in any manner otherwise than in money, it shall be lawful for the Judge, after the day is passed on which the goods or commodities should have been delivered, or labour or other things performed, to give judgment for the amount in money, as if the contract had been so originally expressed: Provided always, that no action shall be brought or tried in any such Division Court, for any gambling debt, nor for any spirituous or malt liquors drunk in a Tavern or Ale-House, nor for any cause involving the right or title to real estate: Provided also, that nothing in this Act contained shall be construed to constitute and create the said Division Courts, Courts of Record.

Of what cases the Division Courts shall take Cognizance.

Sums certain payable in goods, &c.

Proviso.

XXI. And be it enacted, that the plaintiff, in any suit brought in any Division Court, shall enter a copy of his account or demand in writing, which shall be numbered according to the order in which it shall be entered, and thereupon a summons bearing the number of the account or demand on the margin thereof, shall be issued, which shall be in substance, in the form of the schedule to this Act annexed, according to the nature of the demand; and a copy of such summons, to which shall be attached a copy of such account or demand, shall be served on the defendant, eight days at least before the day on which the Division Court shall be holden at which the cause shall be tried; and delivery of such copies of summons and account or demand to the defendant, or delivery thereof to his wife or servant or any grown person, being an inmate of his dwelling house or usual place of abode, trading or dealing, shall be deemed a good service of such summons. Provided always, that personal service on the Debtor of such summons shall be necessary in all cases where the amount sued for exceeds the sum of forty shillings.

Mode of commencing action in any Division Court.

Service of the Summons.

XXII. And be it enacted, that no such summons shall be issued, unless the Plaintiff shall, at the time of entering his account or demand, deposite with the Clerk of the Court, for every claim not exceeding twenty shillings, the sum of one shilling,

Plaintiff taking out any summons to deposite with the

Clerk one twentieth part of the sum demanded.

The Judge may, in certain cases, award the whole or part of the sum so deposited, to the Defendant.

Money so deposited and not so awarded to be returned.

At what Division Courts, any suit may be brought.

Any plaintiff having a cause of action above the value of £10, may abandon the excess and so bring the suit within the jurisdiction of a Division Court.

Minors may sue for wages in the Division Court.

No privilege to exempt any person from the jurisdiction of a Division Court.

Debts due by partners or persons jointly answerable, may be recovered from one of

shilling, and for every claim exceeding twenty shillings, one twentieth part thereof (neglecting any sum less than six-pence, in estimating such twentieth part,) and if, upon the day of the return of any such summons, or at any continuation or adjournment of the said Court, or of the cause for which the said summons shall have issued, the Plaintiff shall not appear in person, or by some other person in his behalf, or appearing, shall not make proof of his demand to the satisfaction of the Court, it shall be lawful for the Judge, if he shall think fit, to award to the Defendant a part or the whole of such deposite money, by way of costs, and as satisfaction for his trouble and attendance, with such further sum as the Judge in his discretion shall think fit, and to order and compel the Plaintiff to pay such further sum, by such ways and means as any debt ordered to be paid by the same Court, can be recovered; but so much of the said deposite money as shall not be awarded to the Defendant, shall be returned on demand to the Plaintiff.

XXIII. And be it enacted, that all suits brought under this Act, shall be tried at the Court holden for the Division wherein the Defendant, or where there shall be more than one Defendant, wherein any one of the Defendants shall dwell, or carry on his business at the time of entering the account or demand, or at the Court holden for the Division within which the debt was contracted.

XXIV. And be it enacted, that it shall not be lawful for any Plaintiff to divide any cause of action into two or more suits for the purpose of bringing the same within the jurisdiction of any Division Court, but any Plaintiff having a cause of action above the value of Ten pounds for which a suit might be brought under this Act, if the same were not above the value of Ten pounds, may abandon the excess, and thereupon the Plaintiff shall, on proving his case, recover to an amount not exceeding Ten pounds, and the judgment of the Court upon such suit shall be in full discharge of all demands in respect of such cause of action, and the entry of judgment shall be made accordingly.

XXV. And be it enacted, that it shall be lawful for any person under the age of twenty one years, to prosecute any suit in a Division Court, under this Act, for any sum of money not exceeding ten pounds, which may be due to him or her for wages, in the same manner as if he or she were of full age.

XXVI. And be it enacted, that no privilege shall be allowed to any person to exempt him from the jurisdiction of the Courts created by this Act.

XXVII. And be it enacted, that where any Plaintiff shall have any debt or demand recoverable under this act, against two or more persons, partners in trade or otherwise, jointly answerable, but residing in different divisions, it shall be sufficient if one of such persons be served with the process as hereinbefore directed,

directed, and judgment may be obtained, and execution issued against such person, notwithstanding others jointly liable may not have been served or sued; reserving always to the person against whom execution may issue, any right which he may have to demand contribution from any other person jointly liable with him.

them, saving his recourse.

XXVIII. And be it enacted, that the Judge of the District Court, or his Deputy as aforesaid, shall be the sole Judge to determine all actions brought in the said Division Courts, in the summary manner authorized by this Act, and all matters and questions of fact relating thereto, except when the amount claimed shall exceed two pounds ten shillings, and either of the parties shall require a jury to be summoned, as hereafter mentioned.

The Judge of the District Court to be the sole Judge in matters decided in Division Court.

XXIX. And be it enacted, that in all actions where the sum of money sought to be recovered shall exceed two pounds ten shillings, it shall be lawful for the Plaintiff or Defendant to require a jury to be summoned to try the said action, and in every such case a jury shall be summoned according to the provisions hereinafter contained, to try such action: Provided always, that if the Plaintiff require a jury to be summoned, he shall give notice in writing to the Clerk of the said Court at the time when he shall enter his account or demand, and if the Defendant shall require a jury to be summoned, he shall give to the said Clerk, or leave at the office of the said Clerk, the like notice in writing within five days after the service of the summons on the said Defendant, and the said Clerk shall cause a copy of such notice given either by the Plaintiff or Defendant, to be communicated to the opposite party in the said action, either by post or by causing the same to be delivered at his usual place of abode or business, but it shall not be necessary for either party to prove on the trial that such notice was communicated to the other party by the Clerk.

Where the sum claimed shall exceed £2 10 0. a Jury may be required.

Proviso.

Notice in writing to be given by the party requiring the Jury.

XXX. And be it enacted, that every party requiring any jury to be summoned shall at the time of giving the notice hereby required, and before he shall be entitled to have such jury summoned pay to the Clerk of the said Court, such sum of money as is set down in the schedule of fees, for the time being, for or towards the payment of the expenses of the said jury.

The party on giving notice shall pay to the Clerk such sum as is set down in the schedule of fees.

XXXI. And be it enacted, that the causes which are to be heard by the Judge alone shall be set down for hearing in a separate list from the list of causes which are to be tried by a jury, which two lists shall be severally called, "The Judge's List," and "The Jury List," and the causes shall be set down in such lists in the order in which they were entered in the first instance with the Clerk of the Division Court, and "The Jury List," shall be first disposed of, and then "The Judge's List."

Causes to be set down in the "Judge's list".

Causes to be set down in the "Jury's list".

XXXII.

The Clerk of the Peace to deliver to the Clerk of the Court list of Jurors.

XXXII. And be it enacted, that the Clerk of the Peace in every District shall deliver, or cause to be delivered, to the Clerk of each Division Court within his District (at the same times, and in like manner as Clerks of the Peace are now required by law to deliver lists of Jurors to the several Sheriffs) a true and complete list of the jurors residing within every such division, respectively, and the Clerk of each Division Court shall cause not less than fifteen of the persons named in such list to be summoned in rotation to attend the Court at the time and place to be mentioned in the summons: Provided always, that either of the parties to any such cause shall be entitled to his lawful challenge against any of the said jurors in like manner as he would in any Superior Court: Provided also, that if any jury shall be required to be summoned before the Clerk of the Peace shall have delivered the list of jurors, as aforesaid, to the Clerks of the several Division Courts in his District, the Clerks of such Division Courts shall cause to be summoned not less than fifteen resident inhabitant householders who are rated and assessed upon any township assessment roll within his division.

Proviso.

Either party entitled to his lawful challenge.

Where Clerk of Division Courts may summon 15 resident Inhabitant Household-ers.

Each Juryman to receive six pence for every cause in which he shall be sworn.

Five Jurors to be empannelled and sworn.

Each cause to be decided by the majority of the Jury.

Any Juryman neglecting or refusing to attend to be fined.

XXXIII. And be it enacted, that each juror shall receive from the Clerk of the Division Court out of the monies to be deposited with him for that purpose the sum of six pence for every cause in which such juryman shall be sworn.

XXXIV. And be it enacted, that from time to time, as occasion shall require, five jurors shall be empannelled, and sworn to do justice between the parties whose cause they shall be required to try, according to the best of their skill and ability, and to give a true verdict according to the evidence, and each cause shall be decided by the verdict of the majority of the jury so empannelled and sworn; and any juryman who after being duly summoned for that purpose as aforesaid shall wilfully neglect or refuse to attend the Court, shall be liable to a fine not to exceed ten shillings to be set on him by the Judge, which fine shall be levied and collected as other fines are hereinafter directed to be levied and collected, and shall form part of the general fee fund to be paid to the Treasurer of the District.

Proceedings on the day at which the Defendant shall be summoned to appear.—

XXXV. And be it enacted, that on the day named in the summons, the Plaintiff shall appear in the Division Court, in person, or by some person in his or her behalf, and thereupon the Defendant shall be required by himself or herself, or by some person on his or her behalf, to answer; and on answer being made in Court, the Judge shall proceed in a summary way to try the cause and give judgment without further pleading or formal joinder of issue.

No cause of action to be proved except

XXXVI. And be it enacted, that no evidence shall be given by the Plaintiff, on the trial of any such cause as aforesaid, of any cause of action except such as

as shall be stated and contained in the demand or account entered as hereinbefore directed.

that mentioned
in the demand

XXXVII. And be it enacted, that all Defendants shall be allowed to set off any debt or demand not exceeding Ten Pounds claimed to be due to them from the Plaintiff, or to set up, by way of defence, and to claim and have the benefit of any statute of limitation, or of any other relief or discharge under any statute, now or hereafter to be in force in Canada West; Provided always, that if the Defendant's demand as proved, exceed that proved by the Plaintiff, the Court may give judgment in favour of the Defendant for such balance as may appear due from the Plaintiff, with costs of suit: Provided also, that no such defence shall be admitted on the hearing or trial of any cause under this Act, unless notice thereof in writing shall have been delivered to the Plaintiff, or left for him at his usual place of abode or business, three days at least before the trial.

Defendant
may plead set
off &c.

And may re-
cover any ba-
lance due to
him by the
Plaintiff.

Proviso.

XXXVIII. And be it enacted, that the Judge of the District Court shall have power from time to time, to make general rules for regulating the practice and proceedings of the said Division Courts, and also to frame forms for every proceeding in the said Courts, for which he shall think it necessary that a form be provided, and from time to time to alter any such form and also to alter all or any of the forms given in the Schedule to this Act: Provided always, that such rules and forms so made, framed or altered, shall not be brought into use until the same shall have been submitted to and approved by the Chief Justice and Judges of the Court of Queen's Bench, for that part of this Province formerly called Upper Canada, or any two of them.

The District
Judge may
make Rules of
practice and
forms for the
Division
Courts.

Proviso.

XXXIX. And be it enacted, that if on the day named in the summons, the Defendant shall not appear as aforesaid, or sufficiently excuse his or her absence, or shall neglect to answer, the Judge, on proof of due service of the summons, may proceed to the hearing or trial of the cause on the part of the Plaintiff only, and the order, verdict or judgment thereupon which shall be given, made or rendered after hearing the evidence to be adduced on the part of the Plaintiff shall be final and absolute and as valid as if both parties had attended. Provided always, that the Judge may make any order for granting any time to the Plaintiff or Defendant to proceed in the prosecution or defence of the suit.

Proceedings
if the Defen-
dant shall make
default.

The Judge
may give time
for the prosecu-
tion or defence
of any suit.

XL. And be it enacted, that it shall be lawful for the Defendant in any action brought under the provisions of this Act, at any time before the day appointed for the trial thereof, to pay into Court such sum of money as he shall think a full satisfaction for the demand of the Plaintiff, together with the costs incurred by the Plaintiff up to the time of such payment; and notice of such payment shall

Defendant
may pay money
into Court be-
fore the day on
which he is
summoned to
appear.

Duty of the Clerk in such case.

Consequence of such payment.

Defendant to have costs if no greater sum than that paid in, be recovered by the Plaintiff.

All credible persons, including the parties to any suit may be examined on the trial.

Proviso.

False swearing or affirmation to be perjury.

Either parties may obtain subpoenas for witnesses.

Who may serve such subpoenas; obligation of the party so served.

Tender of expenses.

shall be forthwith communicated by the Clerk of the said Court to the Plaintiff, by Post or by sending the same to his usual place of abode or business, and the said sum of money shall be paid to the Plaintiff, and all proceedings in the said action shall be stayed, unless the Plaintiff shall within three days after the receipt of notice of such payment signify to the Clerk of the said Court, his intention to proceed for the remainder of the demand claimed; and in such case the action shall proceed as if it had been brought originally for such remainder only: Provided always, that if the Plaintiff shall recover no further sum in the action than such sum as shall have been paid into Court under the provision hereinbefore contained, the Plaintiff shall pay to the Defendant all costs, charges and expenses incurred by him in the said action after such payment as aforesaid, and such costs, charges and expenses shall be settled by the Court, and shall be recovered by the Defendant by such ways and means as any debt ordered to be paid by the Court can be recovered.

XLI. And be it enacted, that on the trial of any such suit, the parties thereto, being credible persons, and all other credible persons whosoever, may be examined upon oath or affirmation (being of any of the classes allowed by law to affirm in any judicial proceedings) which the Judge shall openly administer to each party or witness at the time of his giving his evidence touching the matters in dispute, without regard to any objection on the ground of incompetence from interest or otherwise; Provided always, that Judgment shall in no case be given for either party in any action for any sum on the oath or affirmation of the Plaintiff or Defendant respectively without other sufficient evidence.

XLII. And be it enacted, that every person who in any examination shall wilfully and corruptly give false evidence, shall be liable to the penalties of perjury.

XLIII. And be it enacted, that either of the parties to the suit may obtain from the Clerk of the Division Court, wherein the same shall be brought, summons to witness, with or without a clause requiring the production of books, papers and writings in their possession or control; and in any such summons any number of names may be inserted, and service of any such summons by the Bailiff of any other Division Court, shall be as valid and effectual as if the same had been served by a Bailiff of the Court out of which the same issued; and every person on whom any such summons shall have been served, either personally, or at his or her usual place of abode, and to whom at the same time, a tender of payment of his or her expenses shall have been made, on such scale of allowance as shall from time to time be settled by the Judge, and approved by a Judge of the Court of Queen's Bench of that part of the Province formerly called Upper Canada, and who shall refuse or neglect without sufficient cause, to appear or to produce any

any books, papers, or writings required by such summons to be produced, and also every person in Court called upon to give evidence, who shall refuse to be sworn and give evidence, shall forfeit and pay such fine not exceeding ten shillings as the Judge shall set on him or her; and such fine shall be recoverable in any Division Court (in whatever District it may be) in the Jurisdiction of which the party so refusing shall be; and the whole or any part of such fine, in the discretion of the Judge (after deducting the costs) shall be applicable towards indemnifying the party injured by such refusal or neglect, and the remainder thereof shall form part of the general fee fund before mentioned: Provided that no person shall be compelled to attend as a witness who shall dwell more than forty miles from the place where the Court is to be holden, at which he or she is summoned to attend.

Penalty on witnesses refusing to attend or to give evidence

Proviso.

XLIV. And be it enacted, that any fine imposed under the authority of this Act, may be levied by the same process as any debt recovered in the said Court, and shall be accounted for as herein provided.

How fines imposed under this Act may be levied.

XLV. And be it enacted, that no action brought in any Division Court holden according to the provisions of this Act, nor any order, verdict, Judgment or proceeding therein, shall be removed into any Superior Court by any writ or process whatsoever, but every such order, Verdict and Judgment made by the Judge in any Division Court shall be final and conclusive between the parties.

No suit brought in any Division Court to be removed.

Exception.

XLVI. And be it enacted, that the Clerk of each Division Court shall cause a note of all summonses, and of all orders, and of all judgments and Executions, and returns thereto, to be fairly entered from time to time in a book which shall be kept at his office; and the Clerk shall sign his name on every page of such book; and such entries in the said book so signed, or a copy thereof purporting to be signed and certified as a true copy by such Clerk, shall at all times be admitted in all Courts and places whatsoever, as evidence of such entry or entries and of the proceeding referred to by such entry or entries, without any further proof.

Certain process and proceedings to be entered by the Clerk.

Entries and copies thereof to be evidence.

XLVII. And be it enacted, that the Judge may make orders concerning the time or times, and the proportions in which any sum and costs recovered by judgment of the said Court, shall be paid, and at the request of the party entitled to the same, may order such sums to be paid into Court: Provided always, that in any such order for time, reference shall be had to the day on which the summons was served on the defendant, and issuing of execution shall not be postponed without the consent of the party entitled to the same, for a longer period than fifty days from the service of the summons.

Judge may grant delay for the payment of sums recovered by judgment.

Such delay not to exceed a certain time.

XLVIII. And be it enacted, that if there be cross judgments between the parties,

What shall be done when there are cross

Judgments between the parties.

parties, execution shall be taken out by that party only, who shall have obtained judgment for the larger sum, and for so much only as shall remain after deducting the smaller sum, and satisfaction for the remainder shall be entered as well as satisfaction on the judgment for the smaller sum; and if both sums shall be equal, satisfaction shall be entered upon both judgments.

No suit to be brought in another Court for a sum awarded in a Division Court.

XLXIX. And be it enacted, that no suit shall be brought in any Court for the recovery of any sum awarded by any judgment in a Division Court held under this Act.

Execution, how to be granted and enforced.

L. And be it enacted, that whenever the Judge of any Division Court shall have made an order for the payment of money, it shall be lawful for the said Judge immediately, or in case of default or failure of payment thereof, at the times, and in the manner thereby directed, to award execution against the goods and chattels of the party against whom such order shall be made; and thereupon the Clerk of the Court, at the request of the party prosecuting such order for the payment of money, shall issue a precept in the nature of a writ of *feri facias*, to one of the Bailiffs of the Court, who, by virtue of such precept, shall levy by distress and sale of the goods and chattels of such party, being within the District in which the said Court was holden, such sum of money and costs as shall be so ordered, and shall pay the same over to the said Clerk.

In case the Bailiff shall not find goods in his District he may apply to a Justice in any other District.

LI. And be it enacted, that it shall be lawful for any Bailiff of a Division Court to whom a precept of Execution shall be directed against the goods of any Defendant according to the provisions of this Act in case he shall not find sufficient goods or chattels of the Defendant within the District in which such Division Court is holden, to apply to any Justice of the Peace acting for and within any other District in this Province in which the goods and chattels of such Defendant shall be and such Justice of the Peace, is hereby authorised and required upon such Bailiff producing the precept and making oath (which such Justice is hereby empowered to administer) that the same has been duly issued out of the said Division Court and that the goods and chattels of the Defendant are not to be found within the District in which such Division Court is held but are believed by such Officer to be within the District where such Justice acts, to sign his name on the back of such precept and thereupon such Bailiff shall have power to take the goods and chattels of such Defendant wheresoever the same shall be found within such District and deal therewith in like manner as if the same had been taken within the jurisdiction of the said Division Court, and all Constables and other peace Officers are hereby required to be aiding within their respective jurisdictions in the execution of the precept so indorsed.

How such Justice may proceed.

LII. And be it enacted, that no sale of any goods which shall be taken in execution as aforesaid, shall be had until after the end of eight days at least next following the day on which such goods shall have been so taken, unless upon the request in writing under the hand of the party whose goods shall have been taken; and public notice in writing shall be given at some convenient place within the Town or Township where such goods were taken, of the time and place of such sale, at least eight days before the same shall take place.

At least eight days public notice of any sale under execution shall be given, unless the defendant shall request that the sale take place sooner.

LIII. And be it enacted, that every such seizure and sale shall be taken to be within all the provisions of an Act of the Parliament of Upper Canada, passed in the first year of Her Majesty's Reign, intituled, "An Act to regulate the costs of levying distresses for small rents and penalties."

Seizures and sales under this Act, to be within the provisions of the Act, 1 Vict. Cap. 16

LIV. And be it enacted, that upon every precept of execution awarded against the goods and chattels of any person whomsoever, the Clerk of the Division Court, out of which such execution shall issue, shall cause to be endorsed the sum of money and costs adjudged; and if the party against whom such execution shall be awarded, shall before an actual sale of the goods and chattels, pay or cause to be paid or tendered unto the Clerk or Bailiff of such Court, such sum of money as aforesaid, or such part thereof as the plaintiff shall agree to accept in full of his debt, together with the fees herein directed to be paid, the execution shall be superseded, and the goods and chattels shall be released and restored to the said party.

Precepts of execution to be indorsed with the sum to be levied.

If such sum and certain fees be paid, the execution shall be suspended.

LV. And be it enacted, that if any person shall wilfully insult the Judge or any Officer of any Division Court, during his sitting or attendance in Court, or shall wilfully interrupt the proceedings of such Court, it shall be lawful for any bailiff or Officer of the Court, with or without the assistance of any other person, by order of the Judge, to take such offender into custody, and the Judge may impose upon any such offender, a fine not exceeding the sum of two pounds, and in default of payment thereof it shall be lawful for the said Judge by warrant under his hand and seal to cause such fine to be levied by distress and sale of the Goods of the offender together with the reasonable charges of such distress and sale, and in default of such distress to commit the offender to the Common Gaol of the District for any period not exceeding one Calendar month.

Persons insulting the Judge, or wilfully interrupting the proceedings of the Court, liable to be taken into custody and fined.

LVI. And be it enacted, that if any bailiff or Officer of any Division Court, acting under colour or pretence of the process of such Court, shall be guilty of extortion or misconduct, or shall not duly pay or account for any money levied or received by him, under the authority of this Act, it shall be lawful for the Judge, at any sitting of the Court, if the party aggrieved shall think fit to complain

If any Bailiff or Officer of any Division Court be guilty of extortion under colour of its process, the Judge may in-

quire summarily into the case and may order the money extorted to be refunded, and set such fine on the offender, as to such Judge may seem meet.

plain to him, to enquire into such matter in a summary way, and for that purpose to summon and enforce the attendance of all necessary parties, and to make such order thereupon for the repayment of any money extorted, or for the due payment of any money so levied or received as aforesaid, and for the payment of such damages and costs to the parties aggrieved, as the Judge shall think just; and in default of payment of any money so ordered to be paid by such Bailiff, within the time specified for the payment thereof in such order, it shall be lawful for the Judge, by warrant under his hand and seal, to cause such sum to be levied by distress and sale of the goods of the offender, together with the reasonable charges of such distress and sale, and in default of such distress, to commit the offender to the common Gaol of the District, for any period not exceeding three calendar months.

Clerks, Bailiffs or other officers taking any greater fees than those allowed by this Act, to be incapable of holding office, and also liable in damages.

LVII. And be it enacted, that if any Clerk, Bailiff, or other Officer employed in putting this Act, or any of the powers thereof into execution, shall exact, take, or accept any fee or reward whatsoever, other than, and except such fees as are or shall be appointed and allowed respectively, as aforesaid, for or on account of any thing done or to be done by virtue of this Act, or on any account whatsoever, relative to putting this Act into execution, every such person so offending shall, upon proof thereof before the said Court, be for ever incapable of serving or being employed under this Act, in any office of profit or emolument, and shall also be liable in damages to the party aggrieved.

If any action which might be brought in a Division Court shall be brought in any superior Court of Record, and the Plaintiff shall not have verdict for more than ten pounds, he shall have no costs.

Exception.

LVIII. And be it enacted, that in case any action shall be prosecuted after the commencement of this Act, in any superior Court of Record, for any cause which might have been entered in a Division Court under this Act, and the verdict shall be found for the plaintiff for a sum not exceeding ten pounds, such plaintiff shall have judgment to recover such sum only, and no costs, and shall have execution only against the goods and chattels of the defendant, and shall not at any time be allowed to maintain any action on such judgment, in any Court, and if a verdict, shall not be found for the plaintiff, the defendant shall be entitled to his costs as between Attorney and Client, unless in either case, the Judge who shall try the cause shall certify on the back of the record, that the plaintiff had a probable cause of action for the debt or damages sought to be recovered in such action, to an amount exceeding ten pounds.

Informalities in any part of the previous proceedings shall not make a person levying and dis-

LIX. And be it enacted, that when any levy or distress shall be made, for any sum of money 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 defect or want of form in the information, summons, conviction, warrant, precept or other proceeding relating thereto;

thereto; nor shall the party or parties distraining, be deemed a trespasser or trespassers from the beginning on account of any irregularity which shall afterwards be committed by the party or parties so distraining, but that the person or persons aggrieved by such irregularity, shall and may recover full satisfaction for the special damage.

LX. And be it enacted, that no order, verdict, or judgment, or other proceedings made concerning any other matters aforesaid, shall be quashed or vacated for any matter of form.

LXI. And for the protection of persons acting in the execution of this Act, be it enacted, 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 was committed and not afterwards or 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 no Plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if after action brought, a sufficient sum of money shall have been paid into Court with costs, by or on behalf of the Defendant.

LXII. And be it enacted, that in construing this Act, the word "person" shall be taken to comprehend a body politic or corporate as well as an individual; and that every word importing the singular number, shall when necessary to give full effect to the enactments herein contained, be deemed to extend and be applied to several persons or things, as well as one person or thing; and that every word importing the masculine gender shall where necessary extend and be applied to a female as well as a male; and that the words "Canada West" shall be taken to mean that portion of the Province formerly constituting the Province of Upper Canada.

LXIII. And be it enacted, that this Act shall be and continue in force for four years from and after the passing of this Act, and from thence to the end of the then next ensuing Session of Parliament and no longer.

tress a Trespasser.

Nor shall any subsequent irregularity make any such person a trespasser from the beginning.

No proceedings to be vacated for want of form.

Action for any thing done in Execution of this Act, where to be commenced, and where notice of such action to be given.

Tender of sufficient amends or payment of a sufficient sum into Court, to be a bar.

SCHEDULE REFERRED TO IN THIS ACT.

SUMMONS.

Demand, £
Costs.....
The

Division Court of the District of

You are hereby summoned to appear at the next sitting of this Court to be holden at _____ day of _____ at _____ on _____ of the clock of the same day, to answer to the complaint of _____ who claims from you payment of the account a statement whereof is hereto annexed; and in case you fail to appear by yourself or some person on your behalf, the Plaintiff will obtain Judgment and execution against you by your default.

Take notice that if you require a Jury to be Summoned to try this cause, you must give notice to the Clerk of this Court, or leave at his Office, at _____ notice thereof in writing within five days after service of the Summons upon you.

Take notice that if on the trial of this cause you mean to set off any debt which you claim to be due to you from the Plaintiff in this cause, or to take the benefit of any Statute of limitation or other Statute, you must give to the Clerk, or leave at his office, notice in writing thereof _____ days at least before the said day of _____

Dated the _____ day of _____ in the year of Our Lord One thousand Eight hundred _____

Entered No. _____

By the Court.

Clerk.

To Mr. _____

the Defendant. }

SUMMONS

SUMMONS TO A WITNESS.

The Division Court of the District of

To

You are hereby Summoned to appear at the sittings of the said Court to be holden at on the day of at o'clock of the same day to give evidence on the part of the Plaintiff and Defendant. in a cause between

Dated the day of One thousand Eight hundred

By the Court.

Clerk.

Absolute Order for payment of a sum recovered.

The Division Court of the District of holden on &c.

Between Plaintiff, and Defendant.

It is ordered, that the Defendant do pay to the Plaintiff the sum of £ debt and costs on the day of next, after notice of this Order.

Entered

By the Court,

Clerk.

Absolute Order for payment of a sum recovered by Instalments.

The Division Court of the District of holden on &c.

Between Plaintiff, and Defendant.

It

It is ordered, that the Defendant do pay to the Plaintiff the sum of £
 on the next, after the date of this order, and the further sum of
 £ on every following until payment of the full
 sum of £ debt and costs be satisfied.

Entered

By the Court.

Clerk.

Precept or Warrant against Goods.

Debt, £	The	Division
Costs,	Court of the District of	
£	_____	
Paid £	To	
Levy £	A Bailiff of the said Court.	

You are hereby commanded to levy and cause to be made of the Goods and
 Chattels of the sum of and
 your lawful fees on the execution of this Precept, so that you have the said money
 within twenty days after the receipt hereof, and pay the same to the Clerk of the
 Court to satisfy for the debt and costs adjudged to
 by the said Court.

Therein fail not at your peril.

Given under my Hand and Seal this _____ day of
 One thousand Eight hundred _____

Judge of the said Division Court.

SCHEDULE

SCHEDULE OF FEES.

	Not exceeding 40s.		Not exceeding £5.		Exceeding £5.	
	s.	d.	s.	d.	s.	d.
Entering Account and issuing Summons,	0	9	1	3	2	0
Summons to Witness to attend,	0	6	1	0	1	6
Every hearing of a Cause,	1	0	1	6	2	0
Every Order for payment,	0	6	1	0	1	6
Every Execution,	0	6	1	0	1	6
Every Notice for a Trial by Jury,	0	0	0	0	1	6
Deposite to pay Jurors and Bailiff's Fees thereon, .	0	0	0	0	3	6

TO THE BAILIFF.

For the service of every Summons, Order, or other proceeding on each person,	s.	d.
	0	6
For taking Goods in execution,	2	0
For every Mile travelled more than two from the Clerks Office to serve Summons or execute Warrant,	0	4
For every Mile travelled in taking any person committed for Contempt to Goal,	0	6
For every Jury sworn,	1	0
To be paid by the Clerk out of the Deposite made.		

CAP. IV.

An Act to enable Members of the Legislative Assembly for places within that part of the Province formerly constituting the Province of Upper Canada, to vacate their seats in certain cases and for other purposes.

[17th August, 1841.]

WHEREAS, it is expedient that the Members of the Legislative Assembly representing that part of the Province of Canada heretofore known as the Province of Upper Canada, should be enabled to vacate their seats in certain cases: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with

Preamble.

Members wishing may vacate their seats.

with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, in the Session held in the third and fourth years of Her Majesty's Reign, and intituled *An Act to Re-write the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, that from and after the passing of this Act, it shall be lawful for any Member of the House of Assembly from that part of the Province of Canada heretofore known as the Province of Upper Canada, legally elected, or who shall hereafter be so, who shall wish to abstain from the performance of the duties imposed on him by his election as representative for any City, County, Riding, Town or Borough, in that part of this Province hereinbefore described, or for any City, County, Riding, Town or Borough, which may hereafter be legally erected or established therein, and authorised to send a Member or Members to Parliament, to vacate his seat in the manner hereinafter provided.

How to proceed during the sitting of Parliament.

II. And be it enacted, that such Member in his place in the Legislative Assembly, may give notice of his intention of resigning his seat, and immediately after such notice shall have been entered by the Clerk of the said Legislative Assembly in the Journal, it shall be lawful for the Speaker, and he is hereby required to issue his Warrant in the usual form for the election of a new Member in the room of the Member who shall have so resigned: Provided always, that the Member so tendering his resignation, shall be and be held and considered as being to all intents and purposes the Representative for the place for which he was elected, until the return of the election of such new Member to serve in his room, shall have been duly made.

How to proceed in the interval between the Sessions.

III. And be it enacted, that if any Member shall wish so to resign in the interval between two Sessions of the Provincial Parliament, it shall be lawful for him so to do, by addressing and causing to be delivered to the Speaker, a declaration to that effect made under his hand and seal before two witnesses, an entry of which declaration shall be made in the Journal of the proceedings on the first day of the Session of the Provincial Parliament then next ensuing; and that it shall be lawful for the Speaker upon receiving such declaration, forthwith to issue his warrant for the election of a Member in the room of the Member so tendering his resignation.

When Members shall vacate their seat.

IV. And be it enacted, that no Member shall ask for leave to vacate his seat in the first Session of any Parliament before the expiration of the first fifteen days of the said Session, and that no Member whose election shall be contested shall so vacate his seat until after such contest shall have been decided.

CAP.

C A P. V.

An Act to facilitate the Despatch of Business in the Court of Queen's Bench of Upper Canada.

[17th August, 1841.]

WHEREAS it would facilitate the despatch of business in the Court of Queen's Bench of Upper Canada, if the said Court were enabled to sit in Banc out of Term, for the purposes of giving Judgment and making Rules and Orders in matters which have been moved and argued before it: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intitled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that from and after the passing of this Act it shall be lawful for the Court of Queen's Bench of Upper Canada, to sit in Banc on the Tuesday and Wednesday of the second week after the end of each Term, for the purposes only of giving Judgment, and of making Rules and Orders in matters which have been moved and argued in the said Court, and that all Judgments to be pronounced, and all Rules and Orders to be made, under the authority of this Act, shall have the same effect to all intents and purposes as if they had been pronounced or made in Term time.

Preamble.

The Court may sit in Banc on Tuesday and Wednesday of the 2d week after each Term to give judgment and make Rules and Orders only.

C A P. VI.

An Act to exempt from duty all copies of the Holy Scriptures, imported into this Province by Sea.

[17th August, 1841.]

WHEREAS the Montreal Auxiliary Bible Society has by its petition to the Legislature prayed that the duties now levied upon Bibles and Testaments imported into this Province from Great Britain and Ireland, may be repealed, and that all copies of the Holy Scriptures may be admitted into this Province free from duty; and whereas it is reasonable to grant the prayer of the said petition: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority

Preamble.

Copies im-
ported by Sea
exempt from
duty.

authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that from and after the passing of this Act, all copies of the Holy Scriptures imported into this Province by sea, shall be exempt from the payment of any duty now imposed and levied under and by virtue of any Provincial Statute in force in that part of the Province heretofore called Lower Canada, provided the importer or consignee shall make a special entry of all such copies of the Holy Scriptures, and shall state the amount of the Invoice or Invoices thereof in the manner prescribed with regard to other articles in order that the real amount of such articles imported into this Province may be ascertained.

Proviso.

C A P. VII.

An Act to secure to, and confer upon, certain inhabitants of this Province, the civil and political rights of natural born British Subjects.

[27th August, 1841.]

Preamble.

WHEREAS it is desirable to provide by some general Law for the naturalization of certain classes of persons who are not natural born subjects of Her Majesty, but have actually become domiciled 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 Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that all Aliens who were actually residing within this Province on the tenth day of February, in the Year of Our Lord one thousand eight hundred and forty-one, and who were so resident continually for the seven years next before that day, or who shall have been continually resident for seven years from the said day, or from their first residence in this Province before that day, shall be deemed and taken to be natural born subjects of Her Majesty, to all intents and purposes whatsoever; Provided always, that residence within the late Province of Lower Canada, or residence within the late Province of Upper Canada, shall be deemed residence within this Province for the purposes of this Act.

Terms of re-
sidence requir-
ed to entitle
Aliens to Natu-
ralization.

Proviso.

Temp orary
absence not to

II. Provided always, and be it enacted, that temporary personal absence from this Province, without any voluntary profession or act of renewal of allegiance to any

any Foreign State, and without any actual removal of domicile from this Province, shall not be held to interrupt any such residence as aforesaid, for the purposes of this Act.

interrupt such residence.

III. And be it enacted, that each and every person naturalized under the provisions of this Act, shall be deemed and taken to have had, from the commencement of the term of residence, by virtue of which such naturalization shall be effected, capacity to have, hold, occupy, possess and enjoy, claim, recover, convey, devise, impart and transmit real estate within this Province, or either of the late Provinces aforesaid, notwithstanding the alien birth of such person.

Person naturalised to have the right to hold and convey real estate from commencement of residence.

IV. Provided nevertheless, and be it enacted, that no such alien (excepting females) who at the passing of this Act, has been resident within this Province seven years continually as aforesaid, shall be entitled to the benefit of this Act, unless within twelve months after the passing thereof, he shall take the oath and make the declaration in the Schedule hereunto annexed, or, being one of those persons who are allowed by the Laws of this Province to affirm, shall make affirmation to the same effect, before some person whom the Governor, Lieutenant Governor, or Person Administering the Government of this Province, shall, by Commission under the Great Seal thereof, empower to administer the same; and no such Alien who has not at the passing of this Act, been for seven years continually resident within this Province, (except as before excepted) shall be entitled to the benefit of this Act, unless within twelve months after he shall have completed such seven years residence, he shall take such oath, or make such affirmation.

Oath to be taken within 12 months after passing of this Act.

Or after completion of seven years residence.

V. Provided always, and be it enacted, that any such Alien, who at the time of the passing of this Act, or at the time he shall have completed such stated residence of seven years as aforesaid, shall be a minor under the age of sixteen years, shall be entitled to the benefit of this Act, if he shall take such oath or make such affirmation within twelve months after he shall have attained the age of sixteen years.

Minors when to take the Oath.

VI. And be it enacted, that any person who shall wilfully swear falsely, or make any false affirmation before any person authorized to administer the oath or affirmation aforesaid, under the provisions of this Act, shall be deemed guilty of wilful and corrupt perjury; and every such person shall, on conviction thereof, in addition to any other punishment authorized by law, forfeit all the privileges and advantages which he would otherwise, by making such oath or affirmation, have been entitled to under this Act; but the rights of others in respect to estates devised from or held under him shall not thereby be prejudiced, excepting always such

Swearing falsely to be punished as perjury, and privileges forfeited.

Proviso.

such others as shall have been cognizant of the perjury at the time the title by which they claim to hold under him was created.

Oath to those
over 16.

Books of
Registry to be
kept.

Signature or
mark, &c. to
be inserted.

VII. And be it enacted, that each and every person authorized to administer the oath or affirmation by this Act required, shall administer the same to any person above the age of sixteen years, who shall desire to take the same, and shall make such declaration as will, if true, entitle him to all the benefit of this Act, 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 declaration which follows the said oath; and 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, and of the other particulars declared by him and referred to in his oath or affirmation.

Duplicate
Books, &c.

VIII. And be it enacted, that Duplicate Books of such Registry shall be kept, both of which, being original, shall contain the actual signatures or marks of the persons subscribing; and that on or before the thirty first day of December in each and every year, each person keeping and having charge of any such Books shall transmit one of them to the Registrar of this Province for the time being, retaining the other in his own office; and such Books of Registry shall remain and be preserved in such respective offices, and shall have the form and effect of public Records.

If lost or
destroyed how
to be replaced.

IX. And be it enacted, that if either of such original Register Books, or any part thereof, shall be lost or destroyed, it shall be supplied by a copy taken from the other original Register Book, attested as a true copy on the oath of the person or officer having lawful custody of the same, made before any Judge of any Superior Court of Record in this Province: and every such copy so attested shall be regarded to all intents and purposes as the original Register.

Copy or ex-
tract to be
deemed evi-
dence.

X. And be it enacted, 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 person having the lawful custody thereof, under his proper hand, shall be deemed and taken to be sufficient evidence of the naturalization of the person therein described.

Books trans-
mitted to be
verified on
Oath.

XI. And be it enacted, that whenever any person shall transmit any Book of Registry to the Registrar of the Province as hereinbefore provided, he and his Deputy, if he have a lawful Deputy, (and each and every person appointed to be

a Commissioner for the purposes of this Act is hereby authorised to appoint a Deputy,) shall verify the same by an affidavit subscribed by him or them and written as near as may be to the last entry contained in such book, such affidavit being taken before some one of Her Majesty's Justices of the Peace; and in such affidavit such person and his Deputy shall severally depose, that to the best of his and 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.

XII. And be it enacted, 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 any Superior Court of Record in this Province: but no such omission shall 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 or neglecting to attest the same.

XIII. And be it enacted, that a general alphabetical list shall be kept by the Registrar of the Province, and also by the several other persons entrusted with the making and keeping the said Books of Registry, of the names of all persons whose names and descriptions are recorded in such Books, referring to their places in such Books respectively; and such lists and books shall be open at all times to inspection during the hours of business, in the office in which they are kept; and any person desirous of searching the said lists or books shall pay to the person keeping the same one shilling for each name which he shall search for.

Alphabetical Lists to be kept.

To be open for inspection.

XIV. And be it enacted, that for administering the oath or affirmation aforesaid, making the entry required by this Act, and giving a certified copy or extract of such entry, the person authorized to administer or to give the same shall be entitled to demand, receive, and recover from every person making such oath or affirmation the sum of one shilling and three pence, and for searching and giving any such certified copy or extract the sum of one shilling and three pence, and that no greater or other fees than are expressly allowed by this Act shall be demanded, received or recovered for any services done under all or any of its provisions.

Fees allowed.

XV. And be it enacted, that if any person being an Alien who on the said tenth day of February, one thousand eight hundred and forty one, was domiciliated

Persons dying before the period limited.

ed

ed in this Province, shall die before the period limited by this Act for his taking the oath or affirmation according to the provisions thereof, such person shall nevertheless be deemed to have been a natural born subject of Her Majesty so far as regards the taking, holding, imparting and transferring of any real estate by grant, marriage, dower, devise, inheritance, or any lawful conveyance of the same.

Not to affect
54th Geo. 3rd.
cap. 9.

XVI. And be it enacted, that nothing in this Act contained shall be taken to repeal or in any manner affect or interfere with a certain Act of the Legislature of Upper Canada, passed in the fifty fourth year of the Reign of His late Majesty King George the Third, intituled *An Act to declare certain persons therein described Aliens, and to vest their estates in His Majesty*, or any proceedings had under the said Act, or to repeal or affect any Law now in force in this Province or in any part thereof, for the naturalization of any Alien or class of Aliens.

Person entitled in either part of the Province to be now entitled in both parts.

XVII. And be it enacted, that each and every person, who being by birth an Alien, had on the said tenth day of February, in the year of Our Lord one thousand eight hundred and forty one, become entitled to any or all of the privileges of British Birth within any part of this Province, by virtue of any general or special Act of naturalization then in force in such part of this Province, shall be, and shall be deemed to have been since the said day, entitled to the same privileges in every part of this Province, to which he was on the said day entitled within any part thereof under any such Act as aforesaid.

Person number 16 how to be dealt with.

XVIII. And be it enacted, 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 being or having been an Alien, or on the ground of any person from, or through whom he may claim being, or having been an Alien, provided the person against whom such disability shall be so objected, was resident in the Province on the tenth day of February aforesaid, and was then under the age of sixteen years.

Claims derived thro' Aliens, &c.

XIX. And be it enacted, that 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 claim to the same being derived from or through an Alien, provided such claim be not so derived after the passing of this Act.

Other claims how to be dealt with.

XX. Provided always, and be it enacted, that in all cases where any person claiming to hold any estate 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 such real estate before the passing of this Act, and have made improvements

improvements thereon, and also in all cases where any person claiming to hold as next entitled to any estate, 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 such estate before the passing of this Act, (no person whose claim would have then been good but for his or her claiming through an Alien, being at the time when such estate was so sold or departed with, or when the contract to sell or depart with the same was made, in adverse possession of such estate,) 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 never been passed.

SCHEDULE.

OATH.

I do swear (or solemnly affirm, as the case may be) that I was actually resident within the Province of Canada, on the tenth day of February in the year of Our Lord one thousand eight hundred and forty one, at the place named in the declaration to which I have set my name in this Register; that I was continually resident in the said Province for a term of seven years, in which the said day was included; that all the other particulars in the said declaration are true to the best of my knowledge and belief, and that I do truly believe myself entitled to be admitted to all the privileges of British birth within the said Province, under the provisions of an Act of the Legislature thereof passed in the fifth year of the Reign of Her Majesty Queen Victoria, and intituled *An Act to secure to, and confer upon, certain inhabitants of this Province, the civil and political rights of natural born British Subjects*, and I do further swear (or solemnly affirm, as the case may be) 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 dependent thereon—So help me God.

DECLARATION.

Name in full.	Residence on 10th February, 1841.	Present Residence.	Date of the expiration of the seven years residence.	Whether the party was or was not under 16 years of age at the date named in the next preceding column, and if he was, then the date at which he attained that age.	Signature.	Date of Registry	No. of Registry

CAP.

C A P. VIII.

An Act to alter and amend the Laws now in force in that part of this Province formerly Upper Canada regulating the District Courts.

[18th September, 1841.]

Preamble.

WHEREAS the Law now in force in Canada West, for establishing District Courts and regulating the practice thereof, requires amendment:—Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, that so much of the twenty-seventh and twenty-eighth sections of an Act of the Legislature of Upper Canada, passed in the second year of the Reign of His late Majesty King George the Fourth, and intituled *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*, as relates to the fees payable to the Judges and Clerks of the said Courts, and to the receipt of any fees by the Judges and Clerks of the said Courts, and by Sheriffs, for their respective duties and services under the said Act, be and the same is hereby repealed.

District
Judge to be a
Barrister of
the Province.

II. And be it enacted, that from and after the passing of this Act, no person shall be appointed to be a Judge of any District Court in Canada West, who shall not be a Barrister at law of this Province.

To be resi-
dent in his Dis-
trict.

III. And be it enacted, that from and after the first day of January one thousand eight hundred and forty two, no person shall remain or be appointed a District Judge for any District in Canada West, who shall not be a resident in the District of which he shall be Judge.

Oath.

IV. And be it enacted, that every Judge so to be appointed, before he shall be qualified to act as such, shall take the following oath, before some person to be appointed by the Governor of this Province to administer the same, that is to say:

I,

do swear that I will truly and faithfully, according to my skill

skill and knowledge, execute the several duties, powers and trusts of Judge of the District Court of the District of _____ and of the several division Courts within the same, without fear, favour or malice : So help me God.

V. And be it enacted that the Treasurer of every such District shall be the Receiver General of fees of the District Court within his District.

District
Treasurer to
receive fees.

VI. And be it enacted, that every such Treasurer shall be paid by a percentage of three pounds on every hundred pounds, and no more, of the gross produce of the fees of the District Court, and that every Judge and Clerk shall be paid by a certain salary, the salary of a Judge being (including the amount he may be entitled to under the provisions of an Act passed during the present Session intitled *An Act to repeal the Laws now in force in that part of this Province called Upper Canada, for the recovery of small debts, and to make other provisions for that purpose,*) in no case more than five hundred pounds, or less than one hundred and fifty pounds, and the salary of the Clerk being in no case more than two hundred and fifty pounds, or less than seventy pounds : And the Governor in Council shall fix the remuneration to be paid to the Judges and Clerks respectively, having due regard as well to the population of the several Districts, as to the amount of fees received by the Treasurer of each District under this and the said above mentioned Act; and the remuneration of the Judge and Clerks may be increased, or as vacancies shall occur, may be diminished by the same authority by which they were at first fixed : Provided always, that over and above the salary to be so paid as aforesaid, the said Clerks shall be entitled to demand and receive the sum of one shilling for every search made by any person into and among the records and proceedings in their respective offices.

Percentage
to Treasurers,
and amount of
salaries to
Judges and
Clerks.

VII. And be it enacted, that the Clerk of every District Court shall keep an account of all summonses, writs of *Capias ad respondendum*, executions, supœnas and all other writs as proofs of the Court, and of all other proceedings whatsoever mentioned and included in the Schedule hereto annexed, and shall receive and take all fees payable on every such writ or other proceeding, and shall duly and regularly enter an account of all such fees in a book to be kept by him for that purpose, which book shall be open to all persons desirous of searching the same, on payment of one shilling for each search, and shall, from time, at such times as shall be directed and appointed by the Governor, submit his accounts to be audited or settled by the Treasurer of his District.

Account to
be kept by
Clerk, of
Writs, fees,
and other pro-
ceedings of
Court.

VIII. And be it enacted, that there shall be payable on every proceeding in the District Courts, the fees which are set down for such proceedings, respectively, in the Schedule to this Act annexed, or which shall be set down in any Schedule

Table of
Fees to be
hung up in the
offices.

dule of reduced fees under the power hereinafter contained for that purpose and none other; and a table of such fees shall be hung up in some conspicuous place in the offices of the several Clerks of the District Courts.

Clerk to pay over fees to District Treasurer, who shall pay Judges and Clerks' salaries out of them.

IX. And be it enacted, that the Clerk of each and every District Court shall from time to time, as often as he shall be required so to do by the Treasurer of his District, deliver to him a full account in writing of the fees received in such Court under the authority of this Act; and the amount of such fees received by the said Clerk shall be paid over from time to time by him to the Treasurer, and at least once in every three months; and such amount or so much thereof as may be necessary, shall be applied by such Treasurer in payment of the salaries of the Judges and Clerks of the said Courts.

Treasurer to account half yearly to Inspector General of Province and pay over residue of fees to Receiver General.

X. And be it enacted, that the Treasurer of every District shall on or before the thirtieth day of June and thirty first day of December in every year, render to the Inspector General of this Province, a true account in writing, of all monies received and of all monies disbursed by him on account of the said Courts, during the period comprised in such accounts, in such form and with such particulars as the said Inspector General shall from time to time require, and shall within ten days after the rendering of every such account, pay over the amount of any surplus of such fees to the Receiver General of this Province; and if default shall be made in such payment, the amount due by such Treasurer shall be deemed a specialty debt to Her Majesty.

If fees do not cover the disbursements required, the Governor may by Warrant charge the deficiency on Consolidated Fund.

XI. And be it enacted, that in case the amount of fees received in any of the said Courts shall not be sufficient to defray the disbursements required on account of the said Courts, during the period comprised in the said account it shall be lawful for the Governor of this Province, forthwith to issue his warrant in favour of the Treasurer for the amount which shall be required to make up the salaries of the said Judges and Clerks, and the amount of such warrant shall be charged upon the consolidated fund of this Province.

Treasurers Accounts to be audited.

XII. And be it enacted, that the accounts to be kept by the several Treasurers on account of the said Courts, shall be deemed public accounts, and shall be inquired into and audited and shall be within any provisions of Law now or hereafter to be in force for auditing public accounts.

XIII. And be it enacted, that if any person having resigned or having been removed from the office of Treasurer of any District, or of Clerk of any District Court, shall neglect after twenty one days notice to such person to account for and pay to the Treasurer of the District for the time being, or to such person as he

he shall appoint to receive the same, all such sums as shall remain in his hands of monies received under the authority of this Act, it shall be lawful for such Treasurer for the time being, in his own proper name only, or by his name and description of office, to sue for and recover the same from such person, with double costs of suit, in any Court of Record in this Province having competent jurisdiction, by action of debt, in which action it shall be sufficient for such Treasurer to declare, as for money had and received to the use of such Treasurer for the purposes of this Act; and the Court in which such action shall be brought, may at the instance of either of the parties, refer the account in dispute in a summary manner to be audited by any officer of the Court or other fit person, who shall have power to examine both plaintiff and defendant upon oath; and upon the report of the referee (unless either of the parties shall show good cause to the contrary,) the Court may make a rule either for the payment of such sum as upon the report shall appear to be due, or for staying the proceedings in the action, and upon such terms and conditions as to the Court shall appear reasonable; or the Court may order judgment to be entered up by confession for such sum as upon the report shall appear to be due.

in 21 days after
notice to do so.

XIV. And be it enacted, that in case of the death of any person during the time that he shall be holding the office of Treasurer or Clerk, or after he shall have resigned or been removed from such office, the Treasurer for the time being may in his own proper name only, or by his name and description of office, sue for and recover from the executors or administrators of such person deceased, all such sums as shall have been remaining in his hands of monies received under the authority of this Act, and by an action of debt in any Court of Record in this Province, having competent jurisdiction; in which action it shall be competent for the plaintiff to declare that the deceased was indebted to the plaintiff for money had and received to his use for the purposes of this Act, whereby an action hath accrued to the plaintiff to demand and have the same from such executors or administrators, and a like action may be brought against any executors or administrators of executors or administrators; and in all such actions the defendant or defendants may plead in like manner and avail themselves of the like matters in defence, as in any action founded upon simple contracts of the original testator or intestate, and the Court may refer the account in dispute to be audited by any officer or person, and may proceed upon the report of such referee in like manner as is hereinbefore mentioned.

Executors
and adminis-
trators accoun-
table.

XV. And be it enacted, that in all actions to be brought as well as in all proceedings whatsoever to be instituted or carried on by any Treasurer by virtue of this Act, proof of his acting in the execution of the office of Treasurer shall be sufficient evidence of his holding such office, unless the contrary shall be shewn in

What shall
be sufficient
proof of hold-
ing the office of
Treasurer.

in evidence by the defendants in such actions, or the parties against whom such proceedings shall be instituted and carried on.

Treasurers
& Clerks to
give security.

XVI. And be it enacted, that the Treasurers and Clerks who shall receive any monies in the execution of their duty, shall give security for such sum, and with as many sureties and in such manner and form as the Governor of this Province shall see reason to direct, for the due performance of their several offices and for the due payment of all monies received by them under any provision of this Act.

Fees.

XVII. And be it enacted, that no other or greater fee than is set down in the Schedule hereunto annexed, shall be received or taken for any business done or service rendered by any Judge, Clerk or Sheriff in any District Court.

Judge of
District Court
to be Chair-
man of Quarter
Sessions.

XVIII. And be it enacted, that the Judge of the District Court, being also a Justice of the Peace for such District, shall also preside as Chairman at the General Quarter Sessions of the Peace, for the District of which he shall be the Judge.

Office hours.

XIX. And be it enacted, that each and every Clerk of such District Court shall hold his office in the District Town in each and every District, and shall keep such office open for the transaction of business pertaining to such Office on each and every day (Sundays and the usual legal Holidays excepted) from the hour of ten o'clock in the forenoon to the hour of three in the afternoon.

Meaning of
terms used in
this Act.

XX. And be it enacted, that the word "Governor" in this Act, shall mean the Governor, Lieutenant Governor, or person administering the Government of this Province, and the words "Canada West," shall mean all that part of this Province which formerly constituted the Province of Upper Canada.

Not to pre-
vent any Judge
of District
Court, being
Member of the
Assembly, from
continuing to
sit or vote.

XXI. Provided always, and be it enacted, that nothing in this Act or in an Act passed during the present Session of the Legislature, and intituled *An Act to repeal the Laws now in force in that part of this Province formerly called Upper Canada for the recovery of small debts and to make other provision therefor* shall be construed to prevent any person who was a Judge of any District Court in that part of the Province formerly called Upper Canada, at the time of the passing of the said Act or of this Act, and who also now is a Member of the Legislative Assembly of this Province, from continuing to sit and vote in the said Assembly during the present Parliament; any thing in the said Act or in this Act to the contrary notwithstanding.

SCHEDULE

SCHEDULE OF FEES.

	s.	d.
Every Writ of Summons.....	5	0
Every Capias ad Respondendum.....	5	0
Every Subpœna.....	2	6
Every Verdict.....	5	0
Every Judgment entered including taxation of costs.....	10	0
Every taxation of costs where no Judgment entered.....	2	6
Every rule requiring a motion in open Court and every rule or order of reference.....	5	0
Every other rule.....	2	6
Every recognizance of Bail.....	2	6
Every Affidavit by Judge or Clerk on oath to a Witness.....	1	0
Every Writ of Execution.....	5	0

TO THE SHERIFF.

Every Jury sworn.....	5	0
Every Summons or Capias served.....	2	6
Every Declaration, Rule, Demand of Pléa or Notice served.....	1	3
Every Execution received.....	1	3
Every Return of Execution made.....	2	6
Every other Return of Execution.....	1	3
Poundage on all Writs of Execution. £2 10s per cent.		
Mileage four pence per mile on all Writs Executed		
Every Bail Bond.....	2	6
Every Assignment.....	2	6

C A P. IX.

An Act to grant authority to Licensed Surveyors in that part of this Province called Upper Canada, to administer an oath in certain cases, and to protect them while in the discharge of their duty in Surveying lands.

[27th August, 1841.]

WHEREAS great inconvenience and delay are often experienced, and much unnecessary trouble and expense occasioned to the land holders, in that part of this Province called Upper Canada, in consequence of Licensed Surveyors not

Preambl.

not having authority to administer an oath to persons called upon to prove original land marks: and whereas it is expedient and necessary to remedy these evils by granting authority to legally authorized Surveyors to administer an oath in certain cases, and also to protect them in the discharge of their duty in surveying any lands; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada* and it is hereby enacted by the authority of the same, that from and after the passing of this Act, every licensed Surveyor within that part of this Province called Upper Canada, shall be and he is hereby authorized and required to administer an oath, or oaths, to every person or persons who may be called upon from time to time, to prove any boundary post, or monument, or to shew any original land mark, or corner of any township, concession, Lot, or Tract of land, which such Surveyor may be called upon to survey in any Town or Township within that part of this Province called Upper Canada.

Licensed Surveyor may administer an oath in certain cases.

False swearing to be perjury.

II. And be it enacted, that if any person or persons shall wilfully or corruptly swear falsely in any matter deposed under this Act, such false swearing shall be deemed wilful and corrupt perjury.

Hindrance of a Surveyor to be deemed and punished as a misdemeanor.

III. And be it enacted, that from and after the passing of this Act, if any person or persons shall interrupt, molest, or hinder, any Licensed Surveyor while in the discharge of his duty of a Surveyor of lands, practising under the several Laws now in force in that part of this Province aforesaid prescribing his duty, or under the authority of any Boundary Line Commissioners, such person or persons shall be deemed to have been guilty of a misdemeanor, and being thereof lawfully convicted in any Court of competent Jurisdiction, may be punished either with fine or imprisonment in the discretion of such Court.

Evidence taken by Surveyors to be filed in County Registry Office.

IV. And be it enacted, that all evidence to be taken by any Surveyor as aforesaid, shall be reduced into writing, and shall be read over and signed by the persons giving the same; and that all such evidence shall be filed in the Registry Office of the County in which it shall be taken, subject to be produced thereafter as evidence in any Court of Law within that part of this Province aforesaid.

CAP.

CAP. X.

An Act to provide for the better internal Government of that part of this Province which formerly constituted the Province of Upper Canada, by the establishment of Local or Municipal Authorities therein.

[27th August, 1841.]

WHEREAS, for the better protection and management of the local interests of Her Majesty's subjects in that part of this Province which formerly constituted the Province of Upper Canada, it is expedient that Municipal Authorities be established in the several Districts of that portion of 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 of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the inhabitants of each of the Districts in that part of this Province which formerly constituted the Province of Upper Canada, and of each and every District which may be hereafter established in that portion of this Province, in the manner by law provided, shall upon, from and after, the first Monday in January, in the year of our Lord, one thousand eight hundred and forty-two, be a Body Corporate, and as such shall have perpetual succession, and a Common Seal, with power to break, renew, and alter the same at pleasure, and shall be capable in Law, of suing and being sued, and of purchasing and holding lands and tenements, situate within the limits of such District, for the use of the said inhabitants, and of making and entering into such contracts and agreements as may be necessary for the exercise of their corporate functions; and that the powers aforesaid shall be exercised by and through, and in the name of the Council of every such District respectively.

Preamble.

The inhabitants of each District in U. C. to be a body corporate after 1st January, 1842.

Corporate powers.

II. Provided always, and be it enacted, that it shall not be lawful for the inhabitants of any District incorporated as aforesaid, to exercise any other powers of a corporation, except such as are herein mentioned, or such as shall be expressly conferred by the Legislature of this Province, or such as shall be necessary for the due execution of the powers herein granted.

To have only such corporate powers as are expressly granted or absolutely necessary.

III. And be it enacted, that there shall be a District Council in each such District as aforesaid, which District Council shall consist of a Warden and Councilors, to be appointed and elected as hereinafter provided.

District Council, of whom to consist.

IV.

Governor to
appoint a War-
den of each
District.

IV. And be it enacted, that it shall be lawful for the Governor of this Province by Letters Patent, to be issued under the Great Seal of this Province, to appoint from time to time, as occasion may require, one fit and proper person to be Warden of and in each of the said Districts, for the purposes of this Act; and such Warden shall hold his office during pleasure.

District Councillors to be elected at the township meetings for the election of town officers, next after the passing of this Act;

V. And be it enacted, that at the first meeting of the Inhabitant Freeholders and Householdors of the several Townships, or reputed Townships, or unions of Townships and of reputed Townships, in the Districts aforesaid, respectively, to be held next after the passing of this Act, in pursuance of a certain Act of the Parliament of the late Province of Upper Canada, passed in the first year of Her Majesty's reign, and intituled *An Act to alter and amend sundry Acts regulating the appointment and duties of Township Officers*, there shall be elected by the said Inhabitant Freeholders and Householdors, assembled and qualified in the manner prescribed by the said Act, one or two Councillors, to be members of the said District Councils, respectively, according as such local divisions as aforesaid, may by reason of the amount of their population, and according to the provisions hereinafter contained, be empowered and required to elect one or two Councillors; and at each succeeding annual meeting, to be held as aforesaid, there shall be elected by the Inhabitant Freeholders and Householdors, assembled and qualified as aforesaid, a Councillor or Councillors, to supply the place of the Councillor or Councillors (if any there be) who, having been elected for the local division for which the meeting shall be held, shall have vacated his or their seat or seats, in the manner hereinafter provided, and a Councillor to represent such local division in the District Council, if such local division shall, since the then last election, have become entitled to elect two such Councillors instead of one.

And yearly
at such meet-
ings thereafter.

A copy of
the assessment
roll for the lo-
cality to be
furnished to the
town clerk.

No persons
not on such
roll to vote;

VI. And be it enacted, that it shall be the duty of the Collector or Collectors in the locality for which any such election shall be held, to furnish to the Town Clerk, at least six days before the time appointed for such election, a certified list of all the Inhabitant freeholders and householders entered upon the then last assessment roll for such locality; and those persons only whose names are entered on such list shall vote at the election; and it shall be lawful for the Town Clerk to require of and administer to any person claiming to be one of the persons entered in such list, the following oath:

Oath of identi-
ty.

"I do swear (or solemnly affirm) that I am A. B. whose name is entered on the assessment roll for the Township of _____, (or as the case may be) and that I have not already voted at this election."
But no other proof of qualification shall be then required of any such person.

VII. And be it enacted, that the said Inhabitant Freeholders and Householders shall at every such meeting, first proceed to the election of a Councillor or Councillors, and the poll for such election, if demanded by any Candidate, or by any three Electors then present, shall be kept open to an hour not later than three in the afternoon of the day of such meeting, and shall then finally close; and poll lists shall be kept at such election by the Town Clerk, or person presiding at the same, in the form of the Schedule hereunto annexed; and after the final close of such poll the person so presiding shall forthwith proceed publicly to declare the number of votes given for each Candidate, and shall declare the person or persons having the majority of votes in his or their favour, to be duly elected Councillor or Councillors as aforesaid; and if there should be, at such final closing of the poll, an equal number of votes polled for two or more persons to be Councillors as aforesaid, it shall be lawful for the person presiding at such election, and he is hereby required, whether otherwise qualified or not, to give a vote for one or other of the persons having such equality of votes, and so determine the election; and the poll lists kept at such election shall, by the person so presiding, be delivered, after the conclusion of every such election, to the Clerk of the Peace of the District for which such election shall have been held.

Election of Councillors to be the first election had at such meeting;

Mode of election.

Person presiding to have a casting vote.

VIII. And be it enacted, that before the person presiding at such Election of Councillor or Councillors shall proceed to poll the votes thereat, he shall subscribe and take the following oath, before some Justice of the Peace of the District, who is hereby empowered and required to administer the same, and who shall certify and return such affidavit to the Warden of the District, to be by him delivered to the Clerk of the Council, for safe keeping among the records and papers of the Council.

Oath to be taken by presiding officer.

“I, C. D., do swear (or solemnly affirm) that I have not, directly or indirectly, by myself or any other person, received any fee, gift, gratuity or reward either in money or otherwise, or the promise of any as a consideration, for my returning or effecting the return of any person as a Member of the District Council for the district of (as the case may be); that I will, to the best of my skill and ability, fairly, honestly and faithfully, conduct the present election for the choice of a Member (or Members as the case may be) of the said Council, and truly return the Candidate (or Candidates, if two Members are to be chosen) who at the final close shall appear to have the Majority of votes, and that I will use my best endeavours to preserve peace and order at such election, and to give all persons entitled to vote, free and unmolested access to and from the poll.”

IX. And be it enacted, that the person presiding at every such election shall, during the day and days on which the election may be held, be fully empowered to

Powers granted to presiding officer at elections.

to act as a Conservator of the Peace in and for the District; and such person presiding, or any Justice or Justices of the Peace present at such election, shall and may arrest, or cause to be arrested, and may try or bind over for trial, or summarily punish by fine or imprisonment, or both, any riotous or disorderly person or persons, or any person or persons who may assault, beat, molest or threaten any Elector at, coming to, or returning from the said election; and when thereto required, all Constables and others at the said election are enjoined to aid and assist such person presiding, and Justice or Justices of the Peace, in discharging such duties, under pain of being deemed guilty of a misdemeanor and liable to punishment therefor; and all Justices of the Peace residing in the Township wherein the election is held shall, upon being notified in writing by such person presiding, attend at such election for the purpose of aiding in preserving peace and order thereat; and such Justice or Justices, or person presiding, shall and may, when they consider it necessary, appoint and swear in any number of special Constables, not exceeding twenty-five, to act as peace officers and assist in maintaining peace and order at such election.

Justices of the Peace, upon being notified, to attend at elections.

Number of Councillors for each locality.

X. And be it enacted, that the number of Councillors, to be elected for each of the said Districts, shall be regulated as follows, that is to say:—Every Township, or reputed Township, entitled to elect Township Officers shall also be entitled to elect one Councillor, and if in such Township, or reputed Township, there shall be more than three hundred Inhabitant Freeholders and Householders in such assessment List as aforesaid, such place shall be entitled to elect two Councillors; and no Township shall be entitled to elect more than two Councillors: Provided always, that the unions of Townships and of reputed Townships, to be made in pursuance of the Act of the Parliament of the late Province of Upper Canada, hereinbefore cited, shall be taken and considered to constitute Townships for all the purposes of this Act.

Unions of townships to be considered as townships.

Qualification of District Councillors.

XI. And be it enacted, that every person to be elected a member of a District Council, as aforesaid, shall be resident within the Township, or reputed Township, for which he shall be elected, and shall be seized and possessed to his own use, in fee, of lands and tenements within the District in which such local divisions respectively shall be situate, or within some one or other of the Districts next adjoining such District, of the real value of three hundred pounds currency, over and above all charges and incumbrances, due and payable upon or out of the same.

Certain persons not to be elected District Councillors.

XII. And be it enacted, that no person being in Holy Orders, or being a Minister or Teacher of any religious sect or congregation, nor any Judge or Judges of any Court of civil jurisdiction, nor any Military, Naval or Marine Officer in Her Majesty's

Majesty's service, on full pay, nor any person accountable for the District revenues nor any person receiving any pecuniary allowance from the District for his services; nor any person having, directly or indirectly, by himself or his partner, any contract or any share or interest in any contract, with or on behalf of the District, shall be qualified to be elected a Councillor in any District Council to be constituted under this Act.

XIII. And be it enacted, that no person shall be capable of being elected a Councillor, in any such District Council, who shall be attainted for treason or felony, in any Court of Law in any of Her Majesty's dominions.

No person attainted for treason or felony to be elected.

XIV. And be it enacted, that every person duly qualified, who shall be elected to the office of Councillor, in any such District Council, shall accept such office, or in default thereof shall pay to the Treasurer of the District, in which he shall have been so elected, a fine not exceeding the sum of ten pounds currency, or such other fine instead thereof as may hereafter be provided by a By-law of such Council, to be made in this behalf; and the said fine, if not duly paid, shall, together with the reasonable costs of recovering the same, be levied by distress and sale of the goods and chattels of the person so refusing to accept office, in execution of the warrant of any Justice of the Peace having jurisdiction within the District, who is hereby required, on the application of the Council, and after the conviction of the person so making default, by confession, or on the oath of one or more credible witnesses, to issue such warrant; and the fine so recovered shall be accounted for by the Treasurer, as part of the District Funds in his hands: And Provided also, that no person shall be liable to such fine as aforesaid, who shall, prior to such conviction, make oath before the Justice of the Peace before whom he shall be prosecuted, that he has not the qualification in property hereby required for a district Councillor. And Provided also, that no person disabled by permanent infirmity of body or mind, nor any person above the age of sixty-five years, nor any person who within five years, from the day on which he shall have been so elected, shall have served in the office of Councillor, or paid a fine for not serving in the same, shall be liable to such fine as aforesaid.

Persons duly qualified to be liable to a fine for not serving.

Fine how recovered.

Exemptions.

XV. And be it enacted, that no person elected a Councillor as aforesaid, shall be capable of acting as such until he shall have taken and subscribed before the Warden of the District, or one of the Justices of the Peace, who shall have authorized the election (who are hereby empowered to administer the said oaths,) the oath of allegiance to Her Majesty, Her Heirs and Successors, and also an oath in the words or to the effect following, that is to say—

Councillors not to act until they have taken the oath of allegiance, and a certain oath of qualification.

“ I, A. B., having been elected a Councillor in the District Council of
do hereby sincerely and solemnly swear (or affirm) that I will faithfully
fulfil

fulfil the duties of the said office, according to the best of my judgment and ability; and that I am seized and possessed, to my own use, of lands held in fee, viz. (*describing the lands*) and that the said lands are within the District of and are of the real value of three hundred pounds, currency, over and above all charges and incumbrances due and payable upon or out of the same; and that I have not fraudulently or collusively obtained the same for the purpose of qualifying me to be elected as aforesaid: "So help me God."

Such oath to be taken within a certain time.

XVI. And be it enacted, that every person duly qualified, who shall be elected to the Office of Councillor as aforesaid, shall take and subscribe the oaths hereinbefore mentioned, within ten days after notice of his election; and in default thereof, such person shall be deemed to have refused to accept the said Office; and shall be liable to pay the fine aforesaid as for non-acceptance of office, and the said office shall thenceforward be deemed to be vacant, and shall be filled up by another election.

Penalty.

A new election to be had if the person first elected be disqualified, or exempt, or refuse to serve:

XVII. And be it enacted, that in cases where any person elected shall prove to be disqualified or shall claim and prove exemption, or where any duly qualified person, elected to the office of Councillor in any of the said Districts, shall refuse to accept such office, or shall refuse or neglect to take and subscribe the above mentioned oaths, it shall be lawful for the Justices of the Peace, who shall have signed the Warrant for the Township meeting, at which such person was elected, or for either of such Justices, as often as such case of refusal or neglect shall occur, to issue his or their Warrants to the Township Clerk, authorizing him on a day to be named in the Warrant, (of which day not less than five days notice shall be given in the same manner as is by law required with regard to the annual Township meeting, to the electors qualified as aforesaid,) to proceed to another election of a fit and proper person to supply the place of the person who shall have so refused or neglected to accept office, or to take and subscribe the said oaths; and the Councillor who may be elected at such new election, shall hold office until the time at which the person in whose place he may have been elected, would according to the provisions hereinafter contained, have gone out of office, and no longer, but shall be capable of immediate re-election, unless otherwise disqualified.

Made of proceeding.

Vacancies happening between the annual elections how to be filled.

XVIII. And be it enacted, that if a vacancy or vacancies in any of the said Councils, whether arising from the death of any of the Councillors, or other cause, shall occur before the annual period of election hereinbefore prescribed, it shall be lawful for the Warden of the District in which such vacancy or vacancies shall have occurred, to issue in the name of Her Majesty, Her Heirs or Successors, a Warrant attested by him under his hand and seal, directed to the Clerk of

of

of the Township, or reputed Township, for which such vacancy or vacancies shall have occurred, requiring him, after five days notice to be given in the manner mentioned in the next preceding section to the electors qualified as aforesaid, to cause an election to be made of a Councillor or Councillors, to supply such vacancy or vacancies ; which Warrant shall, by such Town Clerk, be duly executed ; and every Councillor elected under such Warrant, shall vacate his seat in the Council, at the time when the person in whose stead he shall have been chosen would, according to the provisions hereinafter contained, have vacated his seat, but shall be capable of immediate re-election, if not otherwise disqualified : Provided always, that no such Warrant shall be issued as aforesaid, after the third quarterly meeting in any year.

Councillors elected to fill such vacancies : when to go out of office.

XIX. And be it further enacted, that on the first Monday in January, in the year next following that in which the first election shall be had, and on the same day in every succeeding year, one third part of the entire number of Councillors in every District shall go out of office ; and at the last quarterly meeting of each and every District Council, in the year in which such first election shall be had, it shall be determined by lot, which among the Councillors shall go out of office for that year, and for the next succeeding year ; but thenceforward, in all future years, those persons who shall have been Councillors, without re-election, for the longest time, shall vacate their seats : Provided always, that when any District Council shall consist of a number of Councillors not divisible into three equal parts, it shall be lawful for such District Council, by a By-law to be made in this behalf, to fix and determine the number of Councillors to go out of office at the end of the first and second years respectively, which number shall be as near one third of the whole number of Councillors as may be ; and the number to go out of office, shall be so regulated by such By-law, that at the end of three years, none of the Councillors elected at the first election shall remain in office : And Provided also, that every Councillor who shall so go out of office shall, if not otherwise disqualified, be capable of being immediately re-elected.

One third of the Councillors to go out of office in each year.

Who shall go out in the first and second year.

When the number of Councillors is not exactly divisible by three.

Councillors going out may be re-elected.

XX. And be it enacted, that in order to determine, in each of the said Councils, what Councillors are to vacate their seats as aforesaid, in the first and second years after the first election under this Act, the Clerk of the Council or other officer to be appointed for that purpose by the Council, shall, at the last quarterly meeting of such Council, to be held in the year in which such first election as aforesaid shall be had, write the name of each of the Councillors on a piece of paper, and place the same folded up in a glass or box, from which the names shall be drawn by some person appointed by the Council for that purpose ; and the third of the said Councillors (or the number of Councillors to go out in pursuance of the By-law to be made in that behalf as aforesaid,) who shall vacate their

Mode of determining by lot what Councillors go out of office in the first and second years.

their seats in the year then next following, shall be those whose names shall be first drawn; and the third of the said Councillors, or the number to go out of office in pursuance of such By-law as aforesaid, who shall vacate their seats in the next succeeding year, shall be those whose names shall be next drawn.

Warden to
preside, or in
his absence a
temporary
Chairman.

XXI. And be it enacted, that at all meetings of every such Council, the Warden of the District shall preside; and, in case of his absence, death or incapacity to act, or of any accidental vacancy in the office of Warden, the members shall choose, from the Councillors present, one of their number to be temporary Chairman in the place of such Warden, during his absence, or during such accidental vacancy in the office of Warden.

Four quar-
terly meet-
ings of the Council
to be held in
each year.

XXII. And be it enacted, that there shall be in each year, four quarterly meetings of every District Council constituted under the authority of this Act, which meetings shall commence on the second Tuesday in the months of February, May, August and November, respectively; and the said meetings shall not at any time be held for a longer period than six successive days, (Sundays excepted) and at no meeting of any such Council, shall any matter be deliberated or determined on except such matters as fall within the scope of the powers and jurisdiction of such Council.

Extraordin-
ary meetings
may be autho-
rized by the
Governor.

XXIII. Provided always, and be it enacted, that extraordinary meetings of any such Councils may be held by and under the authority of the Governor of this Province, signified in writing to the Warden of the District, who shall give due notice thereof to the Councillors of the District; and no such extraordinary meeting shall continue beyond the period of six days; and no matters shall be deliberated or determined on, at any such extraordinary meeting, except those for which the same shall have been specially convened.

Meetings to
be open to the
public; where
to be held.

XXIV. And be it enacted, that the meetings of the Council of each District, respectively, shall be open to the public, and shall be held at the place at which the sittings of the District Court for the same District are or may be appointed to be held; and may be held in the Court House of the District, unless some other building shall be provided for the purpose.

Questions in
the Council to
be determined
by the majority
of votes of the
Councillors
present.

XXV. And be it enacted, that all acts whatsoever, authorized or required by virtue of this Act, to be done by the Council of any of the said Districts, and all questions of adjournment or other questions that may come before any meeting of such Council, may and shall be done and decided by the majority of votes of the members present at such meeting, other than the Warden; and the Warden, or in the absence of the Warden, the temporary Chairman shall, in all cases of equality

equality of votes, have a casting vote; but the Warden shall not vote except in such case of equality, and the temporary Chairman shall vote first as a member of the Council, and shall then, if there be such equality, have a casting vote; and in order to constitute a quorum, there shall be present at every such meeting, a majority of the entire number of Councillors, by which such District, is entitled to be represented in such Council: Provided always, that no District Council shall be incompetent to proceed to business, if a quorum be present, although all the Councillors by which the District is entitled to be represented may not then have been elected, or have taken the oaths requisite to enable them to sit.

Casting vote.

Proviso.

XXVI. And be it enacted, that minutes of the proceedings of all the meetings of the said Councils shall be drawn up and fairly entered in a book to be kept for that purpose by the Clerks of the said Councils, respectively; and such minutes shall be signed by the Warden or temporary Chairman who shall preside at the meeting, and shall be open to inspection by any elector of the District, at all seasonable times, on payment of a fee of one shilling.

Minutes of proceedings: how to be kept.

XXVII. And be it enacted, that it shall be lawful for each of the said Councils, to appoint from and out of the Councillors elected to serve in such Council, such and so many Committees, consisting of such number of persons as they may think fit: Provided always, that it shall not be lawful for such Committees to sit or meet on any days except those appointed for the meetings of the Council; and that such Committees shall be subject in all things to the authority, controul and approval, of the Council.

Committees may be appointed; but shall not sit except on days on which the Council may sit.

XXVIII. And be it enacted, that from and out of a list of three fit and proper persons, to be submitted by each of the said Councils to the Governor of this Province, it shall be lawful for the said Governor to select one to be, and be called the District Clerk; and every such Clerk shall be appointed by an Instrument to be issued under the Great Seal of this Province, and shall hold his office during pleasure; Provided always, that if at the first meeting under this Act, or at the next quarterly meeting after any vacancy shall have occurred in the office of District Clerk, or at any extraordinary meeting to be called for the purpose of filling up such vacancy, any such Council shall fail to agree upon the three names to be submitted as aforesaid to the said Governor, then it shall be lawful for the said Governor to appoint some fit and proper person to be such Clerk: And provided also, that it shall be lawful for the Warden to appoint a person to act as Clerk until such time as a Clerk shall be appointed in the manner hereinbefore provided.

Clerk of the Council how and by whom appointed.

Vacancy in the office of District Clerk, how to be filled up.

Temporary Clerk in certain cases.

XXIX. And be it enacted, that upon from and after the said first day of January,

The office of each of the present District Treasurers, to be vacated on the first of January, 1842; and the Governor to appoint a Treasurer in each District.

January, in the year of our Lord one thousand eight hundred and forty-two, the power now vested in the Justices of the Peace in any District, to appoint the District Treasurer thereof, shall cease and determine, and the office of each and every District Treasurer so appointed before the said day, shall be vacated upon, from and after the same; and it shall be lawful for the Governor of this Province, to appoint in each of the said Districts, one fit and proper person to be, and be called the District Treasurer, and to hold his office during pleasure; and such appointment shall be made by an Instrument to be issued under the Great Seal of this Province, after the person named by the said Governor shall have first given good and sufficient security, to be ascertained and determined by the said Governor, for the due execution of the office of Treasurer, and for the faithful accounting for all the monies which may come into his hands by virtue of the said office; and such appointment may be made at any time after the passing of this Act, but the District Treasurer so appointed shall not enter upon any of the functions of his office until the day last aforesaid.

Such new Treasurer to receive all monies under any By-law of the District Council, or directed by law to be paid to the District Treasurer.

XXX. And be it enacted, that it shall be the duty of the Treasurer of each of the said Districts, respectively, to receive all monies which shall be raised under any by-law to be made as hereinafter provided, by the Council of the District wherein he shall have been appointed Treasurer, and also all monies which under any Act of competent Legislative authority within this Province, have been or shall be directed to be paid to or received by any District Treasurer, and to apply and account for the same in such manner as may be prescribed by any By-law of such Council, or by any Act of such competent Legislative authority as aforesaid.

The new District Treasurer to be substituted for the Treasurer vacating office as aforesaid.

XXXI. And be it enacted, that each District Treasurer appointed under the authority of this Act, shall upon, from and after the day last aforesaid, be to all intents and purposes substituted to and for the District Treasurer appointed for the same District in the manner now authorized by Law, and shall have the same rights and powers with regard to such former District Treasurer, his sureties, and all other parties concerned, as if he had succeeded to such former District Treasurer by virtue of an appointment made in the manner now provided by law, on the removal from office of such former District Treasurer; saving only that he shall be under the controul of, and accountable to the District Council, and the Auditors hereinafter mentioned, touching all matters and things within the scope of the powers and jurisdiction of the District Council, and shall not with regard to such matters and things be under the controul of and accountable to the Justices of the Peace for the District; and upon, from and after the said day, each District Treasurer appointed under this Act, shall have all the rights, powers and authority, and shall be subject to all the duties, obligations and liabilities, which the

Exceptions.

He shall have all the rights, and be subject to all

District

District Treasurer, appointed for the same District by the Justices of the Peace, would have had, or would have been subject to, if this Act had not been passed; saving always, that he shall not be under the controul of, or accountable to the Justices of the Peace for the District, but shall be under the controul of, and accountable to the District Council, and the Auditors hereinafter mentioned, touching all matters and things within the scope of the powers and jurisdiction of the District Council, but shall with regard to all other matters and things be and remain under the controul of, and accountable to the Justices of the Peace for the District, and to other authorities and parties, as the District Treasurer appointed for the same District by the said Justices would have been, if this Act had not been passed.

the duties and liabilities of the former District Treasurer.

XXXII. And be it enacted, that every District Treasurer shall, in books to be kept for that purpose, enter true accounts of all sums of money by him received and paid, and for which he may be accountable to the District Council, or to the Auditors hereinafter mentioned, and of the several matters for which the same shall have been received and paid; and the books so kept, shall at all seasonable times, be open to the inspection of every Member of the Council; and all such accounts, together with all vouchers and papers relating thereto, shall four times in every year, that is to say, within one month after every quarterly meeting be submitted, together with an abstract of such accounts for the last year, by the Treasurer to the District Auditors, (to be appointed as hereinafter provided) for the purpose of being by them examined and audited: and if the said accounts shall be found to be correct, the same shall be approved and allowed by the said Auditors; and after the said accounts shall have been so examined and audited, the said Auditors shall make their report thereon to the Council at its next quarterly meeting; and every such abstract and report shall be open at all seasonable times to the inspection of any inhabitant of the District, who shall also be entitled to copies thereof, on payment of such reasonable fee for the same as the Council shall establish.

District Treasurer to keep true accounts in certain Books.

Such account to be submitted quarterly to the District Auditors.

Abstract of and report on such accounts, to be open to the inhabitants of the District.

XXXIII. Provided always, and be it enacted, that no District Treasurer appointed under this Act, shall be entitled to any salary, per centage, or remuneration whatever, for any service performed under the direction or controul of the District Council, on any monies for which he shall be accountable to the District Auditors, unless and until his accounts shall have been duly audited, approved and allowed by such District Auditors; and in every bond and other security given by any such Treasurer for the due execution of his office, it shall be expressly conditioned that he shall render true accounts to such Auditors, within the time and times prescribed by this Act, or within the time and times which shall be prescribed by any other laws which shall be in force in that behalf; and

No District Treasurer to have any salary or per centage until his accounts have been audited.

so much of any Act or Law now in force as may be inconsistent with the provisions of this Section, shall be and is hereby repealed.

Auditors,
how appointed
and elected.

Certain persons
disqualified
to be Auditors.

Auditors to
take an oath of
Office.

The oath.

XXXIV. And be it enacted, that there shall be appointed at the first quarterly meeting in each year, for each District, two persons to be and be called "District Auditors," one of whom shall be appointed by the Warden of the District, and the other elected by the Council: Provided always, that no person shall be appointed or elected Auditor, who shall be a member of the Council, or the Clerk, or Treasurer, or Surveyor of the District, nor any person who shall have directly or indirectly, by himself or in conjunction with any other person, any share or interest in any contract or employment with, by or on behalf of such Council: And provided also, that no person appointed or elected an Auditor for the District, shall be capable of acting as such, unless he shall have previously made and subscribed before any two of the Councillors for such District, (who are hereby authorized to administer the same) an oath in the words, or to the effect following, that is to say:—

"I, A. B., having been appointed (or elected, as the case may be) to the office of Auditor, for the District of _____ do hereby promise and swear, that I will faithfully perform the duties thereof, according to the best of my judgment and ability; and I do hereby solemnly declare and swear, that I have not, directly or indirectly, any share or interest whatever, in any contract or employment with, by, or on behalf of the Council of this District: So help me God."

Persons authorized
by Law to affirm
instead of taking
an oath,
may affirm
where an oath
is required by
this Act.

XXXV. And be it enacted, that every person authorized by law to make an affirmation instead of taking an oath, shall make such affirmation in every case in which by this Act an oath is required to be taken; and if any person taking any oath required by this Act, or making any affirmation instead of taking such oath, shall wilfully swear or affirm falsely, such person shall be deemed guilty of wilful and corrupt perjury, and be liable to the pains and penalties by law provided for that offence.

Duties of the
Auditors.

What accounts
they shall audit.

XXXVI. And be it enacted, that it shall be the duty of the Auditors in each of the said Districts, to examine, settle and allow, or report upon, all accounts which may be chargeable upon or may concern their Districts, respectively, and which may relate to any matter or thing under the controul of, or within the jurisdiction of the District Council, and may then remain unsettled, whether such accounts relate to debts or liabilities of or to the District, contracted before or after the said first day of January, one thousand eight hundred and forty two; and also to examine and audit the accounts of the Township Officer or Officers of reputed Townships, appointed or hereafter to be appointed in pursuance of the aforesaid

aforesaid Act of the Parliament of Upper Canada, and the accounts of all other persons, against their respective Townships; and the said Auditors shall, for the purpose last aforesaid, be substituted for the Town Wardens appointed under the authority of the said Act.

XXXVII. And be it enacted, that it shall be lawful for the Warden of each of the said Districts, respectively, with the approbation of the Governor of the Province, for the time being, to appoint in and for his District, some fit and proper person to be and be called "The District Surveyor," whose duty it shall be to superintend the execution of all works undertaken in pursuance of any by-law of the Council of such District, and to take care of all fixed property belonging to such District, and to examine and report upon all estimates of proposed works, and to enforce the observance of all contracts for the execution of works undertaken for or on behalf of the said District, and to report annually, or oftener if need be, to the said Warden, upon the state of the works in progress, and of the fixed property belonging to such District: and all such annual or other reports shall be laid by the Warden before the District Council, at the quarterly meeting next after any such report shall have been received, together with an estimate of the probable expense of carrying on such works, and managing such fixed property, during the then current or next ensuing year: Provided always, that no person shall be appointed to be such Surveyor, unless and until he shall have been examined and declared qualified for the office, by the Board of Works for this Province, or by some other competent person or persons to be named for that purpose by the Governor of this Province.

A District Surveyor to be appointed by the Warden with the approval of the Governor.

His duties.

To report to the Warden.

No person to be appointed District Surveyor until he has been examined and found qualified.

XXXVIII. And be it enacted, that it shall not be lawful for any person to hold at the same time more than one of the District offices hereby created; nor shall it be lawful for the partner of any such District officer to hold any District office in the same District wherein such officer shall be employed; nor shall it be lawful for any such officer to have directly or indirectly, any share or interest whatsoever, either by himself or his partner, in any contract for executing any work to be undertaken by, for, or on behalf of, the Council of such District.

No person to hold more than one District office;

Certain persons disqualified.

XXXIX. And be it enacted, that it shall be lawful for each of the said Councils, in the said Districts, respectively, to make By-laws for all or any of the following purposes, that is to say:

The Council may make by-laws for certain purposes.

For the making, maintaining, or improving, of any new or existing road, street, or other convenient communication and means of transit within the limits of the District, or for the stopping up, altering, or diverting of any road, street or communication, within the limits aforesaid;

Internal communications.

For the erection, preservation and repair of new or existing bridges and public buildings;

Bridges and public buildings.

H

For

Purchasing
property for
the District.

Selling pro-
perty of the
District.

Superintend-
ing such pro-
perty.

Administra-
tion of just. cc.

Schools.

Raising mon-
ey for District
purposes.

Collecting
and accounting
for such mon-
ies.

Imposing
penalties on
persons elect-
ed and refusing
office.

Remunerat-
ing District
officers.

Remunerat-
ing township
officers.

Commutation
of statute lab-
our.

For the purchase of such real property, situate within the limits of each such District, respectively, as may be required for the use of the inhabitants thereof;

For the sale of such part or parts of the real property belonging to such Districts, respectively, as may have ceased to be useful to the said Inhabitants;

For the superintendence and management of all property belonging to the said Districts, respectively;

For providing means for defraying such expenses of or connected with the administration of Justice within the said Districts, respectively, as are or may be hereinafter by law directed to be defrayed by the District, or out of the District Funds;

For providing for the establishment of and a reasonable allowance for the support of Schools;

For raising, assessing, levying and appropriating, such monies as may be required for the purpose of carrying into effect all or any of the objects for which the said District Councils, respectively, are hereby empowered to make By-laws: which monies shall be raised either by means of tolls, to be paid in respect of any public work or works, within the limits of the said Districts, respectively, or by means of rates or assessments to be assessed and levied on real or personal property, or both, within the limits of such Districts, or in respect of such property, upon the owners and occupiers thereof;

For the collection of, and accounting for all tolls, rates and assessments, imposed or raised under the authority of any such Council, and of the revenues belonging to such Districts, respectively;

For imposing and determining reasonable penalties to be recovered from such persons as having been elected to offices, as hereinbefore provided, shall refuse to serve the same, or refuse or neglect to take and subscribe the oaths of office, as hereinbefore prescribed, for such officers, respectively;

For determining the amount and manner and time of payment of all salaries or other remuneration of District officers, to be appointed under the authority of this Act;

For determining the amount of salary, fees or emoluments, which shall be received by the several Township Officers within the limits of such Districts, respectively, to be appointed or elected in pursuance of any Act or other Law now in force, or which may hereafter be in force in that part of this Province to which this Act applies;

For establishing a rate of commutation to be paid in money by each person bound to perform Statute Labour on any Road within the District, in lieu of such labour, and for directing how such commutation money shall be collected, levied and applied; and

For providing for any other purpose, matter or thing, which shall be specially
subjected

subjected to the direction and controul of the said District Councils, respectively, by any Act of the Legislature of this Province: but no such By-law shall impose any punishment of imprisonment, or any penalty exceeding five pounds.

Other purposes ;

Limitation.

XL. Provided always, and be it further enacted, that it shall not be lawful for any such District Council as aforesaid, to impose, lay or levy, any rate or assessment whatever on any lands or tenements, goods or chattels, real or personal estates, belonging to Her Majesty, Her Heirs or Successors.

No tax to be laid on property belonging to the Crown.

XLI. Provided also, and be it enacted, that in assessing any rate or tax which shall be levied under the authority of this Act, such property only shall be assessed as is now liable by law to be assessed for rates in any District, and that in making such assessment, all such property shall be respectively valued at the rates, at which it is by law directed to be valued, in making assessments of such rates as aforesaid for any District: Provided always, that the assessment shall not in any case exceed the sum of two pence in the pound on the assessed value: Provided also, that the sum to be raised under any By-law shall be limited by such By-law, and shall afterwards be apportioned and assessed equally upon all property, except land liable to assessment within the locality in which such sum is to be raised according to the value assigned to such property by the Assessment Laws aforesaid; but it shall be lawful for any District Council, by any such By-law as aforesaid, to direct that all the land within the District shall be rated and assessed for such parts of the sum to be raised under such By-law, as to the said Council shall seem expedient, provided the total amount of rates or taxes levied for District purposes, in any one year, on the land within any District, shall not exceed one penny halfpenny currency per acre.

No property to be assessed except such as is now liable to assessment.

Any sum to be raised, to be equally assessed on all property liable to assessment within the locality.

But wild lands may be taxed for District purposes, to an amount not exceeding 1½d. per acre in any year.

XLII. And be it enacted, that all existing rates now lawfully imposed in any District, for any purpose within the scope of the powers of the District Council, and in force on the said first day of January, one thousand eight hundred and forty two, shall continue in force and shall be paid over to and received by the Treasurer, to be appointed under this Act for such District, and shall be collected by the Collectors of the several Townships and places within the District, until it shall be otherwise provided by a By-law of the District Council.

Existing rates to continue in force until it be otherwise provided by the District Council.

XLIII. And be it enacted, that all lawful debts and liabilities of any District, or of the Justices or Treasurer for the same, in respect of such District, shall be assumed and paid by the District Council thereof, upon, from and after the said first day of January, one thousand eight hundred and forty two, on the same terms and conditions as they would have been payable by or might have been enforced against such

Existing debts and liabilities of any Districts to be assumed and discharged by the District Council.

Existing debts and liabilities in favour of any District, may be enforced by the Council.

Council not to issue notes, &c. or to act as Bankers.

The present allowances to Collectors, Treasurers, and Township Officers, to be continued until it be otherwise ordered by the District Council.

Rules, &c. made by Justices of the Peace, to remain in force until altered by the Council.

New works not to be undertaken until reported on by the District Surveyor, and if they exceed a certain sum, by the Board of Works.

such District Treasurer or Justices ; and all debts, obligations, and liabilities of any kind whatever, due to or contracted in favour of such District, or to or in favour of such Treasurer or Justices in respect thereof, and all property whatsoever belonging to the District, shall at the said time become vested in and due to, and may be enforced by the District Council, on the same terms and conditions as they would have been due to and might have been enforced by, such District, or the Justices of the Peace or Treasurer for the same, if this Act had not been passed : Provided always, that it shall not be lawful for any District Council to issue or authorize the issue of any bill or note, or in any way to act as Bankers, or to authorize any person or party to act as such.

XLIV. And be it enacted, that all allowances or per centage, granted to any Collector or Treasurer by the laws now in force, on monies collected or received by him which will, after the said first day of January, one thousand eight hundred and forty-two, be subject to the disposal and controul of the District Council, shall, from and after the said day, continue to be allowed to such Collector or Treasurer until it be otherwise ordered by a By-law of the Council ; subject always to the provision hereinbefore mentioned as to the auditing of the accounts relative to such monies ; and all salaries, wages and allowances of any kind now granted to any Township Officer or to the Clerk of the Peace, for any services performed with regard to matters hereby placed under the controul of the District Council, shall continue to be allowed and paid until it shall be otherwise ordered by such Council.

XLV. And be it enacted, that all rules, orders and regulations, of any kind, made before the day last aforesaid, by the Justices of the Peace, for any District, relative to any rate, assessment, road, public work, matter or thing, hereby placed under the controul of the District Council, shall remain in force and effect until it be otherwise ordered by a By-law of the District Council.

XLVI. Provided always, and be it enacted, that it shall not be lawful for any such Council to pass any By-law for performing any public work, not commenced or ordered to be commenced by the Justices of the Peace for the District, before the day last aforesaid, without having first received an estimate of such work, prepared or examined, and reported upon by the District Surveyor ; and if the cost of such work will, in the opinion of the said Surveyor, exceed the sum of Three Hundred Pounds, currency, such estimate shall also be examined and reported upon by the Board of Works for this Province, or by some other competent body or person for that purpose, to be appointed by the Governor of this Province : And provided also, that every such work to be executed in pursuance of any such By-law, shall be executed under a contract in writing, in conformity with and subject to such general regulations as shall from time to time be made touching the terms and the mode of execution of any such contracts by the Board of Works of this Province.

XLVII.

XLVII. Provided always and be it enacted, that an authentic copy of every By-law passed by any District Council, shall forthwith after the passing thereof, be transmitted by the Warden of the District, or the Chairman of the District Council who may have supplied his place, to the Secretary of the Province, who shall, on receipt of the same, note on the copy so received, the time of its receipt, and shall lay the same before the Governor of the Province; and no such By-law shall be of any force until the expiration of thirty days after an authentic copy thereof shall have been received as aforesaid; and it shall be lawful for the Governor of this Province, by and with the advice of Her Majesty's Executive Council, at any time within the said period of thirty days, by his order in Council, to declare his disallowance of any such By-law, and such disallowance, together with a certificate under the hand of such Secretary of the Province, certifying the day on which such By-law was received as aforesaid, shall, with all convenient speed, be signified to the Warden of the District wherein such By-law shall have been passed; and such By-law, so disallowed, shall be void and of no effect: And provided also, that any By-law repugnant to the law of the land, or to any of the provisions of this Act, shall be void and of no effect.

By-law passed by any District Council, to be transmitted to the Secretary of the Province, and may be disallowed by the Governor in Council, at any time during thirty days thereafter, and shall have no effect in the mean time.

Effect of, and mode of signifying disallowance.

XLVIII. And be it enacted, that the said District Councils, at their quarterly meetings aforesaid, shall have power to authorize and direct the raising of such sums of money, by the several Townships, or reputed Townships, or by any locality within such Districts, respectively, as may be requisite for the payment of all salaries and accounts due to Township officers and other persons, by such Townships, or reputed Townships, respectively, or to defray the cost of any work which the Council may direct to be performed at the expense of such Township, or Townships, or locality.

The Council may direct any sum to be raised within any locality to defray expenses peculiar to such locality.

XLIX. And be it enacted, that the Warden of each of the said Districts shall, at the end of each year, transmit to the Governor of this Province, a statement of the accounts of the District, exhibiting an abstract of the receipts and expenditure during the preceding year; and all such accounts so transmitted shall, by the said Governor, be laid before the two Houses of the Legislature of this Province, at the Session of the Provincial Parliament next following the transmission of the said accounts.

Abstracts of the District-accounts to be transmitted by the Warden yearly to the Governor, who shall lay them before the Legislature.

L. And be it enacted, that no Councillor shall, in any case, receive or be entitled to any wages, allowance, profit or emolument whatever, for his services as such Councillor, or by reason of his being such Councillor.

No Councilor to derive any profit from his office as such.

LI. And be it enacted, that all and every the power and authority which by any Act or Acts in force within that part of this Province which formerly constituted

Certain powers now

vested in the Justices of the Peace, transferred to the District Council.

The Council may exercise such powers without observing any formality. And on such information and evidence as they may deem sufficient.

Proviso.

Surveyors of Roads appointed by the Council to have the same authority as those now appointed by the Magistrates.

Proviso.

This Act not to extend to certain Turnpike Roads.

tuted the Province of Upper Canada, are now vested in the Justices of the Peace for the several Districts, with regard to highways and bridges or work connected therewith, and to the appointment of Surveyors of roads and other Road Officers, or to the making of any rates or assessments for any purpose connected with any of the subjects concerning which power is hereby given to the District Council to make By-laws, or to the making of any order, rules or regulations, touching any such subject, shall from and after the said first day of January, one thousand eight hundred and forty two, become and be vested in and may be exercised by the District Council for such Districts, respectively, within the limits thereof: Provided always, that it shall not be necessary for the exercise of the said powers, whether in relation to any old road, bridge, or other work connected with any highway, or the laying out, erection or performance of any new road, bridge or work, or to any other such subject as aforesaid, that any Report of any Surveyor or Surveyors of Roads should be made to, or directed to be made by the District Council, or that any other formality of any kind now requisite should be observed, nor shall the intervention of any Court or other authority whatsoever be required previous to the passing of any by-law to be made by the District Council in any such matter as aforesaid; but such District Council may upon such information and after such inquiry as they may deem sufficient, order and require by a By-law, that any thing be done in any such behalf as aforesaid, which the Justices of the Peace could have ordered to be done in the same behalf, after the formalities and evidence now by law required in like cases, had been observed and adduced: any Law or Statute to the contrary notwithstanding: Provided always, that no such By-law as aforesaid shall be contrary to the laws in force in the said portion of this Province, except in so far only as such laws are hereby expressly derogated from or may be inconsistent with the provisions of this Act.

LII. Provided also, and be it enacted, that the Surveyors of Roads to be appointed by the District Councils, shall have the same powers as are by law vested in the Surveyors of Roads now appointed by the Justices of the Peace for the District, except where such powers may be inconsistent with the provisions of this Act, or the powers hereby conferred on the said District Councils; and that nothing in this Act contained shall be construed to affect or abridge the power of any Justice or Justices of the Peace, or of any Court with regard to the enforcement of any penalty imposed for any offence against any law relating to roads, not inconsistent with this Act.

LIII. And be it enacted, that nothing in this Act contained shall extend to any Turnpike road placed by law under the controul of the Commissioners of any District Turnpike Trust, so long as such road shall continue lawfully under such controul; nor to any Turnpike Road or Toll Bridge belonging to any Company (whether

(whether incorporated or otherwise) or to any individual or number of individuals, nor to any public work vested in the Board of Works, or placed by law under its exclusive controul; or to any Provincial work or works belonging to or under the controul of Her Majesty's Home Government, or the Military authorities.

Or to certain Provincial works.

LIV. And be enacted, that the Justices of the Peace for each District, and the Surveyors of Roads therein, shall within two months after the said first day of January, one thousand eight hundred and forty-two, deliver over to the Council of the District or to their Clerk, or such persons or officers as such Council shall appoint to receive the same, all and every the records, books, judgments, reports, orders, plans, documents, instruments and writings, in their custody, possession or power, appertaining or relating to the Roads, Highways and Bridges, within the District, or to any matters whatever hereby placed under the controul of such District Council, or of the officers to be appointed by them; and if any person or officer shall refuse or neglect to deliver, as aforesaid, any such record, book, judgment, report, order, plan, document, instrument or writing, as aforesaid, such person or officer shall be held guilty of a misdemeanor, and shall besides be liable to make satisfaction to the District Council or to any party aggrieved or injured, for any loss or injury sustained by the District, or by such party by reason of such neglect or refusal.

The Justices of the Peace, and others, to deliver over to the District Councils all documents, &c. relative to matters under the control of the Council.

Penalty for neglect.

LV. And be it enacted, that all fines and penalties imposed by any by-law made by any District Council, and with regard to which no special provision is hereby made, may be recovered with costs, on the oath of one credible witness other than the prosecutor, by summary proceeding before any two Justices of the Peace for the District in which such fine or penalty shall have been imposed, and may, if not forthwith paid, be levied by distress and sale of the goods and chattels of the offender, under warrant of the Justices or one of them; and one moiety of such penalty shall belong to the informer or prosecutor, and the other moiety to the District, unless the informer or prosecutor shall renounce his portion of such fine or penalty, in which case he shall become a competent witness, and the whole fine or penalty shall belong to the District, and shall (as shall the moiety in the case first mentioned) be paid over to the Treasurer of the District and make part of the funds thereof in his hands.

Fines and penalties imposed by laws of the Council, how to be recovered.

Application.

LVI. Provided always, and be it enacted, that no person shall be deemed incompetent to be a witness in any prosecution or suit for the recovery of any such fine or penalty, or in any suit for the recovery of any sum of money payable to the Treasurer of the district, by reason of such person being an inhabitant of the District, or a member or officer of the District Council, or in their employ, provided such person have no other and more immediate interest in the event of such suit or prosecution.

Inhabitants of District or Officers, not to be incompetent as witnesses, if they have no more direct interests.

LVII.

Rates imposed by any District Council how to be recoverable.

LVII. And be it enacted, that all rates imposed by any District Council under the authority of this Act, shall be collected, paid, recovered, secured and levied, in the same manner and by the same officers, and under the same provisions, as other rates now lawfully imposed, except in so far only as such provisions may be inconsistent with the enactments of this Act; and all tolls imposed by any District Council shall be collected, secured, recovered and levied, in the manner to be provided, with regard to the same by the By-law by which they shall be imposed, and may be recovered with costs in any Court of competent civil jurisdiction.

Monies now payable out of District funds for purposes not within the powers of the Council, to continue so payable.

LVIII. And be it enacted, that all sums of money now payable out of the funds of any District, for any public purpose whatsoever not, within the scope of the powers of the District Council, shall continue to be payable out of the funds of such District, by the Treasurer thereof as before the passing of this Act, until it be otherwise directed by any Act of the Provincial Legislature.

Order of charges on the District funds.
1st. Expenses of collection &c.;
2nd. Such expenses of the administration of justice as are payable by the District;

3d. Debts due by the District before 1st Jan. 1842;

4th. sums payable for purposes not under the control of the District Council.

5th. sums so payable for purposes under such control.

LIX. And be it enacted, that the expenses of levying and collecting and managing the rates and taxes imposed or to be imposed in any District, shall form the first charge on the district funds; that all sums of money which now are or may hereafter be made payable out of the funds of any District to the Sheriff, Coroner, Gaoler, Surgeon of the District Gaol, or to any other Officer or person, for the support, care or safe keeping of the prisoners in the District Gaol, or for the repairing and maintaining of the Court House or Gaol, or for any other purpose whatever connected with the administration of Justice within the District, shall form the second charge upon the District funds, and shall be paid out of the same by the Treasurer before and in preference to all other charges whatsoever, except the expenses forming the first charge; that all debts and liabilities of the district created before the said first day of January, one thousand eight hundred and forty-two and assumed by any District Council under the provisions of this Act shall at the time and on the condition on which they shall become due and payable, be the third charge upon the District funds; that all sums of money now payable out of the funds of any District, for any public purposes whatsoever, other than those before mentioned in this section, and not within the scope of the powers of the District Council, shall form the fourth charge on the District funds; and that sums and expenses directed by any By-law of the District Council to be paid out of the District funds shall, in the order in which they shall be directed to be so paid, form the fifth charge on the said funds.

Rights, powers and provisions of law, not inconsistent with this Act, not

LX. And be it enacted, that nothing in this Act shall be construed to repeal or affect any enactment or provision of any law in force within that part of this Province to which this Act applies, or any power, right, authority, duty, obligation

tion or liability, thereby conferred or imposed upon any officers, party or person, or the election or appointment of any District, Parish or Township officers, unless, and so far only as such enactment or provision shall be inconsistent with or repugnant to the express enactments or provisions of this Act, or the attainment of the objects and purposes thereof, according to its true intent and meaning.

to be affected by it.

LXI. And be it enacted, that it shall be lawful for the Governor of this Province for the time being, by Proclamations to be issued by and with the advice and consent of the Executive Council of the Province, when and as often as circumstances shall, in his and their opinion, warrant such a measure, to dissolve all or any of the aforesaid Councils; and in every case of a dissolution of such Council or Councils, the Warden of the District wherein such dissolution shall have taken place, shall within ten days after such dissolution, issue his Warrant in the name of Her Majesty, Her Heirs or Successors, under his hand and seal, directed to the Clerk of each of the several Townships comprised within the said District, requiring such Clerk to proceed, after due notice in this behalf to the electors qualified as aforesaid, to cause elections to be made in each of the Townships of the said District, of a Councillor or Councillors, according as such Township may, by the provisions hereinbefore contained, be entitled to elect one or two Councillors; and such new elections shall be governed by the same rules and provisions as are hereinbefore provided for the election of Councillors; and in all cases where such new election of Councillors, after a dissolution shall take place as aforesaid, the period at, from, and after which, Councillors shall vacate their seats, in certain proportions as hereinbefore provided, shall commence upon and be accounted from the first Monday in January next following such elections; and the retirement of Councillors in the first and second years after such elections, shall in all respects be regulated by the provisions hereinbefore contained with respect to the retirement of Councillors to be elected at the first election to be held under and by virtue of this Act, in the first and second years after that in which such election shall be had.

The Governor with the advice and consent of the Executive Council, may dissolve all or any of the District Councils.

New elections.

Effects of such dissolution.

LXII. And be it enacted, that nothing in this Act contained shall affect any exclusive rights, powers, privileges or jurisdiction, of the Corporation or Municipal authorities of any incorporated City or Town, or of any Town or Village within which any Board of Police or other Municipal or Local authorities may be established: Provided always, that all powers and authority vested, at the time of the passing of this Act, in the Justices of the Peace for any District, and being of the nature of those hereby transferred from such Justices to the District Councils, may be exercised by such District Council within any such City, Town or Village, as they might have been exercised by such Justices if this Act had not been passed; and all property of what kind soever now belonging to the District

How this Act shall affect corporate Towns or places, having local or municipal authorities.

Existing rates or money paid in lieu thereof, saved.

Rates which might be imposed by Justices in any such Town, &c. may be imposed by the District Council.

Interpretation clause.

trict and lying within any such City, Town or Village, shall be vested in and shall be under the control of such District Council, in the same manner as other property belonging to the District; and all District rates or taxes which are now lawfully imposed or laid by the Justices of the Peace for the District, on any person or on any property within such City, Town or Village, or any money payable to the District in lieu of rates, shall continue to be payable to the Treasurer, and shall form part of the District funds, until it be otherwise ordered by a By-law of the District Council; and all such rates and taxes as might be now lawfully laid or imposed by such Justices, may be imposed or laid by the District Council, as they might have been by the said Justices, if this Act had not been passed.

LXIII. And be it enacted, that the words "Governor of this Province," where-soever they occur in the foregoing enactments, shall be understood as compre-hending the Governor, Lieutenant Governor, or person authorised to execute the office or functions of Governor of this Province.

SCHEDULE.

NAMES Of Inhabitant Freeholders and House- holders on the last Assessment Roll, for the of	NAMES OF CANDIDATES.			
	A. B.	C. D.	E. F.	G. H.
John Bull,	1	—	—	—
Patrick O'Neill,	—	—	1	—
David Lloyd,	—	—	—	1
Dugald Scott,	—	—	1	—
Peter Jones,	—	1	—	—
Amos Squiggs,	—	—	—	—
&c. &c.				

CAP. XI.

An Act to provide for the translation into the French Language of the Laws of this Province, and for other purposes connected therewith.

[18th September, 1841.]

WHEREAS it is just and expedient that the Laws passed by the Legislature of this Province, as well as the Acts of the Imperial Parliament relating to this Province, be translated into the French Language for the information and guidance of a great portion of Her Majesty's subjects 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 of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that it shall be lawful for the Governor, or person administering the Government of this Province, to appoint one proper and competent person, versed in legal knowledge and having received a classical French education, and possessing a sufficient knowledge of the English language, to translate into the French language the laws passed by the Legislature of this Province, or by the Imperial Parliament, relating to or affecting this Province.

Preamble.

A competent Person to be employed to translate the Laws of or affecting this Province into French.

II. And be it enacted, that the said translation shall be printed under the direction of the Executive Authority, and distributed among the People of this Province speaking the French language, in the same manner in which the English text of the said Laws shall be printed and distributed among those speaking the English language, and under the same provisions.

The French version to be printed and distributed under the same provisions as the English.

III. And be it enacted, that the Act of the Imperial Parliament, passed in the Session held in the third and fourth years of Her present Majesty's Reign, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, shall be translated into the French language and distributed as hereinbefore provided with regard to the Laws passed by the Legislature of this Province.

The Union Act to be so translated, printed and distributed.

CAP.

C A P. XII.

An Act to require Justices of the Peace to make returns of Convictions and Fines, and for other purposes therein mentioned.

[27th August, 1841.]

Preamble.

Justices of the Peace to make returns to the Quarter Sessions of all convictions and fines in cases adjudicated by them, and of the application of moneys received.

WHEREAS it is expedient to reduce the amount of Fees payable to Justices of the Peace for the exercise of their duties: And whereas for the more effectual recovery and application of penalties, fines, and damages imposed by Justices of the Peace according to Law, it is necessary and expedient that such Justices shall, together with the convictions, make a due return thereof to the General Quarter Sessions of the Peace of the District, in which such penalties, fines, and damages have accrued, in the manner and form set forth in the schedule hereunto annexed; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that from and after the passing of this Act, it shall be the duty of every Justice of the Peace, before whom any trial or hearing shall be had under any Law, now or hereafter to be in force, giving jurisdiction in the premises, and imposing any fines, forfeitures, penalties or damages upon the Defendant or Defendants, in case any conviction shall ensue thereupon, to make a due return thereof in writing under his hand, to the next ensuing General Quarter Sessions of the Peace, for the District in which such conviction shall have taken place, and of the receipt and application by him of the moneys received from any such Defendant or Defendants, and in case such conviction shall have taken place before two or more Justices, it shall be the duty of each and every of such Justices, being present and joining in such conviction, to make an immediate Return thereof, which shall be as nearly as circumstances permit in the form set forth in the said Schedule, and that the Justices to whom any such moneys shall be afterwards paid, shall make a Return of the receipts and application thereof to the next General Quarter Sessions, which Return or Returns shall be filed by the Clerk of the Peace, with the records of his office.

A fine of twenty pounds with costs of

II. And be it enacted, that in case any Justice or Justices, before whom any such conviction shall have taken place as aforesaid, or who shall have received any such moneys, as aforesaid, shall neglect or refuse to make such due return thereof in

in the manner and form hereinbefore required, and according to the requisitions of this Act, or in case any such Justice or Justices shall wilfully make a false, partial or incorrect return, or shall wilfully receive a larger amount of fees than is by Law authorized to be received, then and in any or either of such cases, such Justice or Justices, and each and every of them so neglecting, or refusing to make such returns in the manner aforesaid, or wilfully making such false, partial or incorrect return, or wilfully receiving a larger amount of fees as aforesaid, shall forfeit and pay the sum of twenty pounds, together with full costs of suit, to be recovered by any person or persons who sue for the same by bill, plaint, or information in any Court of record in Canada West, one moiety of which said sum of twenty pounds shall be paid to the party suing, and the other moiety shall be paid into the hands of Her Majesty's Receiver General to and for the public uses of this Province.

suit recoverable against any Justice of the Peace neglecting to comply with the Provisions of this Act, exacting unauthorised fees, or making false Returns.

III. And be it enacted, that all prosecutions for penalties arising under the provisions of this Act, shall be commenced within six months after the cause of action shall have accrued, and the same shall be tried in the District wherein such penalties shall have accrued, and if a verdict shall pass for the Defendant, or the Plaintiff shall become nonsuit, 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 of suit, as between Attorney and Client, and have the like remedy, for the same, as any Defendant hath by law in other cases.

Actions for penalties under this Act limited to six months after cause.

IV. And be it enacted, that it shall be the duty of the Clerk of the Peace of the District in which such returns shall be made, within seven days after the General Quarter Sessions shall have been first adjourned, to cause to be published, the said returns in one public Newspaper in the said District, and if there be no such Newspaper, then in a Newspaper of an adjoining District, and also to fix up in the Court House of the said District, and also in a conspicuous place in the Office of such Clerk of the Peace, for public inspection, a Schedule of the returns so made by such Justices; and the same shall continue to be so fixed up, and exhibited until the end of the next ensuing General Quarter Sessions of the Peace, and for every Schedule so made and exhibited by the said Clerk of the Peace, he shall be entitled to the Fee, or sum of one pound, besides the expense of publication, in his accounts with the said District, to be paid by the Treasurer thereof.

Clerk of the Peace to publish and put up in Court House the Returns so made to Quarter Sessions.

Fee for so doing.

V. And be it enacted, that it shall be the duty of the Clerk of the Peace of each District, within twenty days after the end of each Quarter Sessions of the Peace, to transmit to the Inspector General of this Province a true copy of all such returns made within his District.

Copy of Returns to be sent to Inspector General.

VI.

Proviso.

VI. Provided always, and be it enacted, that nothing herein contained, shall extend, or be construed to extend, to exonerate Justices of the Peace from duly returning to the General Quarter Sessions of the Peace of their respective Districts, all such convictions, or records of convictions, as are by Law required to be so returned,

Proviso.

VII. Provided always, and be it enacted, that nothing in this Act contained, shall prevent any person aggrieved, from prosecuting by Indictment, any Justice of the Peace, for any offence, the commission of which would subject him to Indictment at the time of the passing of this Act.

Sheriffs to transmit quarterly accounts to Inspector General, of fines and forfeitures which they have been required to levy.

VIII. And be it enacted, that from and after the passing of this Act, it shall be the duty of every Sheriff, and he is hereby required to transmit quarterly to the Inspector General of this Province a just, true and faithful account, to be verified upon oath, of all fines, penalties and forfeitures, which he shall have been required and commanded to levy and make by any lawful authority, and of the receipt and application of the same, or of the reason why the same has not been received and applied within the period required for collectors to make their returns, under a certain Act of the Parliament of Upper Canada, passed in the third year of Her Majesty's Reign, intituled *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*; and that such returns shall be transmitted to the office of the Inspector General within twenty days next after the expiration of each quarterly period, and that each Sheriff shall pay over to the proper Officer or person lawfully entitled to receive the same, the several sums collected by him as aforesaid, within twenty days next after the expiration of the period within which the same were collected; and that every Sheriff neglecting or refusing to transmit such quarterly account, or to pay over any such sum or sums of money so collected by him, within the period hereby prescribed, shall incur and be subject to the like penalty, and may be sued for the same in the same manner as is hereinbefore provided and declared with regard to Justices of the Peace neglecting or refusing to make the returns required by this Act.

Penalty upon neglect.

This Act limited to Upper Canada.

IX. And be it enacted, that this Act shall be in force, and extend to that part of the Province of Canada, formerly known as Upper Canada, and herein called "Canada West," and not elsewhere.

SCHEDULE

SCHEDULE TO WHICH THIS ACT REFERS.

Return of Convictions made by me (or us, as the case may be) in the months of,

18

Name of the Prosecutor.	Name of Defendant.	Nature of the Charge.	Date of Conviction.	Name of Convicting Justice.	Amount of penalty, fine or damage.	Time when paid or to be paid to said Justice	To whom paid over by said Justice.	If not paid, why not, and general observations if any.
								<i>A. B. Convicting Justice, C. or D. Convicting Justices (as the case may be.)</i>

C A P. XIII.

An Act to create a Fund for defraying the expense of enabling indigent Emigrants to proceed to their place of destination, and of supporting them until they can procure employment.

[18th September, 1841.]

MOST GRACIOUS SOVEREIGN,

WHEREAS by Message from His Excellency the Right Honorable Charles Baron Sydenham, of Sydenham in the County of Kent, and of Toronto in Canada, Governor General of this Province, laid before both Houses of the Legislature, His Excellency has been pleased to signify that in conformity to the instructions he has received from Your Majesty's Government, he recommends the expediency of imposing a rate or duty on Emigrants coming into this Province, for the purpose of creating a Fund for defraying the expense of the Medical care of sick Emigrants, and of enabling indigent persons of that description to proceed to the places of their destination, and of maintaining them in Canada until they shall be able to procure employment; and has also been pleased to state the intention

His Excellency's Message respecting Emigrants.

tion of Your Majesty's Government, to apply to the Imperial Parliament for a grant of eight thousand pounds sterling to enable Your Majesty's Commissary General to pay such rate or duty on the part of such Emigrants as may come to this Province, under the sanction of Government : and whereas it is expedient that provision should be made for carrying the said recommendation into effect : 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 of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and entitled, *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted, by the authority of the same, that there shall be raised, levied and collected a rate or duty payable in the manner hereinafter prescribed, by the Master or Person in command of every Vessel arriving in the Port of Quebec, or in the Port of Montreal, from any Port of the United Kingdom, or in any other part of Europe, with Passengers or Emigrants therefrom, and having been cleared of the Custom House at such Port, after the first day of March, one thousand eight hundred and forty two ; and such rate or duty shall be five shillings currency, for every such Passenger or Emigrant who shall have embarked from any port in the United Kingdom under the sanction of Her Majesty's Government, ascertained by a certificate from one of the Officers of Her Majesty's Customs at the Port at which such Vessel shall have cleared, and five shillings currency, for every such Passenger or Emigrant who shall have embarked without such sanction ; and such rate or duty shall be paid by the Master or Person in command of such Vessel, or by some person on his behalf, to the Collector or other Chief Officer of the Customs at the Port at which such Vessel shall be first entered, and at the time of making such first entry which shall contain on the face of it, the number of Passengers actually on board the Vessel ; and no such entry shall be deemed to have been validly made, or to have any legal effect whatsoever, unless such rates or duties be so paid aforesaid : Provided always, that any draft, order, or other document made or signed by any person in the United Kingdom aforesaid, duly empowered to that effect by Her Majesty's Government, and directed to Her Majesty's Commissary General, or other Officer having charge of the Military Chest in this Province, and authorising the Payment to the Collector or Chief officer of the Customs aforesaid, of the rate or duty which would otherwise be payable by the Master of any Vessel for any Emigrant or any number of Emigrants on board such Vessel, shall be taken and accepted by the Collector or Chief Officer as Payment of the rate or duty payable on such Emigrant or Emigrants, and the sum mentioned in such order shall thereafter be received by such Collector or Chief Officer, and paid over and applied in the same manner as other Money raised under the authority of this Act.

A rate to be payable on Emigrants arriving in this Province from the United Kingdom.

By whom such rate shall be payable.

Proviso. Cases in which such rate may be paid by the Imperial Government.

II. And be it enacted, that for the purposes of this Act, two children, each under the age of fourteen years, or three children each under the age of seven years; shall be reckoned as one passenger, and that no child under the age of twelve months shall be reckoned among the number of passengers.

Children of
certain age
how reckoned.

III. And be it enacted, that no Master or Person having the command of any Ship or Vessel, arriving in either of the said Ports, shall permit any passenger to leave such Vessel until he shall have delivered to the Collector or other Chief Officer of Her Majesty's Customs at such Port, a correct list of all passengers on board of such Ship or Vessel at the time of her arrival at such Port, nor until such list shall have been certified to be correct, and a certificate of such correctness and a permission to allow his passengers to leave the Vessel, and a receipt for the duties payable by him under the provisions of this Act, shall have been given to him by the said Collector or other Chief Officer, under a penalty of twenty five pounds, currency, to be paid by such Master or Person having the command, for every passenger leaving his Ship or Vessel contrary to the provisions of this Act: Provided always, that the said list shall contain the name of each head of a family, being a passenger on board of such Vessel, his profession or trade, his country and the place of his destination, and the number of grown persons and children belonging to his family on board such Vessel, and the name of each person not belonging to any family, with the like particulars of country, trade, profession and destination: Provided also that nothing in this Act contained, shall prevent the Master or Person having the command of such Ship or Vessel, from permitting any passenger to leave the Vessel at the request of such passenger, before the arrival of the Vessel in the harbour of Quebec, but in every such case the name of the passengers who shall so leave shall be entered in the manifest on the list of Emigrants made out at the time of the clearing of the Vessel from the United Kingdom, or other part of Europe as aforesaid, and shall be certified under the signatures of the passengers so leaving the Vessel; and if the number of passengers remaining on board on the arrival of the Vessel in the Harbour of Quebec, do not correspond with that mentioned in such manifest, after deducting the number who shall have so left the Vessel, the Master or Person having the command of such Vessel shall incur a penalty of five pounds, currency, for each passenger not found on board or entered on the manifest as having left the Vessel as aforesaid.

No Passenger
to be allowed
to leave any
Vessel until the
rates due under
this Act are
paid.

Penalty.

Proviso.

Proviso.

When Passen-
gers may be
allowed to
leave.

Penalty for
contravention.

IV. And be it enacted, that every passenger on board any Ship or Vessel arriving in the harbour to which the Master or Person commanding such Vessel shall have engaged to convey him, shall be entitled to remain and keep his baggage on board such Vessel during forty eight hours after her arrival in such harbour; and every such Master who shall compel any passenger to leave his Vessel before the expiration

Passengers
may remain a
certain time
on board the
Vessel after her
arrival.

Penalty for contravention.

expiration of the said term of forty-eight hours, shall incur a penalty not exceeding five pounds, currency, for every passenger he shall so compel to leave his Vessel; nor shall any Person or Master commanding such Vessel, remove or cause to be removed before the expiration of the said forty eight hours, any berthing or accommodation used by his passengers, under a like penalty.

Penalty on Pilots knowing that Passengers have left the Vessel, and not informing.

V. And be it enacted, that every Pilot who shall have had charge of any Vessel having passengers on board, and shall know that any passenger has been permitted to leave the Vessel contrary to the provisions of this Act, and shall not within twenty-four hours after the arrival of such Vessel in the harbour to which he shall have engaged to pilot her, inform the Collector or other Chief Officer of Her Majesty's Customs at such place, that a passenger or passengers has or have been so permitted to leave the Vessel, shall incur a penalty not exceeding five pounds currency, for every passenger with respect to whom he shall have wilfully neglected to give such information.

Monies levied to be paid over to the Receiver General.

VI. And be it enacted, that the monies levied under the authority of this Act, shall be paid by the Collector or other Chief Officer of the Customs, by whom they shall have been received, into the hands of the Receiver General for the purposes hereinafter mentioned.

Purposes to which such monies shall be applied.

VII. And be it enacted, that the monies raised, levied and received under the authority of this Act, shall be applied by such Officers or persons and under such rules and regulations as the Governor, Lieutenant Governor or person administering the Government shall appoint from time to time for that purpose, in defraying the expense of medical attendance and examination of destitute Emigrants on their arrival, and of enabling them to proceed to their places of destination, and in providing for their support until they are able to procure employment.

Penalties how recoverable.

VIII. And be it enacted, that all penalties imposed by this Act, may be sued for and recovered with costs, on oath of one credible witness, other than the prosecutor, in a summary manner, before any two Justices of the Peace in the City of Quebec or in the City of Montreal; and such Justices may commit the offender to the Common Gaol of the District until such penalty and costs shall be paid, and one moiety of every such penalty shall belong to Her Majesty, Her Heirs and Successors, and shall be paid into the hands of the Receiver General, to be applied to the purposes to which the other monies levied under the authority of this Act, are hereby appropriated, and the other moiety shall belong to the prosecutor.

And how applied.

Persons en-

IX. And be it enacted, that every person to whom shall be entrusted the expenditure

penditure of any portion of the monies hereby appropriated, shall make up detailed accounts of such expenditure, showing the sum advanced to the accountant, the sum actually expended, the balance (if any) remaining in his hands, and the amount of the monies hereby appropriated to the purpose for which such advance shall have been made, remaining unexpended in the hands of the Receiver General, and that every such account shall be supported by vouchers therein distinctly referred to, by numbers corresponding to the numbering of the items in such account, and shall be made up to, and closed on the first day of December in each year, during which such expenditure shall be made, and shall be attested before a Justice of the Court of Queen's Bench or of King's Bench or a Justice of the Peace, and shall be transmitted to the Officer whose duty it shall be to receive such account, within fifteen days next after the expiration of the said periods respectively.

trusted with the Expenditure of monies under this Act to account.

X. And be it enacted, that the due application of the monies received for the public use of the Province, under the authority of this Act, shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, and in such manner and form as her Majesty, Her Heirs and Successors shall direct; and that a detailed account of all such monies, shall be laid before the several Branches of the Provincial Legislature, within the first fifteen days of the next Session thereof.

The application of such monies to be also accounted for to Her Majesty.

C A P . X I V .

An Act to repeal certain Acts therein mentioned, and to consolidate the Laws relating to the Provincial Duties to be levied on Goods, Wares and Merchandise, imported into this Province.

[18th September, 1841.]

MOST GRACIOUS SOVEREIGN,

WHEREAS it would be of advantage to the Trade and Commerce of this Province, that the several Provincial Acts imposing rates and duties on certain Goods and articles imported into this Province, should be consolidated into one Act, under which all Provincial duties imposed on such Goods and articles may be levied, with such amendments to certain provisions of the said Acts, as will facilitate Commerce, advance the public good, and contribute to the public improvements of this Province; 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 of the Legislative Assembly
of

Preamble.

of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, that this Act shall commence and take effect upon, from and after the first day of January next.

Commence-
ment of this
Act.

II. And be it enacted, that the several Acts hereinafter mentioned and referred to, that is to say: a certain Act made and passed by the Parliament of the Province of Lower Canada, in the thirty third year of the Reign of His late Majesty King George the Third, and intituled *An Act to establish a Fund for defraying the salaries of the different Officers of the Legislative Council and Assembly, together with the contingent expenses thereof*; and another certain Act of the said Parliament, passed in the thirty fifth year of the same Reign, and intituled *An Act for granting to His Majesty, an additional and new duties on certain Goods, Wares and Merchandises, and for appropriating the same towards further defraying the charges of the administration of Justice and the support of the Civil Government within this Province, and for other purposes therein mentioned*; and another certain Act of the said Parliament, passed in the forty first year of the same Reign, and intituled *An Act for granting to His Majesty certain new duties on the importation into this Province of all Manufactured tobacco and snuff, and for disallowing the drawback on tobacco and snuff manufactured within this Province*; and another certain Act of the said Parliament, passed in the fifty third year of the same Reign, intituled *An Act to grant certain duties to His Majesty, towards supplying the wants of the Province during the present war with the United States of America, and for other purposes*; and another certain Act of the said Parliament, passed in the fifty fifth year of the same Reign, and intituled *An Act to repeal part of an Act to amend an Act passed in the fifty third year of His Majesty's Reign, intituled An Act to grant certain duties to His Majesty, towards supplying the wants of the Province during the present war with the United States of America, and for other purposes, and another certain Act of the said Parliament passed in the fifty fifth year of the same Reign, and intituled An Act to grant new duties to His Majesty, to supply the wants of the Province, and also so much of an Act of the Parliament of the Province of Upper Canada, passed in the eleventh year of the Reign of His late Majesty, King George the Fourth, and intituled *An Act for the relief of the sufferers who sustained loss during the late war with the United States of America*, as imposes a duty on salt imported from the United States of America, shall be and the same are hereby repealed, except so far as the said Acts, or any of them, or any thing therein contained, repeal any former Act or Acts, or any part thereof, and all and every such said Act or Acts, or the part thereof so repealed, shall remain and continue so repealed to all intents and purposes whatsoever, and except so far as relates to any arrears of duties or drawbacks which shall have become due and payable, or duties for which bonds shall have been given*

Act, L. C.
33, Geo. 3. C.
8.

Act, L. C.
35, Geo. 3. C.
9.

Act, L. C. 41.
Geo. 3. C. 14.

Act, L. C. 53,
Geo. 3. C. 11.

Act L. C. 55.
Geo. 3. C. 2.

Act L. C. 55,
Geo. 3. Cap. 3.

Act U. C. 11.
Geo. 4. C. 21.

The said Acts
repealed.
Exception.

given, or any penalty or forfeiture which shall have been incurred before the time at which this Act shall come into force and effect.

III. And be it enacted, that in lieu, and instead of all other duties of Customs, except the duties levied by virtue of any Act of the Parliament of Great Britain, or of the Parliament of Great Britain and Ireland, there shall be raised, levied, collected and paid unto Her Majesty, Her Heirs and Successors, upon Goods, Wares, and Merchandise, and other articles imported into this Province, the several duties of Customs respectively, inserted, described, and set forth in words and figures in the table to this Act annexed, and intituled "Table of Duties of Customs inwards."

The duties mentioned in the table annexed to this Act, to be instead of all other Provincial duties.

IV. And be it enacted, that there shall be raised, levied, collected and paid, to and for the use of Her Majesty, Her Heirs and Successors, upon all Goods, Wares and Merchandises of what kind or nature soever, which shall be imported or brought into this Province (except as is hereinafter excepted, and also except those upon which certain duties are imposed by this Act, and specified in the table intituled "Table of Duties of Customs inwards," annexed to this Act) a duty of five pounds on every hundred pounds worth of said Goods, Wares and Merchandise, so imported as aforesaid, which said duty shall be calculated on the first or sterling cost of each one hundred pounds worth of such Goods, Wares and Merchandise so imported as aforesaid, and so in proportion for a greater or less quantity thereof.

Ad valorem duty imposed on certain kinds of Merchandise.

V. And be it enacted, that all and every person or persons, who shall import or bring within this Province any Goods, Wares or Merchandise, on which such duty of five pounds for every hundred pounds worth thereof, is hereby imposed, shall by himself or his Assignee, Clerk or Agent, immediately produce to the Collector or principal officer of the Customs of the Port or Place where such importation shall be made, the original Invoice of such Goods, Wares or Merchandise, and the Importer or Importers, Consignee or Consignees, Clerk or Agent, or Assignee of such Importer or Consignee thereof, shall make and subscribe the following declaration, which such Collector or Principal Officer is hereby empowered to take:—

Importers of goods subject to *ad valorem* duty to produce Invoice of goods and make a declaration.

"I, A. B., of _____ in the County of _____ do declare that the account or accounts, invoice, or invoices, now by me produced, are just and true, and that it contains (or they contain) the exact quantity of all the articles mentioned in the entry now tendered, and which are made subject to a duty of five pounds on each hundred pounds worth thereof, and so in proportion for any greater or less quantity, by an Act passed by the Legislature of this Province, in the fifth year of Her Majesty's Reign, and intituled *An Act to repeal certain*

The declaration.

tain Acts therein mentioned and to consolidate the Laws relating to the Provincial Duties to be levied on Goods, Wares and Merchandise imported into this Province, and I do further declare that the prices annexed to each article are just and true, and agreeable to the first or sterling cost thereof, and that I am the owner thereof, or the Consignee, who has the principal care, disposal or management of the same, or the Principal Clerk or Agent of such Owner or Consignee, as the case may be ;"

Goods, &c. with regard to which the requirements of this Section are not complied with to be forfeited.

And all and any such Goods, Wares or Merchandise which shall be imported or brought into this Province as aforesaid, and shall be found in the custody or possession of any person or persons whomsoever, without having been entered and accounted for as aforesaid, and the Duties thereon paid, and secured in the manner hereinafter mentioned, shall be seized, forfeited, condemned and distributed in the manner prescribed by this Act.

Where no Invoice shall have been received, the goods may be landed on a Bill of sight.

VI. And be it enacted, that in all cases, where no Invoice shall have been received at the time of the arrival of any Goods, Wares or Merchandise, whereon the said duty of five per cent is imposed by this Act, and the Importer or Importers thereof, or such person, as by the next foregoing section is authorized to make and subscribe the declaration thereby required with regard to such Goods, Wares or Merchandise, shall make or subscribe a declaration before the Collector or Principal Officer (who is hereby empowered to take the same) that he cannot, for want of full information, make perfect entry thereof, it shall be lawful for the Collector or Principal Officer to cause such Goods, Wares or Merchandise to be landed on a bill of sight for the packages and parcels thereof, by the best description that can be given, and to be seen and examined by such person, and at his expense, in the presence of the Collector or principal Officer, or of such other Officer of the Customs as shall be appointed by the said Collector or principal Officer, and to be delivered to such person on his depositing in the hands of the Collector such sum of money as shall in the judgment of the Collector or such principal Officer be fully sufficient to pay the duties thereon, and engaging to make perfect entry thereof, and to pay the deficiency of such duty, if any, at the time of making such perfect entry.

When the goods, &c. cannot be so examined as to ascertain their value, they shall be Warehoused.

And sold if the Invoice be not produced

VII. And be it enacted, that when the Goods, Wares or Merchandise entered by bill of sight, are of such a nature or description that they cannot be examined (either from their liability to injury or loss, or from the minuteness of their detail) so that their true price and value may be ascertained according to the true intent and meaning of this Act, such Goods Wares or Merchandise shall be Warehoused under the Crown's Lock. at the expense and risk of the Importer, Proprietor or Consignee, until the Invoice shall be produced; and if such Invoice be not produced within three months from the day on which the entry was made by bill of sight, then the said Goods, Wares and Merchandise shall be sold, (under a
written

written order to that effect, made and signed by the Collector or Principal Officer) at such time and place as the said Collector or Principal Officer shall, by four or more days public notice, appoint for that purpose, for the payment of the Duties, Charges of removal, Warehouse Rent, and all other necessary expenses incurred in respect to such Goods, Wares and Merchandise, and the overplus, if any, shall be paid to the Importer, Proprietor or Consignee of such Goods, Wares and Merchandise.

within a certain time.

VIII. And be it enacted, that when the Invoice is produced, and the value declared as aforesaid, it shall upon view and examination of the said Goods, Wares and Merchandise by the proper Officer or Officers of the Customs, appear to him or them that the same are not valued according to the true price and value thereof, and to the true intent and meaning of this Act, then it shall and may be lawful for the proper Officer or Officers of the Customs to detain such Goods, Wares and Merchandise, and to cause the same to be properly secured, and to take such Goods, Wares and Merchandise for the benefit of the Crown, within fifteen days after the landing thereof; and the Collector of the Customs at the Port at which the same have been entered, shall out of any monies in his hands arising by customs or other duties belonging to the Crown, pay to the Importer or Proprietor, on demand, the value declared, together with the costs and charges of Importation, and an addition of ten pounds per centum thereon, and also the Customs and other Duties which shall have been paid for such Goods, Wares and Merchandise, taking a receipt for the same from such Proprietor or Importer in full satisfaction for the said Goods, as if they had been sold: and it shall be lawful for the Collectors of the said Customs, respectively, whether the value of the Goods, with costs and charges, and ten pounds per centum thereon, and the Duties which shall have been paid on such Goods be demanded or not, and whether the receipt herein ordered to be taken, be given or not, to cause the said Goods, to be publicly sold to the best advantage, and out of the produce thereof, the money so as aforesaid directed to be paid for such Goods, shall be paid to such Collectors respectively, to be replaced to the funds from which he borrowed the same: provided the same shall have been paid by him, but if not, then the same shall remain in the hands of the said Collector of the Customs, until the Importer or Proprietor shall demand the same, and give a receipt as hereinbefore directed, and after deducting from the overplus, if any, the expenses incurred for the detaining, securing and sale of such Goods, the said Collector shall pay to the Officer or Officers of the Customs concerned in the view of such Goods, as an encouragement for the discharge of their duty, one moiety of the remainder of such overplus, (if any,) and the other moiety shall be paid into the hands of the Receiver General of this Province, to be accounted for by him.

When the value of the goods shall appear to be falsely stated in any declaration.

IX.

Articles imported by Commissaries or Contractors for the use of the Navy or Army or of the Indian Nations.

IX- And be it enacted, that if any Contractor or Contractors, Commissary or Commissaries, actually in Her Majesty's service or employment, shall import or bring into the Province, for the use of Her Majesty's Army or Navy, or for the use of the Indian Nations in this Province, arms, clothing or articles whatsoever, such Contractor or Contractors, Commissary or Commissaries, or their principal Agent, shall produce to the Collector an Invoice thereof as aforesaid, and in addition to the declaration herein before required to be made by an Importer, shall make and subscribe a declaration that all the articles contained in such Invoices, were actually imported for the use of Her Majesty's Army or Navy, or for the use of the Indian Nations in this Province, to be issued to them for and on account of Her Majesty, and for no other use or purpose whatsoever, and thereupon such Goods shall be exempted from the payment of the said duty.

Certain Articles imported for private use and packages containing dutiable articles exempted from *ad valorem* duty

X. And be it enacted, that Barley, Beans, Beef, salted or fresh, Cattle, Fish, salted or fresh, Flour, Grain of all kinds, Hogs, Horses, Indian Corn, Live Stock, Oil, (fish,) Peas, Pork, salted or fresh, Potatoes, seeds, Wheat and Packages, in which dutiable articles are contained, shall be exempt from the payment of the said duty, provided that the Importer or Consignee thereof, shall make a special entry of all such articles, and shall state the amount of the Invoice or Invoices thereof, in the manner prescribed for other articles, in order that the real amount of goods imported into this Province may be ascertained.

Goods of actual settlers for private use exempt from duty.

XI. And be it enacted, that if any person or persons' shall come into this Province, or any part thereof, for the purpose of actually settling therein, it shall and may be lawful for the said Collectors, to exempt from the payment of the aforesaid duty of five per centum, all household goods, and necessaries of all kinds, which such person or persons shall import or bring with them for their own use and the use of their families, but it shall not be lawful to exempt any Goods, Wares, or Merchandise, of any kind whatsoever brought or imported by such person or persons for the purpose of trade or for sale.

Allowances for tare of packages, &c.

XII. And be it enacted, that from the gross weight there shall be deducted by the Collector for the tare of packages, containing goods subject to any of the aforesaid, duties by weight, as follows; that is to say: on coffee in bags or bales, three pounds on every hundred pounds; on coffee in casks, twelve pounds on every hundred pounds; on Muscavado or clayed sugar in casks or boxes, twelve pounds on every hundred pounds; loaf or lump sugar in casks or boxes, fifteen pounds on every hundred pounds; and on leaf tobacco in casks, twelve pounds on every hundred pounds.

XIII.

XIII. And be it enacted, that when the original Invoice of any of the articles mentioned in the thirteenth clause of this Act, shall be produced, and a declaration of the correctness thereof, made by the Importer or Importers, Consignee or Consignees, his or their Agents, it shall in such case be lawful to deduct the tare according to such Invoice, from the real gross weight of such goods, respectively, instead of deducting the aforesaid allowances for tare of packages.

When real tare on packages may be allowed.

XIV. And be it enacted, that when any Ship or Vessel shall be entered at the Custom House of Quebec, or at Montreal, on board of which there shall be any Goods, Wares or Merchandise, on which any duty has been levied or collected by virtue of this Act, or on which any duty has been deposited, or the payment thereof secured in the manner provided by this Act, and that thereafter the said Goods, Wares or Merchandise, shall be lost or destroyed before the same shall be landed from such Ship or Vessel, or from any Vessel or Craft, employed to lighten such Ship or Vessel, either at Quebec or at Montreal, then on proof being made upon the oath of one or more credible witness or witnesses, before the Collector of the Customs for the time being, (which oath the said Collector is hereby authorized and required to administer) that such Goods, Wares or Merchandise, or any part thereof, (specifying the same,) have been so lost or destroyed, before the landing of the same, the duties, on the whole or the part thereof, so proved to be lost or destroyed, shall, if the same have been paid or deposited, be returned to the Owner or his Agent, and if security for the payment of the said duty has been given, such security, or a proportionate part thereof, as the case may be, shall be cancelled and discharged accordingly.

Goods on which duties are paid or secured when lost or damaged before landing.

XV. And be it enacted, that if any Goods, Wares or Merchandise on which duties are made payable by this Act, and which shall be imported into this Province, shall receive any damage by Salt Water or otherwise during the course of the voyage, after such Goods, Wares or Merchandise shall have been laden or shipped in foreign parts, and before the same shall be unshipped or discharged from the Ship or Vessel in which they shall be imported into this Province, so that the Owner or Owners thereof shall be prejudiced in the sale of such Goods, Wares or Merchandise, the principal Officer of the Customs, at the place where the same shall be landed shall have power to choose three disinterested Merchants, experienced in the value of such Goods, Wares or Merchandise, who, or any two of them, upon viewing the same, shall certify and declare upon their corporal Oaths, first administered by the said Officer, (who is hereby authorized and empowered to administer the same) what damage such Goods, Wares or Merchandise have received, or how much the same are lessened in their true value by such damage in relation to the duties imposed on them by this Act, and thereupon the Principal Officer of Her Majesty's Customs at the place, shall, and

Goods which have received damage.

he

he is hereby authorized and required to make a proportionate allowance to the Importer, by way of return or repayment out of the duties due, or which shall have been actually paid upon the same.

Duties to be paid or secured before unloading goods, according to amount of duty.

XVI. And be it enacted, that before the unloading of any Goods, Wares or Merchandise, on which any rates or duties are imposed by this Act, the said rates or duties shall be paid, or the payment thereof secured to the Collector of the Customs, at the port at which the same shall be entered, in the manner following, that is to say: where the amount of the duties imposed by this Act on Goods, Wares or Merchandise imported in any Ship or Vessel on account of, or consigned to one person only, or several persons jointly interested, shall not exceed the sum of fifty pounds currency, the same shall be immediately paid in money; and where the said amount shall exceed the sum of fifty pounds currency, the same may, at the option of the owner or his agent, be either immediately paid in money or the payment thereof secured by a Bond to Her Majesty, Her Heirs and Successors, payable to such Collector of the Customs for the time being, with condition for the payment of so much as such duties shall be found to amount to, (when the sum shall be ascertained by the return and certificate of the proper Officer, who shall Gauge, Weigh, Measure or tell such Goods, Wares and Merchandise) in six months from the date of such Bond, if the same shall be dated on or before the first day of September in any year, or if such Bond shall bear date after the first day of September, then with the condition of payment as aforesaid, on the first day of April then next ensuing; which Bond shall be executed by the Owner or Owners, his or their Agent, and one or more sureties to the satisfaction of the aforesaid Collector of the Customs; and the Officers who shall Gauge, Weigh, Measure or tell any such Goods, Wares or Merchandise, whereon the duties shall have been so paid in money, or the payment thereof secured as aforesaid, shall, if required, give to the Owner or Owners thereof, his or their Agent, without fee or reward, a duplicate of the return or certificate by him of such Gauge, Weight, Measurement or telling, and the duties shall be calculated agreeably to such return or certificate, the allowances for tare hereinbefore directed to be made, being first deducted; and the amount of the duties being so ascertained shall be indorsed by the Collector on the Bonds so given for the said duties, and thereupon the overplus of such Bond shall be cancelled and made void; and if the duties have been paid in money, such return and certificate shall entitle the Owner or Owners, his or their Agent, to demand the repayment to him or them of such sums of money as may have been paid over and above the true amount of duties ascertained upon the return or certificate last mentioned; but if the duties when so calculated shall be found to exceed the amount paid in money or the amount of the security given, such excess shall immediately be paid to the Collector: Provided always, that no person, whose bond, for the payment of any rates or duties shall

Proviso.

shall be due and unsatisfied after the time therein limited for payment, shall be allowed a future credit for duties until such Bond shall be fully paid and satisfied.

XVII. And be it enacted, that all sums of money granted or imposed by this Act, either as duties, penalties, or forfeitures, shall be deemed and are hereby declared to be sterling money of Great Britain, and that all duties shall be paid and received under this Act, according to British weights and measures in use on the sixth day of July, one thousand eight hundred and twenty five, and that in all cases when such duties are imposed according to any specific quantity, or any specific value, the same shall be deemed to apply in the same proportion to any greater or less quantity or value.

Sums of money mentioned in this Act to be sterling.

Weights and measures to be British; and those in use on 6th July, 1825.

XVIII. And be it enacted, that all sums of money which shall arise from such duties, shall be paid to the Receiver General of this Province, by the Collector of Her Majesty's Customs, and shall form part of the consolidated revenue fund of this Province, and the duties aforesaid, together with all the fines, penalties and confiscations that shall be incurred under this Act, shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct.

Monies arising from duties hereby imposed how paid, applied and accounted for.

XIX. And be it enacted, that an account of all the monies which shall arise from the payment of the rates and duties hereby imposed, shall be made up quarterly by the Collector or Collectors of the Customs, signed by them, and declared to by the Collectors of the Customs at the Ports of Quebec and Montreal, respectively, before any one of the Justices of the Court of King's Bench or Common Pleas, and by the Collectors at any other place, before any one of Her Majesty's Justices assigned to keep the Peace, and transmitted to the Governor, Lieutenant Governor, or Person administering the Government; and all such monies shall be paid at the end of every quarter, into the hands of the Receiver General, and there shall also be made up quarterly an account of the expenses incurred by the said Collectors, for the purpose of securing the payment of the aforesaid rates and duties, and the same shall be declared to by the said Collectors, in the manner hereinbefore prescribed, and shall also be transmitted to the Governor, Lieutenant Governor, or Person administering the Government, and being by him approved in Her Majesty's Executive Council, a warrant shall issue, directed to the Receiver General, for the payment thereof to the said Collectors.

Accounts of duties received to be made up quarterly by Collectors.

XX. And be it enacted, that each and every Act of the Legislature of that part of the Province which heretofore constituted the Province of Lower Canada; and also

Acts relating to Customs and

not hereby re-
pealed, extend-
ed, &c.

also each and every Act of the Legislature of that part of the Province which heretofore constituted the Province of Upper Canada, relating to the officers of the Customs, or the mode of collecting such Customs, or the places where they may be paid, or in any way affecting the same and not hereby repealed, or contrary to the provisions of this Act, and the true intent and meaning thereof, shall be, and they are by this Act extended to the duties hereby imposed, and to the officers employed in collecting the same.

Goods im-
ported by sea
must be en-
tered and the
duties paid
within a cer-
tain time.

Penalty.

XXI. And be it enacted, that every Importer of Goods by sea, shall, within fourteen days after the arrival of the Importing Ship, make due entry inwards of such Goods, and land the same, and in default of such entry and landing, it shall be lawful for the Officers of the Customs to convey such Goods, and at any time to convey all small packages or parcels of Goods to the Queen's Warehouse; and if the duties due upon such Goods be not paid within six months after the expiration of the said fourteen days, together with all charges of removal and Warehouse rent, the same shall be sold under written order to that effect signed by the Collector of the Customs, at such time and place as the said Collector shall, by four or more days' public notice, appoint for that purpose; and the monies arising from such sale shall be applied first to the payment of freight and charges, and next of duties; and the overplus, if any, shall be paid to the owner of the Goods.

Penalty on
persons declar-
ing falsely.

XXII. And be it enacted, that if any declaration required by this Act, shall be wilfully made untrue in any particular, the person making the same shall, over and above every other penalty to which such person may become subject, incur a penalty of twenty five pounds, currency.

Penalties im-
posed by this
Act and forfei-
tures incurred
under it how to
be recovered.

XXIII. And be it enacted, that all penalties imposed by this Act, and all forfeitures incurred under the provisions thereof, shall and may be sued for, prosecuted and recovered by action of debt, bill, plaint or information in any of Her Majesty's Courts of Record, at Quebec, Montreal, Three Rivers, Sherbrooke, or in the District of Gaspé, or in Her Majesty's Court of Queen's Bench of Upper Canada, in the name of Her Majesty's Attorney General or Solicitor General, or in the name or names of some Officer or Officers of Her Majesty's Customs; and one moiety of such penalty or forfeiture shall be paid to the said Officer or Officers of Her Majesty's Customs prosecuting for the same, and the other moiety shall be paid into the hands of Her Majesty's Receiver General for the public uses of this Province.

Penalty on
persons taking
a false Oath.

XXIV. And be it enacted, that any person or persons who shall be convicted of wilfully taking a false Oath or making a false Declaration, in any of the cases in which an Oath or Declaration is required to be taken, by virtue of this Act, shall be liable to the pains and penalties to which by law, persons are liable for wilful and corrupt perjury.

XXV. And be it enacted, that all actions or suits for the recovery of any of the penalties or forfeitures imposed by this Act, or incurred under the provisions thereof, may be commenced or prosecuted at any time within three years after the Commission of the offence, by reason whereof such penalty or forfeiture shall be incurred, any law, usage or custom to the contrary notwithstanding.

Limitation of actions, &c.

XXVI. And be it enacted, that if any Goods shall be seized for non-payment of duties or any other cause of forfeiture under this Act, and any dispute shall arise, whether the duties have been paid for the same, or the same have been lawfully imported, the proof thereof shall lie on the Owner or Claimer of such Goods, and not on the Officer or other person who shall seize and stop the same.

Where the burden of proof shall lie in certain cases.

SCHEDULE.

TABLE OF DUTIES OF CUSTOMS INWARDS.

	s.	d.
Madeira Wine, for every gallon, wine measure.....	1	0
All other Wines.....	0	6

SPIRITS OR STRONG WATERS OF ALL SORTS

For every gallon of such spirits, or strong waters of any strength not exceeding the strength of proof by Sykes' hydrometer, and so in proportion for any greater strength than the strength of proof, and for any greater or less quantity than a gallon, viz:—

Not being spirits or strong waters, the produce of the United Kingdom, or of any British possession in America, or of any British possession within the limits of the East India Company's Charter, and not being sweetened spirits, or spirits mixed with any article so that the degree of strength thereof cannot be exactly ascertained by such hydrometer.....

0 6

Spirits or strong waters, the produce of any British possession in America, not being sweetened spirits or spirits so mixed as aforesaid.....

0 6

Spirits or strong waters, the produce of any British possession within the limits of the East India Company's Charter, not being sweetened spirits or spirits so mixed as aforesaid..

1 0

Spirits or strong waters, the produce of the United King-

dom,

dom, not being sweetened spirits or spirits so mixed as aforesaid.	0 3
Spirits, cordials or strong waters, respectively, not being the produce of the United Kingdom or of any British possession in America, sweetened or mixed with any article, so that the degree of strength cannot be exactly ascertained by such hydrometer.	1 7
Spirits, cordials or strong waters, respectively, being the produce of the United Kingdom, sweetened or mixed as aforesaid.	1 1½
Spirits, cordials or strong waters respectively, being the produce of any British possession in America, or within the limits of the East India Company's Charter, sweetened or mixed, as aforesaid.	0 9
<p>And further for the excess over hydrometer proof upon all spirits not sweetened as aforesaid, for every gallon wine measure of such excess, were the spirits reduced to such hydrometer proof,—an equal additional duty per gallon to the duty imposed upon the said spirits by any Act or Acts of the Imperial Parliament, and payable in this Province.</p>	
For every pound of refined sugar.	0 2
For every pound of raw sugar.	0 1
For every pound of green coffee.	0 2
For every pound of ground coffee.	0 4
For every pound of tea.	0 3
For every hundred weight of molasses or syrups.	1 6
For every barrel of salt containing two hundred and eighty pounds, and so in proportion for any greater or less quantity, imported otherwise than from sea.	2 6
	For

For every ton of salt imported by sea.....	1 0
For every pound of tobacco unmanufactured.....	0 1
For every pound of tobacco manufactured.....	0 2

C A P. XV.

An Act to repeal and amend in part certain Acts and a certain Ordinance therein mentioned, and to extend the powers, and increase the funds of the Corporation of the Trinity House of Quebec.

[18th September, 1841.]

WHEREAS the Laws now in force for the regulation of Pilots and Shipping in the Port and Harbour of Quebec, and for improving the Navigation of the River Saint Lawrence, as far as the same is under the control and authority, and within the jurisdiction of the Master, Deputy Master, and Wardens of the Trinity House of Quebec, have been found insufficient and inadequate to the purposes for which they were passed; and whereas it is expedient to extend the powers of the said Corporation, and to provide additional funds to be applied and disposed of by the said Corporation, in the manner, and to and for the purposes hereinafter mentioned; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-write the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that all the provisions, matters and things contained in a certain Act passed in the forty-fifth year of the Reign of His late Majesty, King George the Third, chapter twelve, intituled *An Act for the better regulation of Pilots and Shipping in the Port of Quebec, and in the Harbours of Quebec and Montreal, and for improving the Navigation of the River Saint Lawrence, and for establishing a fund for decayed Pilots, their Widows and Children*, and in a certain other Act, passed in the fifty-first year of the Reign of His late Majesty, King George the Third, chapter twelve, intituled *An Act to amend an Act passed in the forty-fifth year of His Majesty's Reign, intituled, An Act for the better regulation of Pilots and Shipping in the Port of Quebec, and in the Harbours of Quebec and Montreal, and for improving the Navigation of the River Saint Lawrence, and for establishing a fund for decayed Pilots, their Widows and Children*, and in a certain other Act passed in the fifty-second year of the Reign

Preamble

45, George
3d, Chapter 12.

51, George
3d, Chapter
12.

52, George
3d, Chapter
12.

2d, George
4th, Chapter
7.

2d, Victoria,
Chapter 19.

Repealed
wherever in-
consistent with
this Act.

Pilots and
their appren-
tices.

Proviso.

Apprentices
now bound.

Sixth Sect.
51, George 3d.
Chapter 12,
repealed

Reign of His late Majesty, King George the Third, chapter twelve, intituled *An Act for the better regulation of Pilots and Shipping in the Port of Quebec, and in the Harbours of Quebec and Montreal, and for improving the Navigation of the River Saint Lawrence, and for establishing a fund for decayed Pilots, their Widows and Children*, and in a certain other Act passed in the second year of the Reign of His late Majesty, King George the Fourth, Chapter seven, intituled *An Act further to amend and extend the provisions of certain Acts therein mentioned relating to Pilots and the Navigation of the River Saint Lawrence, and for other purposes therein specified*, and in a certain Ordinance of the Governor of the Province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said Province, passed in the second year of Her Majesty's Reign, chapter nineteen, intituled *An Ordinance to suspend, in part, certain Acts therein mentioned, and to establish and incorporate a Trinity House in the City of Montreal*, or either of them, in anywise contradictory to or inconsistent with the provisions of this Act, shall be, and so much of the said Acts and Ordinance respectively, is hereby repealed.

II. And be it enacted, that no person shall hereafter be appointed a Branch Pilot, for and below the Harbour of Quebec, who shall not have *bona fide* served a regular and continued apprenticeship for at least seven years, and which apprenticeship shall be under indenture made and executed before a Public Notary, and who shall not have made three or more voyages to Europe or the West Indies, in some square-rigged Vessel or Vessels, to be proved by the certificates of the Masters or Commanders of the Vessels in which the said person shall have returned; and of the service of which apprenticeship he shall produce satisfactory proof on his examination to be received a Branch Pilot: and no Branch Pilot shall hereafter be permitted to take or have an apprentice, unless duly licensed thereto by the Master, Deputy Master, and Wardens of the Trinity House of Quebec, which license they, the said Master, Deputy Master, and Wardens of the Trinity House of Quebec, are hereby authorized and empowered to grant; nor shall any Branch Pilot for and below the Harbour of Quebec, hereafter take or have more than one apprentice at a time: Provided always, that nothing herein contained, shall be construed to oblige any such Branch Pilot, to discharge any apprentice whose indenture shall have been executed before the passing of this Act, or to affect the right of such apprentice to obtain his Branch at the expiration of his service under such Indenture, subject to the conditions and regulations in force previous to the passing of this Act.

III. And be it enacted, that so much of the sixth section of the said Act, passed in the fifty first year of the Reign of His late Majesty, King George the Third, chapter twelve, as permits the Pilots therein mentioned, thereafter to take two apprentices,

prentices, shall from and after the passing of this Act, be, and the same is hereby repealed as far as respects Branch Pilots for and below the Harbour of Quebec,

IV. And be it enacted, that in all cases where it shall be necessary to serve a summons upon any Branch Pilot for and below the Harbour of Quebec, for any offence against any of the above recited Acts, or against this Act, or against any by-laws, rules, regulations, or orders made and constituted by the said Master, Deputy Master and Wardens of the Trinity House of Quebec, the service of such summons, if the party offending is not to be found, shall be deemed a legal service if a copy of such summons is left by the Bailiff of the said Corporation on board of the boat belonging to or in the charge of the person so offending, between the hours of seven in the morning and six in the afternoon, in the hands of the apprentice of such Pilot, or other reasonable person on board and in charge of such boat, to whom the Bailiff shall explain the purport of such summons.

Service of
Trinity Process
on Pilots.

V. And whereas from the increased duties of the Treasurer of the said Corporation of the Trinity House of Quebec, the commission of one hundred pounds, allowed him by the said Act passed in the fifty first year of the Reign of His late Majesty King George the Third, chapter twelve, is no longer a fair remuneration for his service; Be it therefore enacted, that so much of the fourteenth section of the said Act as provides that if at any time the said charge of five per centum so made by the said Treasurer, shall yield a greater sum than one hundred pounds, current money of this Province, then and in such case the same shall be reduced in such proportion as not to exceed the said sum of one hundred pounds, current money aforesaid, annually, shall be and is hereby repealed, and from and after the passing of this Act, if at any time the charge of five per centum to be made by the said Treasurer of the said Corporation of the Trinity House of Quebec, under the authority of the said fourteenth section of the said last mentioned Act, (and which charge he is hereby allowed to make upon all monies hereafter to come into his hands) shall yield a greater sum than two hundred and fifty pounds, current money aforesaid, then and in such case the same shall be reduced in such a proportion as not to exceed the said sum of two hundred and fifty pounds annually.

Treasurer's
allowance in-
creased to
£250 per an-
num.

VI. And whereas it may be deemed expedient that a lot of land and premises in the said City of Quebec should be purchased and vested in the said Master, Deputy Master and Wardens of the Trinity House of Quebec, for the purpose of providing a suitable Trinity Hall and appendages for the use and accommodation of the said Corporation; Be it therefore enacted, that the said Corporation at any time or times hereafter may, and they are hereby authorized and empowered to contract, compound, compromise and agree with the proprietors and occupiers of any land and premises, pieces and parcels of land, situated within the said City of Quebec,

Trinity
House may
purchase land
as a site for a
Hall of sitting.

Quebec, for the purchase thereof or of any part thereof; and it shall be lawful for all persons whomsoever, bodies politic and corporate, guardians, curators, fiduciary legatees and trustees, whatsoever, for themselves, their heirs and successors, for and in behalf of those whom they represent, or for whom they act, whether infants, lunatics, idiots, *femes covert*, or other person or persons whomsoever, who are or shall be seized or possessed of or entitled to such land and premises, pieces and parcels of land as aforesaid, to contract for, sell and convey the same to the said Master, Deputy Master and Wardens of the Trinity House of Quebec, for such price or prices or consideration as may be agreed upon between them and the said parties, respectively.

The price to be paid out of the monies raised under this Act or those appropriated by Law for the improvement of the navigation of the St. Lawrence.

VII. And be it enacted, that the price or prices or consideration for which the said land and premises, pieces and parcels of land may be purchased as aforesaid, may and shall be paid and payable out of the monies which shall be raised under the provisions of this Act, and not hereby specially appropriated, or out of the monies now appropriated to the improvement of the Navigation of the River Saint Lawrence within the limits of the jurisdiction of the said Master, Deputy Master and Wardens of the Trinity House of Quebec, as to the Governor, Lieutenant Governor, or person administering the Government of this Province for the time being, may seem meet and expedient; but no such price or prices, or consideration shall be agreed for or paid by the said Corporation without the sanction and approval of the said Governor, Lieutenant Governor or person administering the Government of this Province for the time being.

Recital.

VIII. And whereas the said Master, Deputy Master and Wardens of the Trinity House of Quebec, are now in the occupation and possession, under the authority of the Legislature, and according to the Laws and customs of this Province, of divers Islands and parts of Islands, lands and premises, pieces and parcels of land, and other real property, for the purpose of erecting Light Houses and Beacons, and for other public purposes connected with the improvement of the navigation and pilotage of the River Saint Lawrence, for which indemnity or indemnities, price or prices may be now justly due and payable by the said Corporation to the respective proprietors or previous occupiers thereof, and whereas it may become necessary hereafter for the said Corporation to purchase or occupy other Islands or parts of Islands, lands and premises, pieces and parcels of land, and other real property for the like purposes, for which a certain price or prices, indemnity or indemnities or other consideration may become due and payable by the said Corporation to the respective proprietors and occupiers thereof; and whereas it is expedient to provide a more expeditious mode of ascertaining, fixing and determining the amount of the price or prices, indemnity or indemnities and consideration due and payable, or which may become due and payable by the said Corporation to

to the respective proprietors and occupiers of such Islands and parts of Islands, land and premises, pieces and parcels of land, and other real property, as the said Corporation may either have already acquired, occupied and possessed, or which it may become necessary that they should hereafter acquire, occupy or possess, by purchase or otherwise, for the purposes aforesaid, than is now established by Law; Be it therefore enacted, that in all cases where the said Corporation and the said owners and occupiers of the lands or real property aforesaid, or of any part thereof, shall not by voluntary agreement settle and determine the price or prices, indemnity and indemnities, or other consideration, to be paid for the same or any part thereof, such price or prices, indemnity or indemnities, or other consideration, shall be ascertained, fixed and determined by the award of Arbitrators in the manner following, that is to say: the said Corporation shall and may nominate and appoint one Arbitrator, being an indifferent and disinterested person, and the said owners and occupiers, respectively, shall and may nominate and appoint one other Arbitrator, being also an indifferent and disinterested person, and the said two Arbitrators, before proceeding to act as such Arbitrators, shall and may appoint a third Arbitrator, being also an indifferent and disinterested person, which said three Arbitrators, after having been sworn before one of the Justices of Her Majesty's Court of King's Bench for the District of Quebec, well, truly and honestly to execute the trust and duty of Arbitrators as aforesaid, and after notices to the parties respectively of the time and place of their meeting, shall proceed to ascertain, fix and determine the price or prices, indemnity or indemnities, or other consideration, to be paid by the said Corporation for such Islands, parts of Islands, lands and premises, pieces and parcels of land and other real property aforesaid, or any part thereof, and the award of any two of the said Arbitrators, to be named and appointed as aforesaid, in and respecting the premises aforesaid, shall be final.

Value of property now or hereafter taken by the Trinity House, to be ascertained by arbitrators.

IX. And be it enacted, that in case the said owner or occupier of the said Islands, parts of Islands, land and premises, pieces and parcels of land, or any of them, after due notice in this behalf by the said Corporation, shall refuse or neglect to name and appoint an Arbitrator as aforesaid, being an indifferent and disinterested person as aforesaid, or if the two Arbitrators named and appointed as aforesaid shall refuse or neglect to name and appoint a third Arbitrator as aforesaid, it shall be lawful in such case, respectively, for one of the Justices of Her Majesty's Superior Court of Record, having original civil jurisdiction within the City of Quebec, on application in this behalf by the said Corporation, to name and appoint instead of such owner or occupier so refusing or neglecting, an Arbitrator on his behalf, or such third Arbitrator to supply the place of the nomination which ought to have been made by the two Arbitrators previously appointed, and the Arbitrators and third Arbitrator as aforesaid, to be appointed

Case of the opposite party declining to appoint an arbitrator, provided for.

appointed by such Justice as aforesaid, after having been respectively sworn by such Justice, well, truly and honestly to execute the trust and duty of Arbitrator, and third Arbitrator as aforesaid shall have the same power and authority in the premises, and their award, or the award of any two of them, shall have the same force and effect as if such Arbitrator and third Arbitrator had been named and appointed in the manner in the preceding section of this Act prescribed as aforesaid.

On payment or tender of the ascertained value property to vest in the Trinity House.

X. And be it enacted, that on payment of the price or prices, indemnity or indemnities, or other consideration, to be fixed and determined as aforesaid, or in case of refusal or neglect to accept the same on the deposit thereof in the hands of the Prothonotary of Her Majesty's Court of King's Bench for the District of Quebec, for the use of the person or persons entitled to the same, the right of property, title and interest in and to such Island or Islands, or parts of Island or Islands, land and premises, pieces or parcels of land or other real property, for which such price or prices, indemnity or indemnities or other consideration shall be payable, shall become and be vested in the said Corporation for the purposes aforesaid.

No such price agreed for or paid without the sanction of the Governor.

XI. And be it enacted, that no such price or prices, indemnity or indemnities, or other consideration, shall be agreed for or paid by the said Corporation without the sanction and approval of the Governor, Lieutenant Governor, or Person administering the Government of this Province for the time being, but that the same or any part thereof may be paid for, either from and out of any monies to be raised under the Provisions of this Act and not hereby specially appropriated, or from and out of any monies appropriated to the improvement of the navigation of that part of the River Saint Lawrence within the limits of the jurisdiction of the said Master, Deputy Master and Wardens of the Trinity House of Quebec.

Additional duty of 1d. per ton imposed on vessels clearing for places beyond the limits of this Province.

XII. And be it enacted, that it shall be lawful for the Naval Officer, or person discharging the duty of Naval Officer of the Port of Quebec, for the time being, and he is hereby authorized and required before any Ship, Steamboat, Schooner, or other Vessel, shall be cleared from the said Port of Quebec, or from the Port of Montreal, for any Port or place beyond the limits of this Province, to ask, demand and receive of and from the Master or Commander of such Ship, Steamboat, Schooner or other Vessel, in addition to all or any duty or duties, sum or sums of money already imposed and payable, *or to be hereafter imposed and made payable by Law*, for or in respect of such Ship or Vessel, the sum of one penny, currency, for each and every ton which such Ship or Vessel may bear by register measurement; and all sums so received shall be paid quarterly by the said Naval Officer or person discharging the duty of Naval Officer as aforesaid, to the Treasurer of the said Corporation and shall be applied by the said Master, Deputy Master and Wardens of the Trinity House of Quebec, for improving the navigation of the River Saint Lawrence, and for the other purposes authorized by this Act.

Application of duties.

XIII

XIII. And be it enacted, that from and after the passing of this Act, it shall not be lawful for any Ship or Vessel, Steamboat, Schooner, or other Craft to navigate the River Saint Lawrence within the limits of this Province, coastwise, and pass the lights erected or to be erected by the said Corporation for the better navigation thereof, or any of them, unless the Owner, or Master, or Commander of such Coasting Vessel as aforesaid, shall first have obtained a License in that behalf, under the seal of the said Corporation; which said License the Master or Deputy Master of the Trinity House of Quebec, is hereby authorized and required to grant, and for which License the Owner or Master or Commander of every such Coasting Vessel as aforesaid shall pay to the Treasurer of the said Corporation for the time being, a sum of money equal to four pence, Currency, for each and every ton which such coasting Vessel as aforesaid may bear by register measurement; which said sum or sums of money, the said Treasurer is hereby authorized and required to demand and receive therefor; and all sums so received by him shall be applied to and for the purposes and in the manner mentioned and provided in the next preceding section of this Act: Provided always, that such License so obtained as aforesaid shall only be valid for the Vessel and for the period of navigation of the year for which the same shall be issued, and shall and may be in the form of the Schedule to this Act annexed.

Coasting
and River Craft
to take Li-
censes.

Proviso.

XIV. And be it enacted, that from and after the passing of this Act, it shall not be lawful for the said Naval Officer, or the person discharging the duty of Naval Officer of the Port of Quebec, nor for any other Officer or Officers of Her Majesty's Customs at the Port of Quebec, or of Montreal, to grant to any Ship or Vessel, Steamboat, Schooner or other Craft, a Clearance from any Port or Place to any other Port or Place within this Province, on the voyage to which the lights erected or to be erected by the said Corporation, must be passed, unless the Master or Commander of such Ship or Vessel, Steamboat, Schooner or other Craft shall have first produced to him or them such License as last aforesaid.

No Clearance
except on Li-
cense pro-
duced.

XV. And whereas it hath become necessary for the safety of Vessels navigating the said River Saint Lawrence, that a Light House should be erected on the Island of Bicquette, and also that a Light House should be erected on the Island called the South Pillar, and whereas the funds appropriated by this Act and by Law for improving the navigation of the said River will not be sufficient to defray the expense of erecting such Light Houses and it is expedient to devise means for defraying the same: Be it therefore enacted that during the years one thousand eight hundred and forty three, one thousand eight hundred and forty four, and one thousand eight hundred and forty five and no longer, it shall be lawful for the naval Officer, or person discharging the duty of naval Officer of the Port of Quebec, for the time being, and he is hereby authorized and required, before any Ship, Steamboat,

Light Houses
to be erected
on the Island
of Bicquette
and the South
Pillar Island.

All vessels clearing from Quebec or Montreal in the three years 1842, 1843, & 1844 subject to pay an additional duty per ton.

Moneys to be paid to the Trinity House of Quebec.

Advances from the public revenue to be repaid and surplus to go to the consolidated Revenue Fund.

Governor may advance £6,000, of which £3,000 only in 1841 for erecting such Light Houses.

Apparatus at West end of Anticosti may be used for the erection of the new Light Houses.

Steamboat, Schooner, or other Vessel shall be cleared from the said Port of Quebec, or from the said Port of Montreal for any port or place beyond the limits of this Province, to ask, demand and receive of and from the Master or Commander of such Ship, Steamboat, Schooner or other Vessel in addition to all and any duty, or duties, sum or sums of money, imposed and payable either under this Act or under any other Act or Law, for or in respect of such Ship, Steamboat, Schooner, or Vessel, the sum of two pence currency, for each and every ton, which such Ship, Steamboat, Schooner or Vessel may bear by register measurement; and all sums so received shall be paid Quarterly by the said Naval Officer or person discharging the duty of Naval Officer, as aforesaid, to the Treasurer of the said Corporation of the Trinity House of Quebec, and shall be applied by the said Corporation in defraying the expense of erecting such Light Houses as aforesaid: Provided always, that any sum or sums advanced out of the consolidated revenue fund of this Province to the said Trinity House in the manner hereinafter provided, shall be repaid out of the moneys raised under the authority of this section, and that any surplus of such moneys remaining after such repayment and after defraying the expense of erecting the said Light Houses, shall form part of the general funds to be applied by the said Corporation in improving the navigation of the said River, out of which last mentioned funds, any deficiency in the funds raised under this section to meet such repayment as aforesaid, and the expenses to be incurred in erecting the said Light Houses shall and may be supplied and made good.

XVI. And be it enacted, that it shall be lawful for the Governor, Lieutenant Governor or person administering the Government of this Province, by warrant under his hand to authorize the advance to the said Corporation out of any unappropriated moneys in the hands of the Receiver General, of such sum or sums as may from time to time be requisite to enable the said Corporation to meet the expences incurred in erecting the said Light Houses, and which the funds then applicable for such purpose shall be insufficient to enable them to meet: Provided always, that such sums shall be repaid in the manner aforesaid and provided also that the total amount of the sums so advanced, shall not exceed six thousand pounds currency, and that the sums so advanced during the year one thousand eight hundred and forty one, shall not exceed three thousand pounds currency.

XVII. And be it enacted, that it shall be lawful for the Governor, Lieutenant Governor, or Person administering the Government to authorize and empower the said Corporation to use and apply all or any of the apparatus and materials acquired for the construction of a Light House on the West end of the Island of Anticosti, in the construction of the Light House to be erected as aforesaid on the Island of Bicquette.

XVIII.

XVIII. And be it enacted, that from and after the passing of this Act, all such sums of money as shall then be in the hands of the Receiver General of this Province, and applicable by the said Corporation for improving the navigation of the said River Saint Lawrence, or for any other purpose, shall be paid over to the Treasurer of the said Corporation, by warrant under the hand of the Governor, Lieutenant Governor or Person administering the Government of this Province, and all sums of money which shall thereafter be received by the Naval Officer of the Port of Quebec or by any other Officer or person and applicable by the said Corporation and heretofore payable to the Receiver General, shall be paid over quarterly by such Officer or person to the said Treasurer, at the same time and times as they would otherwise have been paid over to the Receiver General.

All moneys now in Receiver Generals, hands applicable to improvement of the St. Lawrence to be paid over to the Trinity House.

All moneys levied in future to be paid to the Trinity House.

XIX. And be it enacted, that the Treasurer of the said Trinity House of Quebec shall give such security for the due performance of the duties of his office, as the Governor, Lieutenant Governor, or Person administering the Government of this Province, shall from time to time direct.

Treasurer to give security.

XX. And be it enacted, that the said Corporation shall at all times render such accounts to such Officer or Person, and in such manner and form, and at such time and times as the Governor, Lieutenant Governor, or Person administering the Government shall direct, and an account in detail of all moneys received and expended by the said Corporation and of all matters connected with the said receipt and expenditure shall be laid before each branch of the Legislature within fifteen days after the opening of each Session of the Provincial Parliament.

Corporation of Trinity House to render accounts annually to the Legislature.

XXI. And be it enacted, that the ninth section of the said Act, passed in the second year of the Reign of His late Majesty King George the Fourth, chapter seven, shall be and is hereby repealed; and from and after the passing of this Act, the said Master, Deputy Master and Wardens of the Trinity House of Quebec, shall annually publish, or cause to be published in the *Quebec Gazette*, published by authority, in the month of September, a full and complete statement of the funds belonging to or in any wise appertaining to the Pilots for and below the Harbour of Quebec, and known as the Quebec decayed Pilots Fund, with the names of all and every the person and persons receiving pensions or allowances of any kind from and out of the said funds, and shall furnish a printed copy of such statement, at the expense of the funds aforesaid, to every Pilot or person residing in this Province, directly contributing to the said fund and therein immediately interested.

9 sect. 2 Geo. 4. c. 7 repealed.

Annual statement of the Pilot's fund to be published in the Q. Gazette.

XXII. And be it enacted, that it shall be lawful for the said Corporation of the Trinity House of Quebec, by any By-law or By-laws to be made and confirmed

Trinity House may grant retiring

allowances to certain officers, &c.

ed in the manner by law provided with regard to other By-laws of the Corporation, to grant and assign a retiring allowance to any salaried officer of the Corporation, or under their controul, who may from age, accident or infirmity be, or become unable to discharge the duties of his office, and such retiring allowance shall be paid out of the same funds and in the manner as other expenses lawfully incurred by the said Corporation, and shall also be accounted for in the same manner as is by law provided with regard to monies appropriated for such expenses.

Trinity House when sitting as a Court to have power to preserve order.

XXIII. And be it enacted, that the said Master, Deputy Master and Wardens of the Trinity House of Quebec, or any three of them, when sitting in their judicial capacity, shall have such and the like power and authority to preserve order in their Court during the holding thereof, and by the like ways and means, as now by law are or may be exercised and used in the like case and for the like purpose by any Courts of Justice in this Province, or by the Judges thereof, respectively, during the sitting thereof: Provided always, that it shall be the duty of the said Master, Deputy Master and Wardens to allow the benefit of a full defence by Attorney or Counsel to all parties cited before them, and to all parties over whom they shall exercise jurisdiction.

19 sect. 51 Geo. 3, cap. 12 repealed.

Prosecutions to be brought within 12 months.

XXIV. And be it enacted, that from and after the passing of this Act, the nineteenth section of the said Act passed in the fifty first year of the Reign of His late Majesty King George the Third, chapter twelve, shall be and the same is hereby repealed, and all prosecutions for offences against this Act, or against the said Act passed in the forty fifth year of the Reign of His late Majesty King George the Third, chapter twelve, or against the said Act passed in the fifty first year of the Reign of His late Majesty King George the Third, chapter twelve, or against the said Act passed in the second year of the Reign of His late Majesty King George the Fourth, chapter seven, shall be brought within twelve months after the commission thereof.

How monies shall be paid.

XXV. And be it enacted, that all public monies required to be paid by the authority of this Act, shall be accounted for to Her Majesty, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall be graciously pleased to direct.

Due application.

XXVI. And be it enacted, that the due application of the monies which shall be raised under and by virtue of this Act, shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall be graciously pleased to direct.

XXVII.

XXVII. And be it enacted, that nothing herein contained shall affect or be construed to affect in any manner, the rights of Her Majesty, Her Heirs or Successors, or of any person or persons, or of any body Corporate or Politic, those only excepted which are mentioned in this present Act.

XXVIII. And be it enacted, that this Act shall be deemed and taken to be a Public Act, and as such shall be judicially taken notice of by all Judges, Justices of the Peace, and others, without being specially pleaded.

SCHEDULE.
FORM OF LICENCE.

This is to certify that _____ owner (or master or command-
er as the case may be) of the _____ called the
hath paid into the hands of the Treasurer of the Trinity House of Quebec, the
sum of _____ being at the rate of _____ pence per ton,
register measurement of the said _____ the _____ and the
said _____ the _____ is hereby licensed to navigate the
River St. Lawrence, within the limits of this Province, and pass the lights erect-
ed by the said Corporation for the better navigation thereof, during the period of
navigation of the year one thousand eight hundred and _____
Given at the City of Quebec, under the hand of _____ Master (or
Deputy Master as the case may be) of the Trinity House of Quebec, and the Seal
of the said Corporation hereunto affixed, this _____ day of _____ in the year
of Our Lord eighteen _____ and in the _____ year of Her Majesty's Reign.

L. S.

CAP. XVI.

An Act to extend the benefit of the Warehousing System established by a certain Act of the Imperial Parliament, passed in the Session held in the third and fourth years of His late Majesty's Reign, to duties imposed by Provincial Acts.

18th September, 1841.

WHEREAS it is expedient that the provisions and enactments of the sections hereinafter mentioned of a certain Act of the Parliament of Great Britain and

Preamble.

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and Ireland, made and passed in the third and fourth years of the Reign of His late Majesty King William the Fourth, Chapter fifty-nine, intituled *An Act to regulate the trade of the British Possessions abroad*, should be extended to duties payable under any Provincial Act or Acts, on any goods or merchandize, in order by such extension to promote the objects for which the said Act was passed, and to afford greater facilities and encouragement to the Trade of this Province; Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, that each and every of the provisions and enactments of the thirty-sixth, thirty-seventh, thirty-eighth, thirty-ninth, fortieth, forty-first, forty-second, forty-third, forty-fourth, forty-fifth, forty-sixth and forty-seventh sections of the said Act herein first above cited, and intituled *An Act to regulate the Trade of the British possessions abroad*, (which said sections relate to the warehousing of goods, the appointment of proper warehouses, and the regulations to be observed with regard to goods so warehoused) shall extend and are hereby extended to all duties payable, under any Act of the Legislature of this Province, or of the late Province of Lower Canada, or of the late Province of Upper Canada, on any goods, wares, or merchandise arriving from sea in any vessel entered at the Custom House at the warehousing ports named in the Act herein first cited, or hereafter to be appointed under the authority of the same, or brought by land or inland navigation, and forwarded under the provision of the said thirty-eighth section, from any frontier port, to be entered and warehoused at any of the said ports; any thing in the fifty-seventh section of the said Act to the contrary notwithstanding, and no such duty shall be payable on such goods, wares or merchandise, while warehoused under the provisions of the said sections of the said Act, or if they be exported in the manner therein provided: Provided always, that when any such goods, wares, or merchandise, or any part thereof, shall be taken out of any such warehouse, except for exportation or removal to some other warehouse within this Province, the duties thereon shall be paid or secured, previous to the removal of the goods in the same cases and manner as if such goods had not been warehoused: the term of credit allowed by law on the duties to be secured to be computed from the date of the removal, any law, usage or custom to the contrary notwithstanding.

The Provisions of the sections of the Imperial Act 3 & 4th Will. IV. cap. 59, from the 36th to the 47th inclusive, extended to duties imposed by Provincial Acts.

Proviso.

What credit shall be given for the payment of duties on goods taken out of any warehouse in, certain cases.

C A P. XVII.

An Act to prevent the fraudulent manufacture, importation, or circulation of Spurious Copper and Brass Coin.

[18th September, 1841.]

WHEREAS great frauds have been practised upon the Inhabitants of this Province, by evil disposed persons, who have imported into the same, or manufactured therein, Spurious Copper, or Brass Coin, or Tokens, for the purpose of passing them for a much higher value than they were intrinsically worth; 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 Canada, constituted and assembled by virtue of and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that no Copper or Brass Coin or Tokens of any description, except the Lawful Copper Coin of the United Kingdom of Great Britain and Ireland, shall be imported into this Province; nor shall any Copper or Brass Coin or Tokens be manufactured therein, except under the authority of an express permission to some certain person or persons, body politic or corporate, to import or manufacture the same, granted by and under the hand of the Governor, Lieutenant Governor, or Person administering the Government of the Province, who is hereby authorised to grant such permission by and with the advice and consent of the Executive Council thereof; such permission containing a description of the Coin or Tokens to which it shall extend, the quantity thereof to be imported or manufactured, and the time during which such permission shall be in force: Provided always, that such permission shall be announced in the Official Gazette, or Gazettes: Provided also that all Coins imported or manufactured as aforesaid, shall in purity, weight and quality, be equal to five sixths at the least, of the British penny or half-penny, lawfully current in the United Kingdom of Great Britain and Ireland.

Preamble.

No Copper or Brass Coin or Token, except the lawful Coin of the United Kingdom to be imported, nor any to be manufactured in the Province except by the permission of the Governor, &c. with the consent of the Executive Council.

Proviso.

II. Provided always, and be it enacted, that no such permission shall be granted by the Governor, Lieutenant Governor, or Person administering the Government of the said Province as aforesaid, for the importation or manufacture of any Copper or Brass Coin or Tokens, under the provisions of this Act, by any person or persons, body politic or corporate, unless such Coin or Tokens be stamped with the nominal value thereof, and with the name of such person or persons, body politic or corporate, and such Coins and Tokens shall be payable or redeemable

Conditions on which Copper Coins or Tokens may be permitted to be imported and manufactured.

on demand, by such person or persons, body politic or corporate, at the nominal value thereof, in lawful current Coin, being a legal tender in this Province, in payment of a debt equal to the nominal value of the Coins or Tokens for which payment shall be so demanded.

Coins or Tokens imported or manufactured in contravention of this Ordinance.

Any two Justices of the Peace may take cognizance of such offence.

May commit persons having such Coins in possession.

When persons in possession of such Coin or Tokens, are not aware of its having been illegally manufactured or imported, penalty may be recovered from owner.

Any Officer of Her Majesty's Customs may seize such Coins or Tokens.

III. And be it enacted, that all such Coin or Tokens as aforesaid, imported or manufactured in contravention of this Act, shall be forfeited to Her Majesty, Her Heirs and Successors, for the public uses of this Province ; and the person or persons who shall have manufactured or imported the same, shall thereby incur a penalty not exceeding five pounds currency, for every pound troy of the weight thereof; and it shall be lawful for any two or more Justices of the Peace, on the oath of any credible person, that any such Coin or Tokens have been so unlawfully manufactured or imported as aforesaid, to cause the same to be seized and detained, and to summon the person or persons, or any one of them, in whose possession the same shall be found, to appear before him, and if it shall appear to his satisfaction, on the oath of any credible witness, other than the informer, that such Coin or Tokens have been manufactured or imported in contravention of this Act, such Justices of the Peace shall declare the same forfeited, and shall place them in safe keeping to await the disposal of the Governor, Lieutenant Governor or Person administering the Government of the Province, for the public uses of this Province, and, if it shall, in like manner, appear to the satisfaction of such Justices of the Peace, that the person or persons in whose possession such Coin or Tokens were found, knew the same to have been so illegally manufactured or imported, he may condemn such person or persons, or any of them, to pay the penalty aforesaid with costs, and may commit him, her or them, or any of them, to the Common Gaol of the District, for a period not exceeding two months, if such penalty and costs be not forthwith paid, or until the same be paid.

IV. Provided always, and be it enacted, that if it shall appear to the satisfaction of such Justices of the Peace, that the person or persons in whose possession such Coins or Tokens shall have been found, was not or were not aware of their having been so illegally manufactured or imported, such penalty may be recovered, by any person or persons who shall sue for the same in any Court of competent Jurisdiction, from the owner or any of the owners thereof, on the oath of any one credible witness, other than the person so suing.

V. And be it enacted, that it shall also be lawful for any Officer of Her Majesty's Customs to seize any Coin or Tokens, which any person shall import or attempt to import into this Province in contravention of this Act, and to detain the same as forfeited, to await the disposal of the Governor, Lieutenant Governor or Person administering the Government of this Province, for the public uses of the Province.

VI.

VI. And be it enacted, that if any such Coin or Tokens, other than the lawful Coin of the United Kingdom aforesaid, shall at the time this Act shall go into force, be in the possession of any person, other than the owner thereof, such person may refuse to deliver the same, except upon a permission to that effect from the Governor, Lieutenant Governor or Person administering the Government of the Province, who may, if he shall deem it advisable, make it a condition on which such permission shall be granted, that the person applying for the same shall immediately re-export such Coin or Tokens, in which case any duty paid on the importation thereof shall be returned to the owner, as a draw back, by the Chief Officer of the Customs, at the Port whence such exportation shall be made.

Coin or Tokens other than the lawful Coin of the United Kingdom, in the possession of other than the owner.

VII. And be it enacted, that from and after the expiration of thirty days from the time when this Act shall go into force, no person shall utter, tender or offer in payment any Copper or Brass Coin, other than the lawful Coin of the United Kingdom, aforesaid, or the Tokens of some one of the Chartered Banks of this Province, or the *Banque du Peuple* at the City of Montreal, heretofore imported or manufactured under the sanction and authority of the Executive, or under and by virtue of the Ordinances of the late Province of Lower Canada hereinafter mentioned and hereby repealed, or American cents, or such Coin or Tokens as may have been lawfully imported into, or manufactured in this Province, according to the provisions of this Act, under a penalty of the forfeiture of double the nominal value thereof, which penalty may be recovered, with costs, in a summary manner, on the oath of any one credible witness, other than the informer, before any Justice of the Peace, who may, if such penalty and costs be not forthwith paid, commit the offender to the Common Goal of the District for a time not exceeding eight days, or until the same be paid.

Penalty on persons offering unlawful Coin or Tokens, after the expiration of thirty days from the time of this Act going into force.

How to be recovered.

VIII. And be it enacted, that one moiety of all the penalties imposed by this Act (but not the Coins or Tokens forfeited under the provisions thereof) shall go to the informer or person suing for the same, and the other moiety shall belong to Her Majesty, Her Heirs and Successors, for the public uses of this Province.

Moiety of penalty to informer.

IX. And be it enacted, that the due application of all penalties and forfeitures received for Her Majesty, her Heirs and Successors, under the provisions of this Act, shall be accounted for, to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors, shall direct.

Application of penalties.

X. And be it enacted, that this Act shall not be in force until it shall have been published in the Official Gazette, or Gazettes of this Province.

This Act to be published in Official Gazette

All Acts or Ordinances relating to Copper Coin repealed, as soon as this Act comes into operation.

XI. And be it enacted, that when and so soon as this Act shall be in force, an Ordinance of the Special Council of the late Province of Lower Canada, passed in the second year of Her Majesty's reign, and intituled "An Ordinance to prevent the manufacture, importation or circulation of Spurious Copper and Brass Coin" and a certain other Ordinance of the said Special Council passed in the third year of Her Majesty's reign, intituled "An Ordinance to amend and render permanent an Ordinance passed in the second year of Her Majesty's reign," intituled "An Ordinance to prevent the fraudulent manufacture, importation or circulation of Spurious Copper and Brass Coin," and all other Acts or parts of Acts relating in any manner to the manufacture, importation, or circulation of Copper or Brass Coins and Tokens, or imposing penalties, or in any manner relating to Copper Coin or Tokens, shall be and are hereby repealed.

C A P. XVIII.

An Act to repeal certain Acts therein mentioned, and to make further provision for the establishment and maintenance of Common Schools throughout the Province.

18th September, 1841.

Preamble.

WHEREAS the Laws now in force for the maintenance and regulation of Common Schools, are insufficient, and it is necessary to make provision for the establishment and maintenance of such Schools 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 of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the Act of the Legislature of the late Province of Upper Canada, passed in the fifty-sixth year of the Reign of His late Majesty King George the Third, and 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*, and the Act of the said Legislature, passed in the sixtieth year of the Reign of His said late Majesty, and 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*

Act of Upper Canada 56, Geo. 3. Cap. 36.

Act of Upper Canada, 60, Geo. 3. Cap. 7.

provide for the regulation of the said Common Schools, and the Act of the said Legislature passed in the fourth year of the Reign of His late Majesty King George the Fourth, intituled *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 promote and encourage education within the same*, and a certain Act of the Legislature of the late Province of Lower Canada, passed in the second year of the Reign of His late Majesty King William the Fourth, and intituled *An Act to repeal certain Acts therein mentioned, and for the further encouragement of Elementary Schools in the Country parts of this Province*, and all other Acts and parts of Acts of the said Legislatures, repugnant to or inconsistent with the provisions of this Act, be and the same are hereby repealed.

Act of Upper
Canada, 4 Geo.
4. Cap. 8.

Act of Lower
Canada 2. Wil-
liam 4. Cap.
26.

The said Acts
repealed.

II. And be it enacted, that for the establishment, support and maintenance of Common Schools in each and every Township and Parish in this Province, there shall be established a permanent fund which shall consist of all such monies as may accrue from the selling or leasing of any lands which, by the Legislature of this Province, or other competent authority, may hereafter be granted and set apart for the establishment, maintenance and support of Common Schools in this Province, and of such other monies as are hereinafter mentioned; and all such monies as shall arise from the sale of any such lands or estates, and certain other monies hereinafter mentioned, shall be invested in safe and profitable securities in this Province; and the interest of all monies so invested, and the rents, issues and profits arising from such lands or estates as shall be leased or otherwise disposed of without alienation, shall be annually applied in the manner hereinafter provided, to the support and encouragement of Common Schools.

A permanent
fund for Com-
mon Schools to
be created and
sustained by
the sale and
rent of lands
granted by the
Legislature for
that purpose.

Other monies.

How invested
and applied.

III. And be it enacted, that for the establishment, support and maintenance of Common Schools in this Province, there shall be granted to Her Majesty, annually, during the continuance of this Act, the sum of fifty thousand pounds, currency, to be distributed among the several Districts in the manner hereinafter provided, and such sum shall be composed and made up of the annual income and revenue derived as aforesaid, from the said permanent fund, and of such further sum as may be required to complete the same, out of any unappropriated monies which are now raised and levied, or which may hereafter be raised and levied by the authority of the Legislature, to and for the public uses of this Province; and the said annual grant shall be, and be called, *The Common School Fund*.

Fifty thou-
sand pounds
annually to be
granted as a
Common
School fund."

IV. And be it enacted, that it shall be lawful for the Governor of this Province, by Letters Patent under the Great Seal thereof, to appoint from time to time, one fit and proper person to be Superintendent of Education in this Province; and such Superintendent

A superinten-
dent of Educa-
tion to be ap-
pointed.

Superintendent shall hold his office during pleasure, and shall receive such yearly salary, not exceeding the sum of seven hundred and fifty pounds, currency, as the Governor may appoint; and the duties of the said Superintendent shall be:

Duties.

To apportion the money according to population among the municipal Districts.

Firstly: To apportion in each and every year, on or before the third Monday in May in such year, the money annually granted by the Legislature as aforesaid, among the several Municipal Districts, in the ratio of the number of Children over five and under sixteen years of age, that shall appear by the then last census of the Province, to be resident within such District, respectively.

Secondly: To furnish the Receiver General of the Province, for his rule and guidance, with a certified statement or list of the apportionment of the money granted by the Legislature, under the provisions of this Act as aforesaid, among the several Districts.

To certify each District Treasurer of the amount awarded to his District.

Thirdly: To certify the apportionment of the public money as aforesaid, to the Treasurer of each and every of the said Districts, respectively, who shall lay the same before the District Council, to the end that such District Council may direct, and they are hereby authorised and required to direct, such a sum to be raised and levied for the purposes of this Act, and within their respective Districts, over and above all rates laid for other purposes, as shall be equal in amount to the money so apportioned from the Provincial Treasury.

To visit annually the municipal Districts and inspect the Schools.

Fourthly:—To visit annually each of the Municipal Districts in the Province and ascertain the state of the Common Schools therein, and for so doing he shall be allowed his reasonable expenses.

To prepare forms; and maintain uniformity in the conduct of Common Schools.

Fifthly: To prepare suitable forms for making reports and conducting the necessary proceedings under this Act, and to cause the same to be communicated to all such persons as shall be employed in carrying the provisions of this Act into effect; and to address to the said persons such suggestions as may tend to the establishment of uniformity in the conduct of the Common Schools throughout this Province: And the said Superintendent shall submit annually to the Governor of the Province, on or before the thirty-first day of December in each year, a Report on the actual state and condition of Common Schools throughout the Province, shewing the monies expended on such Schools, and from what sources derived, with plans for their improvement, and stating such other matters respecting Education generally, as the Superintendent may deem useful and expedient, in order that the same may be laid before the Legislature at the meeting thereof then next following.

V. And be it enacted, that the District Council of each District, shall be a Board of Education of such District, and their duties as such Board shall be :

District Council to be a Board of Education.

Firstly : To divide the several Townships and Parishes within their District into School Districts, to be designated by numbers, as one, two, three, and so on ; (provided always, that no such School District shall be established in which there shall be fewer than fifteen children between the ages of five and sixteen resident therein,) and forthwith to furnish a full Report of such division of the District with a proper description and designation of boundaries to the Superintendent of Education ; and also to furnish a specification of the School Districts, in each Parish or Township, to the School Commissioners, to be appointed for the same, in the manner hereinafter provided.

Duties of the Board.

Secondly : To apportion and distribute to each of the said School Districts its share of the School Fund, which share shall be proportioned to the number of children between the ages of five and sixteen, resident in such School Districts, respectively ;

To distribute the school fund among the school Districts

Thirdly : To apportion and cause to be assessed on the inhabitants of such School District a sum not exceeding fifty pounds, for the erection of a School-house in each School District in which none exists ;

To assess inhabitants in the sum of £50 for a School House.

Fourthly : To apportion to each Township and Parish, a sum not exceeding ten pounds, in any one year, to be expended in the purchase of such Books as may be recommended by the Common School Commissioners for distribution among the Schools ;

To apportion to each Parish & Township a sum not exceeding £10 annually for Books.

Fifthly : To report their proceedings in matters relating to common Schools, and the state of such Schools within the District, to the Superintendent, annually, on or before the first Monday in December in each year.

To report annually to Superintendent.

VI. And be it enacted, that if the District Council of any District shall at any time refuse or neglect to comply with the foregoing requirements of this Act, such District shall not be entitled to receive any sum of money out of the Common School Fund until such requirements shall have been duly complied with, or a good and sufficient cause for non-compliance shall have been shewn to the satisfaction of the Superintendent of Education.

Non-compliance on the part of District Council deprives the District of any share in the School Fund.

VII. And be it enacted, that at the annual Township or Parish meetings to be held in the month of January, one thousand eight hundred and forty-two, and at each succeeding annual meeting, for the election of Township and Parish Officers, there

"Common School Commissioners" to be elected at

the annual
Township or
Parish Meet-
ings in Janu-
ry each year,
Their Duties.

there shall be elected in the manner prescribed by Law for the Election of such Officers, five Commissioners for each and every Township and Parish entitled to elect one District Councillor, and seven Commissioners for each and every Township, entitled to elect two District Councillors; and the said Commissioners shall be called "Common School Commissioners," and their duties shall be :

To acquire
a site for a
School House,
make estimates
of expense and
transmit same
to the District
Clerk.

Firstly : To choose, and whenever funds shall be provided for that purpose by the District Council, to acquire a site for a Common School House in each School District in their Township or Parish in which no such School House shall exist at the time this Act shall come into force, and to make an estimate of the cost of such site and of the expense of building a School House and of keeping the same in repair, and an estimate of the cost of furnishing each Common School in the Township or Parish with the necessary fuel and appendages; and to transmit such estimates to the Clerk of the District Council, in order that the Inhabitants of the respective School Districts may be assessed accordingly :

To appoint
one of their
number to su-
perintend and
report quarter-
ly to the Com-
missioners.

Secondly : To appoint for each of the School Districts within the Township or Parish one or more of their number to superintend the building and repairing of the Common School House in such School District, and the furnishing it with fuel and other necessary things, and generally to manage the concerns of the School and report to the School Commissioners, once in three months, that is to say : on or before the first Monday in each of the months of March, June, September and December, the state of such School, the amount of monies received for it, the manner in which such money has been expended, the number of Children above five and under sixteen years of age taught in it, and the number of days that each Child has attended.

To appoint
and remove
Teachers.

Proviso.

Teachers to be
British Sub-
jects, and duly
qualified.

Thirdly : To agree with and appoint, from time to time, Teachers in the said Common Schools, and to remove such Teachers when they shall find just cause for so doing : Provided always, that no person, except he be one of the persons known as *Les Freres de la Doctrine Chretienne*, shall be appointed a Teacher in any of the said Schools unless he be a subject of Her Majesty by birth or naturalization, of good moral character, and shall have been examined before the said Commissioners as to learning and ability.

To regulate
the course of
study and es-
tablish general
rules, &c.

Fourthly : To regulate for each School, respectively, the course of study to be followed in such School, and the Books to be used therein, and to establish general rules for the conduct of the Schools, and communicate them in writing to the respective Teachers.

To hear and
determine all
disputes arising
out of proceed-
ings of Com-
missioners, &c.

Fifthly : To hear and determine all disputes which may arise out of the proceedings of the managing or visiting Commissioners hereinafter mentioned, or other matters of dispute in respect to Common Schools within their Township or Parish.

Sixthly :

Sixthly: To appoint two or more of their number to visit each Common School in the Township or Parish, once at least in each month, and to report the state of such School, whether the rules and regulations established by the Commissioners are duly observed, the number and proficiency of the Scholars, the character and ability of the Teachers, the conduct of the managing Commissioner, and all other matters connected with the management and well-being of such School.

To appoint two of their number to visit the school and to report thereon.

Seventhly: To grant warrants, from time to time, upon the District Treasurer for such sums of money as may be required for paying the Teachers and defraying the expenses of the several Common Schools within the Township or Parish: Provided always, that such warrants shall be signed by a majority of the Commissioners, of which the Chairman shall be one; and that the sums of money to be paid under the same shall in no case exceed the amount then appropriated by law and collectively for the said Schools; respectively.

To grant warrants upon the District Treasurer.

Eighthly: To exonerate such poor persons as they may deem fit, not exceeding ten in each School District, from the payment of the wages of Teachers in this Act established and required to be paid for each and every Child attending any Common School.

To exonerate poor persons from the payment of Teachers' wages.

Ninthly: To record and preserve all their proceedings in a Book to be provided for that purpose, the proceedings of each meeting, with the names of the Commissioners present, being authenticated by the signature of the Chairman; and such Book shall be delivered over by the Commissioners to their Successors in Office; and it shall be the duty of the Town Clerks, to attend all such meetings for the purpose of making such record.

To preserve minutes of their proceedings.

Tenthly: To report all their proceedings, and all matters connected with the several Common Schools in the Township or Parish, to the District Council, annually, on or before the third Monday of November, such report being in the form to be furnished by the Superintendent of Education.

To report annually to the District Council in a certain form.

Eleventhly: It shall be the duty of the said Common School Commissioners, within ten days after the expiration of their respective periods of service, to deliver to their Successors in Office, any and all books, accounts, vouchers, papers, reports and other documents in their possession as such Commissioners, and they may in case of default be thereunto constrained by all lawful ways and means.

To deliver all documents officially in their possession to their successors.

VIII. And be it enacted, that the said Commissioners shall remain in office until the annual Parish or Township meeting next following the time of their election, and until others shall be elected in their places; and in case the office of one or more

The Commissioners to remain in office until the next annual Parish

or Township Meeting.

Casual Vacancies, how filled.

The School Houses, and the ground whereon they are built to be vested in the Commissioners for the place.

more Commissioners shall be vacated by death, refusal to serve, removal out of the Township or Parish, or incapacity, the vacancy shall be supplied by an appointment to be made by the remaining Commissioners at their first meeting after such vacancy shall occur.

IX. And be it enacted, that the Common School Houses in each Township or Parish, now acquired, or hereafter to be acquired under the provisions of this Act, with the ground whereon they are situate, and all the appendages and furniture thereof, and books and other things thereunto appertaining, shall henceforward vest in and be held and possessed by the Commissioners of such Township or Parish, and their Successors in office for ever, as Trustees, for the purposes of this Act: Provided always, that no such School House or other thing thereunto appertaining, shall be sold or disposed of, or the site of any School changed, otherwise than by the consent of a majority of such Commissioners, of which majority the Chairman shall be one.

Th Collector shall collect all school rates, and a further sum of 1s. 3d for each Child attending any Common School.

Exception. And shall pay over the same to the District Treasurer.

X. And be it enacted, that it shall be the duty of the Township or Parish Collector, to collect, within the several School Districts, respectively, all such rates as shall be assessed for the support of the several Common Schools within his Township or Parish; and also the sum of one shilling and three pence, monthly, as additional wages for the Teacher, for each and every child attending any School, save and except for those children whose parents shall, by reason of their indigence have been exempted from the payment of such sum; and such rates, and the said sum of one shilling and three pence for each child, may, if not paid, be recovered by the Collector or his Successors in office in any Court of Competent Civil Jurisdiction; and the Collector shall pay over all such sums, (after deducting therefrom such fees as he may be by Law allowed) into the hands of the District Treasurer, and shall at the same time deliver to the said District Treasurer, a copy of the assessment roll or other statement, shewing the amount collected for such School Districts, respectively, within his Township or Parish; and the said District Treasurer shall keep separate accounts of all monies so paid in, and of all other monies, appropriated to the several School Districts, respectively.

Inhabitants professing religious faith different from that of the majority.

XI. Provided always, and be it enacted, that whenever any number of the Inhabitants of any Township or Parish professing a religious faith different from that of the majority of the Inhabitants of such Township or Parish, shall dissent from the regulations, arrangements, or proceedings of the Common School Commissioners, with reference to any Common School in such Township or Parish, it shall be lawful for the Inhabitants so dissenting, collectively, to signify such dissent in writing to the Clerk of the District Council, with the name or names of one or more persons elected by them as their Trustee or Trustees, for the purposes of this Act; and the said

said District Clerk shall forthwith furnish a certified copy thereof to the District Treasurer; and it shall be lawful for such dissenting Inhabitants, by and through such Trustee or Trustees, who for that purpose shall hold and exercise all the rights, powers and authorities, and be subject to the obligations and liabilities, hereinbefore assigned to and imposed upon the Common School Commissioners, to establish and maintain one or more Common Schools in the manner, and subject to the visitation, conditions, rules and obligations, in this Act provided with reference to other Common Schools, and to receive from the District Treasurer their due proportion, according to their number, of the monies appropriated by Law, and raised by assessment for the support of Common Schools, in the School District or Districts in which the said Inhabitants reside, in the same manner as if the Common Schools so to be established and maintained under such Trustee or Trustees, were established and maintained under the said Common School Commissioners, such monies to be paid by the District Treasurer upon the warrant of the said Trustee or Trustees.

May establish and maintain one or more School, and receive their proportion of the monies appropriated by Law.

XII. And be it enacted, that no Common School shall be entitled to any apportionment of money out of the Common School Fund, except on the terms and conditions following, that is to say: Such School shall have been open for at least nine months during the year then last past, and shall have been during the said term, and shall continue to be at the time such apportionment is made, regularly attended by at least fifteen children, between the ages of five and sixteen;—the Reports hereinbefore required shall have been regularly made with regard to such Common School; and the sum paid by the Inhabitants, by assessment or otherwise towards the support of such Common School, for the period for which the apportionment shall be made, shall have been at least equal to the sum apportioned: Provided always, that it shall be lawful for the School Commissioners in each Township or Parish, with the approval of the District Council, to exempt in whole or in part any number of School Districts, not exceeding two, from the payment of such sum towards the support of their Common Schools, on account of the poverty of their inhabitants; and the School Districts so exempted, shall nevertheless receive their apportionment from the School Fund: And provided also, that nothing in this section contained shall prevent or be construed to prevent the apportionment and payment of monies under this Act, towards the establishment and maintenance of any Common School for the first year after the passing of this Act.

Terms on which any common school shall be entitled to receive an apportionment out of the school fund.

XIII. And be it enacted, that if any monies having formed part of the annual Grant made under this Act out of the public funds of the Province, shall by reason of any non-compliance with the requirements of this Act, or from any other cause, remain unapplied to any of the purposes for which they are granted, after the expiration

Monies remaining unapplied.

tion of the time during which they ought to be so applied, such monies shall, on demand, be returned and delivered by the person or persons in whose possession they may respectively be, to the Receiver General of this Province, and together with all monies forming part of the annual grant aforesaid which shall remain in his hands unapplied to the purposes of this Act, after the expiration of the time during which they ought to be so applied, shall be so invested by him in the manner hereinbefore prescribed with respect to the monies forming the permanent fund for the maintenance and support of Common Schools, and shall form part of the said fund.

Commissioners and others making false reports or returns, to return the money and to be also liable to a fine.

XIV. And be it enacted, that if any Common School Commissioner, or other person, shall wilfully make a false Certificate or Report, by means whereof any monies shall be fraudulently obtained from and out of the said Common School Fund, such Commissioner or other person shall not only restore the money so fraudulently obtained; but shall be liable to a penalty not exceeding ten pounds, currency, for the benefit of the said Fund, to be recovered at the suit of the District Clerk, or of the City Clerk as the case may be, on the oath of one or more credible witness or witnesses, before any two of Her Majesty's Justices of the Peace, and if not paid, to be levied with costs by distress and sale of the Defendant's goods and chattels, under the warrant of such two Justices, or of either of them.

By whom the powers hereby vested in the District Councils may be exercised in Cities and Towns corporate.

XV. And be it enacted, that in each of the Cities and Towns corporate in this Province, all and every the powers, rights and duties conferred and imposed by this Act upon District Councils, with respect to Common Schools in their Districts, are hereby vested in and shall be henceforward exercised and performed by the Corporation of each of the said Cities or Towns, respectively, subject to all the conditions and regulations hereinbefore established with respect to the said District Councils.

A Board of Examiners to be appointed by the Governor.

XVI. And be it enacted, that it shall be lawful for the Governor of this Province, to appoint from time to time, in each of the Cities and Towns corporate therein, not less than six nor more than fourteen persons, (one half of whom shall in all cases be Roman Catholics and the other half Protestants,) to be a Board of Examiners for each City or Town corporate; of which said Board the Mayor shall be Chairman, but shall have no vote other than a casting vote; and the said Board shall be divided into two Departments, one of which shall consist of Roman Catholics, and shall exercise the duties hereinafter assigned to the Board of Examiners in and over the Common Schools attended by Roman Catholic children, only, and shall in such case appoint their Chairman, and the other Department shall consist of Protestants, and shall exercise their said duties in and over the Common Schools, attended by Protestant children, only, and shall in such case appoint their Chairman, and in all cases in which the said Common Schools are attended

tended by Roman Catholic children and Protestant children together, the said duties shall be exercised in and over the same by the whole Board of Examiners; and the duties of the said Board and of the said Departments thereof, in the several cases above mentioned, in and for the said Cities and Towns corporate, respectively, shall be to examine the persons recommended as Teachers by the Corporation, and reject them if unqualified on the ground of character or ability, and to regulate for each School separately the course of study to be followed in such School, and the books to be used therein, and to establish general rules for the conduct of the Schools, and communicate them in writing to the respective Teachers; in addition to which duties the Board of Examiners in any City or Town corporate shall be Visitors of the Common Schools in such City or Town corporate, and as such Visitors it shall be the duty of the Board to appoint two or more of their number to visit each of the Common Schools in such City or Town corporate, at least once in every three months and to report to the Corporation upon all matters connected with each of the said Common Schools, in detail, as fully as Common School Commissioners and the Visitors by them appointed are bound to report to the District Councils under the provisions hereinbefore contained.

The Board of Examiners shall be visitors of the Common Schools.

XVII. And be it enacted, that all and every the rights, powers and duties by this Act conferred and imposed upon the Common School Commissioners, with respect to the Common Schools under their authority and controul, and hereinbefore enumerated in the seventh section of this Act, under the first, third and eighth division of the said section, shall in each of the said Cities and Towns corporate, and with respect to the Common Schools therein to be established, vest in and be exercised and performed by the Corporations thereof, respectively; who in addition thereto are hereby empowered to appoint such and so many persons as they may deem fit severally to do and perform for and with respect to the Common Schools in the said Cities and Towns corporate, respectively, all and every the duties, matters and things hereinbefore by the seventh section of this Act required to be performed by one of the Common School Commissioners, with reference to the Common Schools under their authority and control, and specified in the first and second divisions of the second section; and to provide by By-law such rules and regulations for the conduct and guidance of such person as they may respectively deem expedient.

The powers and duties assigned to the School Commissioners by the 3d and 4th divisions of the 7th section, shall, in Cities and Towns corporate belong to the Common Council, &c.

XVIII. And be it enacted, that the said Cities and Towns corporate respectively, shall be entitled to an apportionment of monies from the Common School Fund upon the same terms and conditions as are hereinbefore prescribed with respect to District Councils, and upon no other: and any monies so apportioned shall be paid to the City Treasurer or other officer performing the duties of Treasurer in the said Cities and Towns corporate, respectively, and be paid over by him upon

Cities and Towns corporate shall be entitled to apportionment, out of the school fund on the same terms as Districts.

upon such authority and subject to such regulations as are provided in the said several Cities and Towns corporate, respectively, for the payment of monies belonging to the Corporation in other cases, or as may be hereafter provided in that behalf.

Corporations to report to the superintendent of Education.

XIX. And be it enacted, that the said Corporation shall on the first Monday of December in each and every year, report to the Superintendent of Education, all matters and things relating to Common Schools within the said Cities and Towns corporate, respectively, connected with the well being of such Schools, in the same manner and as fully in all respects as the District Boards of Education, and Common School Commissioners are by this Act bound to report with respect to Common Schools within their respective Districts, Townships and Parishes.

Penalty on any person refusing to serve:

Or neglecting duties.

XX. And be it enacted, that any person chosen or appointed to any office under this Act who shall, without sufficient cause, refuse to serve therein, shall forfeit the sum of twenty five shillings, currency, and every person so chosen or appointed, and not having refused to accept, who shall neglect to perform the duties of his office, shall forfeit the sum of twenty five shillings; and all such forfeitures shall be paid to the Treasurer of the District, City or Town, as the case may be, in which they are so forfeited, for the benefit of the Common School Fund and may be recovered in the same manner as is provided with regard to fines incurred by making fraudulent reports and certificates as aforesaid.

Monies appropriated by this Act and apportioned under it, to be paid on warrant of the Governor.

XXI. And be it enacted, that the several sums hereby granted, or apportioned under the provisions of this Act, to the several Districts of this Province, shall be paid by the Receiver General, for the time being, 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 of this Province, and shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors, shall be pleased to direct.

When no special provision is made to the contrary, the majority of a Board shall have the power of the Board.

XXII. And be it enacted, that whenever no special provision is made by this Act as to the particular members or as to the number of members by whom any act required to be done by any Board of Education, or by any Commissioners or Board of Examiners must be concurred in, it shall be understood that such act may be validly performed by any majority of the members of the Board.

Affirmations may in certain cases be made instead of oaths.

XXIII. And be it enacted, that a solemn affirmation may be made instead of any oath in every case where an oath is required in this Act, if the person making the same be one of those persons authorized by law to make an affirmation
instead

instead of an oath ; and that any false statement wilfully made on oath or affirmation in any case where an oath or affirmation is required by this Act, shall be wilful and corrupt perjury.

Wilful false statements to be perjury.

XXIV. And be it enacted, that the word " Governor " whenever it occurs in this Act, shall be held to mean and include the Governor, Lieutenant Governor and Person administering the Government of this Province, and the words " Parishes " and " Townships " wheresoever they occur in this Act, shall for all the purposes thereof be held to mean and include reputed Parishes and Townships, and unions of Parishes and Townships, and of reputed Parishes and Townships, in and for which meetings of the inhabitant householders now are or hereafter may be by law appointed to be held ; and the words " Town Clerk " shall be held to mean and include as well the Clerks of Parishes as the Clerks of Townships ; and the word " Corporation, " shall be held to mean the Common Council, or other body or Municipal authority, by and through whom the powers of the Corporation are exercised.

Interpretation of certain words :

" Governor. "

" Parishes. "

" Townships. "

" Town Clerk. "

" Corpora- tion "

XXV. And be it enacted, that this Act shall come into operation and have force and effect from and after the first day of January, in the year of our Lord one thousand eight hundred and forty two, and not before.

To come into operation 1st Jan. 1842.

C A P. XIX.

An Act to make temporary provision for the appropriation of the funds derived from the sale of School Lands in that part of the Province formerly Upper Canada, and for other purposes.

[18th September, 1841.]

WHEREAS it is very desirable to afford every encouragement to the advancement of Education throughout the Province : And whereas His late Most Gracious Majesty, King George the Third, was pleased to direct that a quantity of the waste Lands of the Crown should be set apart for the support of Grammar Schools within that part of the Province heretofore called Upper Canada : And whereas the advancement of Education will be promoted by devoting a portion of the annual revenues of such waste Lands, to the support of such Grammar Schools : And whereas it is expedient to repeal an Act of the Parliament of the late Province of Upper Canada hereinafter mentioned : Be it therefore enacted by the

Preamble.

District
Schools to be
considered
Grammar
School for cer-
tain purposes.

the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, that the several District Schools within that portion of the Province heretofore called Upper Canada, 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.

Monies ar-
ising from
the sale of
School lands
to be invested
in Debentures
and the pro-
ceeds distri-
buted among
the several
Districts.

II. And be it enacted, that the money arising from the sales of the School Lands, now remaining in the Receiver General's hands, unexpended, or which may come into his hands, applicable to the purposes of this Act, shall be invested in the Debentures of that part of this Province heretofore Upper Canada, at six per cent interest, and the annual interests or rents thereof, placed under the controul of the Governor, or Person administering the Government of the Province for the time being, to be distributed by and with the advice and consent of the Executive Council of the said Province, among such Districts within that part of the Province formerly called Upper Canada, as may more immediately require assistance, owing to the state of the School House or other circumstances.

King's Col-
lege to trans-
fer and pay
over all monies
and Debentures
to the
Receiver Ge-
neral.

III, And be it enacted, that within three months after the passing of this Act, the Council of King's College, or their Bursar or Treasurer shall transfer and pay over to the Receiver General, as aforesaid, all Debentures unredeemed, and sums of money arising from unexpended arrears of interest, which may have accrued thereon and be at present held under the authority of the Act hereby repealed, by the said Council or Treasurer, on account of the proceeds of the sale of School Lands as aforesaid, to be by the said Receiver General invested in debentures, and the interests and rents thereof, appropriated and distributed as hereinbefore mentioned.

£100 per
annum may be
advanced to the
Trustees for
an additional
Master &c.

IV. And be it enacted, that a sum not exceeding one hundred pounds per annum, may be advanced to each of the several Boards of Trustees for the said Grammar Schools, from time to time, out of any monies in the hands of the Receiver General, arising from the sale of the said School Lands, and applicable to the purposes of this Act, to be expended in providing an additional Master and other additional means of instruction for the Grammar Schools in the Districts, respectively, within that part of the Province formerly called Upper Canada.

£200 may
be granted to
each District

V. And be it enacted, that it shall and may be lawful for the Board of Trustees in any District now constituted or hereafter to be constituted in that part of the

the Province formerly called Upper Canada, out of any monies in the hands of the Receiver General, applicable to the purposes of this Act, as aforesaid, to receive a sum not exceeding two hundred pounds, to aid in the construction and 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 guarantee the permanent insurance of the building.

the erection for
of a School
House.

VI. And be it enacted, that it shall and may be lawful for the Governor, Lieutenant Governor or Person administering the Government for the time being, by and with the advice and consent of the Executive Council as aforesaid, to authorize a sum not exceeding one hundred pounds, per annum, out of the monies arising from the sale of the said Lands, 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, Township or Village within any of the Districts aforesaid, in which the Inhabitants shall provide a suitable School House, at which not less than fifty 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 Governor, Lieutenant Governor, or Person administering the Government of the Province for the time being, by and with the advice and consent of the Executive Council thereof, from extending the aid to four Grammar Schools (including the said two) other than the one established in the District Town, should it be deemed expedient.

Governor
may advance
£100 p. annum
to two addition-
al Schools in a
District, and
may extend
that aid to four
Grammar
Schools.

VII. And be it enacted, that an account in detail of the sums received and expended under the provisions of this Act, shall be rendered to the Governor, Lieutenant Governor, or Person administering the Government of this Province, annually, in order that the same may be laid before the Legislature, within thirty days after the commencement of each Session.

Accounts to
be rendered.

VIII. And be it enacted, that the Act of the Legislature of the late Province of Upper Canada, passed in the second year of Her Majesty's Reign, intituled *An Act to provide for the advancement of Education in this Province*, shall be, and the same is hereby repealed: Provided always, that such repeal shall not annul or be construed to annul any order, engagement or act, for the distribution of the interest upon the Debentures, by the Council of King's College, made and carried into effect previous to the passing of this Act: And provided also, that the management and sale of the said School Lands shall continue to be conducted by the said Council of King's College, until further provision shall be made in that behalf at any future Session of the Legislature.

Act of U. C.
2 Vic. c. 10,
repealed.

Proviso.

C A P. XX.

An Act to provide for the more easy and expeditious administration of Justice in Civil Causes, and matters involving small pecuniary value in that part of this Province heretofore Lower Canada.

[18th September, 1841.]

Preamble.

The Governor may divide Lower Canada, except the Inferior District of Gaspé, into Inferior Districts for the purposes of Judicature and of this Act.

And may in each Inferior District appoint a place for holding a District Court, and the places for holding Division Courts.

A District Court to be held in each Inferior District at the place appointed in the Proclamation.

WHEREAS it is expedient and necessary to provide better for the efficient administration of Justice in Civil Causes and matters involving small pecuniary value and interest, by the establishment of limited local Jurisdictions throughout that part of this Province which formerly constituted the Province of Lower Canada, to which easy access may be afforded to Her Majesty's Subjects, for the attainment of Justice in such cases, expeditiously and at little expense; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intitled *An Act to Re-write the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted, by the authority of the same, that the portion of this Province called Lower Canada, except the Inferior District of Gaspé, shall for the purposes of Judicature and of this Act, be divided into such number of Inferior Districts as by the Governor of this Province, by and with the advice of the Executive Council for the same, shall be deemed fit and expedient; and to this end it shall be lawful for the said Governor, with such advice as aforesaid, on or before the first day of December, now next ensuing, to issue a Proclamation under the Great Seal of this Province, whereby that portion of this Province aforesaid, shall be divided into such Inferior Districts, and the limits of such Inferior District shall be fixed and appointed, and in such Proclamation it shall also be lawful for the Governor of this Province, with such advice as aforesaid, to appoint the place in each such Inferior District, at which the District Court hereinafter mentioned shall be held, and also the places in each such Inferior District, at which the Division Courts also hereinafter mentioned shall be held.

II. And be it enacted, that in each of the said several Inferior Districts, into which the portion of this Province aforesaid shall be divided as aforesaid, there shall be a Court of Record of Civil Jurisdiction, to be called the District Court, which Court shall be held by and before the Judge of each of the said Inferior Districts, at such times and at such place in the said Districts, respectively, as the Governor of this Province, in his said Proclamation shall appoint as aforesaid.

III.

III. And be it enacted, that it shall be lawful for the Governor of this Province for the time being, to appoint a District Judge for each and every of the said Inferior Districts in which a Court shall be established as aforesaid, except the Inferior Districts in which the Borough of Three Rivers, and the Town of Sherbrooke shall be respectively included; and excepting also the Inferior District, in which the City of Montreal shall be included, so long as a certain Ordinance of the Legislature of Lower Canada, passed in the fourth year of Her Majesty's Reign, and intituled *An Ordinance to facilitate the despatch of the business now before the Court of King's Bench for the District of Montreal*, shall remain in force, as hereinafter provided; and from time to time to remove such Judges, and appoint others in the places of such of them as may be removed, or may die, or resign their offices: Provided always, that until a certain Ordinance of the Legislature of Lower Canada, passed in the fourth year of Her Majesty's Reign, and intituled *An Ordinance to establish new Territorial Divisions in Lower Canada, and to alter and amend the Judicature, and to provide for the better and more efficient administration of Justice throughout this Province*, shall come into force, the resident Judge of the present District of Three Rivers, shall be also the District Judge of the Inferior District, in which the Town of Three Rivers shall be included, and the Provincial Judge of the District of Saint Francis, shall be also the District Judge of the Inferior District, in which the Town of Sherbrooke shall be included.

The Governor may appoint a District Judge for each Inferior District, except those in which Three Rivers, Sherbrooke or Montreal lie.

Until a certain ordinance shall come into force the resident Judge of Three Rivers, and the Provincial Judge of St. Francis shall be also District Judges of the District in which Three Rivers and Sherbrooke, respectively, lie.

IV. And be it enacted, that the said District Courts to be held as aforesaid, shall severally have, except in the cases hereinafter mentioned, cognizance of (and upon, from and after the first day of January next, after the passing of this Act, shall have exclusive cognizance of) and full power, jurisdiction and authority to hear, try and determine in a summary manner, all Civil Suits or Actions (those purely of Admiralty Jurisdiction excepted) wherein the sum of money, or the value of the thing demanded, shall exceed six pounds five shillings, currency, and shall not exceed Twenty Pounds, Sterling: Provided always, that if any such Suit or Action shall relate to any fee of office, duty or rent, revenues, or any sum of money payable to Her Majesty, titles to lands or tenements, annual rents, or such like matters or things, where the rights in future may be bound, it shall be lawful for the Defendant or Defendants, before making his or their defence to any such Action, to make and tender an Exception to the jurisdiction of the said Court, and thereby require that the said Action be removed and carried to hearing, trial and judgment in the Court of King's Bench, for the present District in which such District Court shall sit, or in the Court of Common Pleas of this Province, in that Division thereof, which may sit in the Territorial Division in which such District Court shall sit; and every such exception shall be filed and entered on record, and the suit shall thereupon be removed into the said Court of King's Bench or into the said Court of Common Pleas; which Court shall proceed to determine,

Jurisdiction of District Courts

Proviso.

Certain suits may be removed on Exception, into the King's Bench or Common Pleas.

in

in a summary manner, whether the said Exception be well founded, and if it should maintain the said Exception and adjudge the same to be well founded, proceedings shall thereupon be had in such Court, to trial, judgment and execution, according to the rules of the Court; and if the said exception should be overruled, the said Action shall be remitted to the said District Court, there to be heard, tried, and finally determined: Provided always, that nothing herein contained shall be construed to prevent any Court of King's Bench, or any Division of the Court of Common Pleas sitting in Superior Term, from taking cognizance of, hearing, trying and determining any Suit or Action in which a Writ of *Capias ad respondendum*, shall be sued out, or which shall be of such a nature as that either of the parties may demand that the issue therein be tried by a Jury, or to prevent any such Court from continuing to judgment and execution any Suit or Action commenced and pending therein on the day last above mentioned, although the sum or value of the thing demanded in any such case may be less than twenty pounds sterling.

District Judges to be Advocates of five years standing.

Not to sit in the Legislature.

V. And be it enacted, that no person shall be appointed to be a District Judge, in pursuance of and under the authority of this Act, unless such person be, at the time of his appointment, as aforesaid, an Advocate of five years standing at the Bar in that part of this Province heretofore Lower Canada; and no such District Judge shall be competent to sit or vote either in the Legislative Council or in the Legislative Assembly of this Province, so long as he shall hold the said Office.

District Judges to take an Oath of Office.

The Oath.

VI. And be it enacted, that every District Judge, except the resident Judge of the present District of Three Rivers, and the Provincial Judge of the present District of St. Francis, and the Commissioner of the Inferior Term of the Court of King's Bench for the District of Montreal, shall within ten days after his appointment, and before proceeding to exercise any authority under this Act, take the following Oath, before one of the Justices of King's Bench or Common Pleas in Lower Canada, who is hereby authorised to administer the same, that is to say: "I, A. B. do swear that I will well and truly, according to the best of my skill and knowledge, fulfil and execute the trust, powers and authority vested in me, as District Judge of the District of _____ by an Act passed in the fifth year of Her Majesty's Reign, intituled, *An Act to provide for the more easy and Expeditious Administration of Justice in Civil Causes and Matters involving small pecuniary value in that part of this Province heretofore Lower Canada*, So help me God:" Which Oath shall be reduced to writing and signed by such District Judge, and being attested by the Justice before whom it shall be taken, shall be filed and enregistered in the first District Court to be held by such District Judge after taking the same.

VII. And be it enacted, that it shall and may be lawful for the Judges of the said several

several Inferior Districts, in which a District Court shall be established as aforesaid, to hold such District Courts as aforesaid, at the places to be appointed by the Governor of this Province as aforesaid, on the days to be appointed by him in the proclamation aforesaid, with regard to each Inferior District, respectively.

When the District Courts shall be held at each place.

VIII. And be it enacted, that the District Judge of the said Inferior Districts, respectively, shall from time to time appoint a sufficient number of responsible, fit and proper persons, to be and act as Bailiffs, for the Service and Execution of the process of the said District Courts, respectively, which Bailiffs shall be removable by the said Judges, respectively, for culpable neglect or misconduct, and shall be entitled, while engaged in the said Office, to the fees and emoluments specified in the Schedule, to this Act subjoined; and no other or greater fees or emoluments shall be taken or received by them or any of them.

District Judges to appoint Bailiffs who shall be allowed certain fees only

IX. And be it enacted, that every person to be appointed a Bailiff as aforesaid, before he shall act as such, shall enter into a Bond with two sufficient sureties, to Her Majesty, Her Heirs and Successors, in the penalty of one hundred pounds, conditional for the due performance of the duties of the said Office; and it shall be incumbent on the said District Judges of the said Districts, respectively, to enquire and ascertain, when such sureties may die or become insolvent, and in such case or cases to require such Bailiffs to give other and further security as aforesaid; And the Bond and Bonds so given shall stand and be as and for a security to the amount thereof, for the damages which may be sustained by any person or persons by reason of the culpable negligence or misconduct of any such Bailiff.

Bailiffs to give security for the due performance of their duties.

X. And be it enacted, that the said District Courts hereby established, shall severally have and use as occasion may require, a Seal bearing a device and impression of Her Majesty's Royal Arms, with an inscription thereon expressing that it is the Seal of the particular District Court to which it may belong, which Seal shall be kept in the custody of the District Judge; and all precepts, writs, and processes to be issued from the said District Courts, respectively, shall run and be in the name and style of Her Majesty, Her Heirs or Successors, and shall be sealed with the Seal of the District Court, from which the same shall issue, and shall bear the attestation of the District Judge of the Inferior District, in which such District Court shall be held, and shall be signed by the Clerk of the said District Court, whose duty it shall be to prepare and make out the same.

Name, style and seal of the Courts, and form of attesting process, &c.

XI. And be it enacted, that in all actions to be brought in the said District Courts hereby established, the first process to be issued for bringing the Defendant before the said Courts to answer such action, shall be a summons, in which shall be briefly stated the Cause of Action of the Plaintiff.

Form of commencing Suits in the District Court.

Service of
Summons how
to be made.

XII. And be it enacted, that the said Summons to be issued as aforesaid, shall be served at least three days before the day fixed for the return thereof, with an additional delay proportioned to the distance at which the Defendant shall reside from the place where the Court is held, in the same manner as by Law required for the service of a summons issuing out of Her Majesty's Superior Courts of Civil Jurisdiction in Lower Canada, in Actions instituted therein.

Local Juris-
diction of the
District Courts
defined.

XIII. And be it enacted, that if there be two or more Defendants in any such action, it shall be sufficient to give jurisdiction over all the Defendants to the District Court in which such action may be brought, that any one of the said Defendants be domiciliated, or have been legally served with process within the Inferior District in which such Court shall be established: Provided always, that all the said Defendants be served with such process; and such process issuing out of any District Court, may be served in any other Inferior District by a Bailiff of the Court in such other Inferior District, or of the Court out of which it issued, after it shall have been in either case indorsed by the District Judge of the Inferior District, in which it shall be served; and the Bailiff so serving such process may validly return it and certify the service: And provided also, that where any debt or demand recoverable under this Act, against two or more persons, partners in trade, or otherwise jointly answerable, but of whom one or more shall not reside within the District, it shall be sufficient if one such person be served with the process as hereinbefore directed, and Judgment may be obtained and execution issued against such person notwithstanding others jointly liable may not have been served or sued, reserving always to the person against whom execution may issue, any right which he may have against any other person jointly liable with him.

Proviso.

Partners,
what shall be
a good service
on them.

Proceedings
on the day of
the return of
the process.

XIV. And be it enacted, that if the Defendant in any such action, should not appear personally, or by his Attorney or Agent, on the day fixed for the return of the said Summons, his default shall be recorded, and it shall be lawful for the said District Courts, respectively, after due proof of the service of the said Summons on the Defendant, (or on one of the Defendants in the cases in which such service is hereby made sufficient) in a summary manner to receive evidence and hear the Plaintiff in support of his demand in such action, and thereupon to make and render such Judgment as Law and Justice may require; and if the Defendant should appear in any such action, and the Plaintiff should not appear personally, or by his Attorney or Agent, or appearing should not prosecute his suit, such suit shall be dismissed with costs to the Defendant, against the Plaintiff; and if the Plaintiff in any such action should establish his demand, he shall be entitled to recover the sum of money or thing by him demanded, and costs against the Defendant.

XV. And be it enacted, that it shall be lawful for the District Judge by whom
any

any such District Court shall be held as aforesaid, in any action depending in the said Court, to authorise and require the examination of any or either of the parties on interrogatories on facts and articles (*Faits et Articles*) or on the *Juramentum litis decisorium* or on the *Juramentum Judiciale*, in the same and like cases and circumstances in which such examination may lawfully be required and had in other Her Majesty's Courts of Civil Jurisdiction in Lower Canada, and under and subject to the rules of law, in such cases provided, and in like manner to issue *Commissions Rogatoires*, or Commissions in the nature of *Commissions Rogatoires*, for the examination of witnesses not resident within the Inferior District in which such District Court shall be held, in the same and like cases and circumstances in which such commissions may lawfully be issued by other Her Majesty's Courts of Civil Jurisdiction in, and under and subject to the rules of law in such cases provided.

Certain powers as to evidence conferred on the District Judges.

Such powers to be as in other Courts in Lower Canada.

XVI. And be it enacted, that it shall be lawful for the District Judge of the several Districts in which a District Court is established as aforesaid, in civil causes and matters legally cognizable in such District Court, to issue writs of attachment, against the moveable estate, *Saisie Arret*, *Arret Simple*, *Saisie Gagerie*, *Saisie Revendication*, to be made returnable in the said District Courts, respectively, in the same and like cases and circumstances in which such writs may lawfully be issued from, and be made returnable in other Her Majesty's Courts of Civil Jurisdiction in this Province, and under and subject to the rules of law in such cases provided: Provided always that no writs of *Capias ad Respondendum* shall be issued out of any District Court.

What process may be issued by a District Judge against the property of the Defendant.

No *capias* to issue.

XVII. And be it enacted, that each District Judge shall have power and authority in all cases in which a writ of attachment against the body or against the moveable effects can now by law be issued before Judgment in Lower Canada, to issue writs of *Capias* or attachment against the body or moveable effects or monies according to Law, and to make the same returnable in the Court of King's Bench or in the Division of the Court of Common Pleas within the Jurisdiction whereof he shall hold his District Court.

District Judge to issue Writs of attachment for the Courts of King's Bench or Common Pleas.

XVIII. Provided always, and be it enacted, that in cases where such writ of *Capias*, or attachment against the body or effects may issue as aforesaid, the Defendant or Defendants shall be entitled to such relief, on giving security or otherwise to the Sheriff of the District or of the Inferior District (if there be then such Officer) in which such writ shall be executed as he or they would or might be entitled to by law if the same had issued from any Court of King's Bench, or out of any division of the Court of Common Pleas; and in case security be not given the Defendant or Defendants may be committed to the prison of the District (or of the Inferior District if there be then a Sheriff for the same) in which he shall have been attached, until

Defendants under such writs to have same relief as they now enjoy under the existing laws.

the cause be duly heard or determined, or otherwise settled or disposed of by the parties, and such Defendant or Defendants be released in due course of Law.

Process of execution to issue after a certain delay.

XIX. And be it enacted, that in every case where judgment shall be rendered by any such District Court, as aforesaid, awarding or adjudging the payment of any sum or sums of money, it shall and may be lawful for the District Judge by whom such District Court shall be held, at the expiration of fifteen days after the rendering of any such judgment, to issue a Writ of Execution attested by him and under the seal of the Court, in the nature of a writ of *Fieri Facias* against goods and chattels; which Writ shall be directed to any of the Bailiffs of the District Court in which such judgment shall have been rendered, who is hereby authorised to levy the sum or sums of money mentioned in such writ, upon and from the goods and chattels of the party against whom such judgment shall have been rendered, in the same manner and according to the same rules and regulations of Law, by and under which any Sheriff may levy money by virtue of a writ of *Fieri Facias* issuing out of Her Majesty's Courts of Civil Jurisdiction in Lower Canada.

How execution may issue against goods in another Inferior District.

XX. And be it enacted, that if to any such writ of execution, as aforesaid, there shall be a return of *Nulla Bona*, or if sufficient goods and chattels of the Defendant cannot be found in the Inferior District to satisfy the judgment and costs, an *Alias* writ of the same nature may issue, directed to the Bailiffs of any other Inferior District named therein, and such writ being indorsed by the District Judge of the Inferior District so named, may be executed within such Inferior District by any Bailiff thereof, and may be by him returned as it might have been in the District out of which it issued: and so of any *Pluries* writ which may be issued thereafter in the same cause.

How execution may be obtained against lands and tenements on judgment of District Court for sums over £10 sterling.

XXI. And be it enacted, that in all cases where a final judgment for any sum or sums of money exceeding ten pounds sterling, shall have been rendered in any such District Court, it shall and may be lawful for any Court of King's Bench, or for the Court of Common Pleas, in any of its Divisions, upon affidavit made and filed in such Court to its satisfaction, to cause the record of every such judgment to be removed into the said Court of King's Bench or Common Pleas in any of its Divisions as aforesaid, and to issue a writ of execution thereupon to the Sheriff of the District or of any place within the Territorial Division in which the division of the said Court so resorted to shall sit, against the goods and chattels, lands and tenements of the Defendant or Defendants, or against the person of the Defendant in the same manner as upon judgments recovered in any such Court, and the Sheriff to whom any such writ of execution shall be directed shall, and he is hereby authorised to levy such sum as shall be allowed by the said Court or one of the Judges thereof for the ordinary costs of the Plaintiff, subsequent to the said judgment, and of the execution in the said District Court, over and above the money for which such writ of execution shall be issued.

XVII.

XXII. And be it enacted, that in cases where the District Judge of any Inferior District, by whom a District Court shall be held, shall be a party or interested in any suit to be brought, or disqualified by relationship or otherwise, from taking cognizance of any suit, which suit would otherwise be brought and be cognizable in such District Court, it shall be lawful for the District Court nearest to the District Court so disqualified as aforesaid, to take and have cognizance of such suit, in like manner as of ordinary suits and causes properly cognizable therein, and the service of process in such cases on such District Judge, within his Inferior District, or on any other party there resident, shall have the same effect as if made within the Inferior District in which such District Court shall be held.

Cases in which the District Judge may be disqualified from sitting, from interest, &c. provided for.

XXIII. And be it enacted, that whenever any District Judge of any Inferior District shall, by reason of sickness, absence, or other cause, be rendered incapable or incompetent to sit and exercise judicial functions in the District Court to be held by him in pursuance of this Act, it shall be lawful for the Governor of this Province, by warrant or instrument under his hand and seal, to nominate and appoint a fit and proper person to be and act as the substitute and in the place and stead of such District Judge so disqualified or rendered incompetent as aforesaid; and such substitute so appointed shall have the same powers and authority, during the continuance and in execution of such appointment, as the said District Judge so disqualified or rendered incompetent would otherwise have had.

The Governor may appoint a substitute in cases when a District Judge shall be unable to sit from illness, &c.

XXIV. And be it enacted, that in all actions in any District Court, in which the sum of money, or the value of the thing demanded, shall be less than fifteen pounds sterling, it shall not be necessary to reduce the depositions of the witnesses examined in any such action to writing, but the said witnesses shall be examined *viva voce*, in open Court.

What record shall be kept of the evidence in certain cases before District Courts.

XXV. And be it enacted, that an appeal shall lie from the judgments of the said District Courts hereby constituted to the Court of King's Bench for the present District within which the District Court appealed from shall sit, and to the Court of Common Pleas for this Province, in the division thereof sitting in the Territorial Division in which any such District Court shall sit, in all suits and actions in which the sum of money, or the value of the thing demanded, shall be above fifteen pounds sterling.

In what cases and to what courts an appeal shall lie from any District Court.

XXVI. Provided always, and be it enacted, that the party desirous of appealing from any such Judgment as aforesaid, shall within ten days after the rendering of the same, make known to the District Judge, by and before whom such Judgment shall have been rendered, his intention to appeal from the same, and shall at the same time, give good and sufficient security, to the satisfaction of such District

Security to be given by parties appealing.

District Judge, that he will effectually prosecute the said appeal and answer the condemnation, and also pay such costs and damages as shall be awarded by the Court appealed to, if the Judgment appealed from should be affirmed.

Appeals to be heard and determined in a summary manner.

Made of proceeding.

XXVII. And be it enacted, that for the purpose of obviating delay and expense in the prosecution of such appeals from the Judgments of the District Courts as aforesaid, the said appeals shall be prosecuted and proceedings thereon had in a summary manner by petition of the appellant to the Court to which such appeal shall be as aforesaid, setting forth succinctly the grounds of appeal, and praying for reversal of the Judgment appealed from, and the rendering of such Judgment as by the Court below ought to have been rendered; a copy of which petition with a notice of the time at which it is to be presented, shall be served on the adverse party or parties, or his or their Attorney or Attornies, within fifteen days from the rendering of any such Judgment so appealed from; and the said petition shall be presented on the first day of the term of the Court appealed to next succeeding the rendering of any such Judgment, if there shall be an interval of twenty days between the rendering of such Judgment and the said first day of the said term, and if not then on the day of the said term next following the expiration of such interval.

The records and notes of the evidence to be transmitted to the Court appealed to.

XXVIII. And be it enacted, that it shall be the duty of the District Judge by and before whom any Judgment appealed from, as aforesaid, shall have been rendered within fourteen days after the giving of security on any appeal as aforesaid, to certify under the seal of the District Court held by him, to the Court to which such appeal may lie, and cause to be filed in the Office of the Prothonotary of such Court, the Judgment, record and proceedings to which such appeal shall relate, together with the evidence which shall have been taken in any such case as aforesaid, to the end that hearing and judgment on every such appeal may be had and obtained without delay.

No further formality to be requisite.

XXIX. And be it enacted, that after the filing of such petition by and on the part of the Appellant as aforesaid, and the transmission of the judgment, record, proceedings, and evidence as aforesaid, every such appeal shall, without any other or further formality, be summarily heard, and judgment thereon rendered, as to law and justice may appertain.

Judgment in appeal to be final.

XXX. And be it enacted, that the judgments to be rendered by the Court appealed to as aforesaid, on appeals from the District Courts, as aforesaid, shall be final and conclusive, and from such judgments no other or further appeal shall lie.

XXXI.

XXXI And be it enacted, that in any action which shall or may be brought in the said District Courts, in which the sum of money or the value of the thing demanded shall exceed ten pounds sterling; it shall be lawful for the said Courts, respectively, in their discretion, when they may deem it expedient or proper for the ends of Justice, to require the Plaintiffs in such Actions, at or after the return of the Summons therein, to file a declaration setting forth, in a sufficient manner, the grounds and causes of Action of such Plaintiffs, to which declaration the Defendant in every such Action shall be held to plead, and on which other and further proceedings shall be had in due legal course.

Judges of District Courts may require pleadings to be in writing in certain cases, if they deem it expedient.

XXXII. And be it enacted, that the said District Courts, respectively, and the said District Judges, respectively, as well in Court as out of Court, shall have the same power and authority within the said Inferior Districts, respectively, as any Judge of any Court of King's Bench or of the Court of the Common Pleas in Lower Canada, hath, and may lawfully exercise, in what respects the Election and Appointment of Tutors or Guardians, and Curators, and the taking of the Counsel and opinion of relations and friends in cases where the same are by law required to be taken, the closing of Inventories, attestations of accounts, insinuations, affixing and taking off Seals of safe custody, and other acts of the same nature requiring despatch.

Certain powers in matters requiring despatch given to District Judges

XXXIII. And be it enacted, that the District Judges, respectively, shall not, during their continuance in office, practise as Advocates, Proctors, or Attornies, and the Clerks of the said District Courts, respectively, shall not, while they hold the said office, practise as Advocates, Proctors, or Attornies in any such Court or in any other Court of Law in this Province.

District Judges and Clerks of District Courts not to practise as Advocates, &c.

XXXIV. And be it enacted, that in all actions and proceedings in the said District Courts, respectively, and under their authority, the fees specified in the Schedule to this Act subjoined, shall be deemed and taken to be the lawful fees for the discharge of the several duties therein mentioned, and no other fees or emoluments shall be received or taken, upon any pretence whatever, for any act or service done or performed under the authority of this Act; and if any Officer or Person shall receive any other or greater fee, emolument, or other consideration than is specified in the said Schedule, for the duties aforesaid, or any of them, or for any act or service done or performed, as aforesaid, he shall forfeit and pay the sum of fifty pounds, sterling, for every such offence, which penalty shall and may be recovered in such District Courts, respectively, or in any Court of Record in Lower Canada, and one half of such penalty shall belong to Her Majesty, Her Heirs, and Successors, and the other half thereof, to the person who shall sue for the same.

Fees to be those mentioned in the Schedule to the Act.

Penalty for taking higher Fees.

XXXV.

Table of fees
and penalties
to be exposed
openly.

XXXV. And be it enacted, that every Clerk of a District Court established as aforesaid, shall cause to be continually exposed, as well in his office as also in some conspicuous place in the Hall or Apartment in which such District Court is held, a fair and legible table of the fees aforesaid, payable in all actions and proceedings in the said District Court, and such table shall likewise shew the penalty to which any person may become liable for receiving any other or greater fee than is set forth in the said Schedule: and in default of so doing such Clerk shall be deemed to be guilty of a misdemeanor, and be liable to be punished accordingly.

Inferior Terms
and Circuits
of the Courts
of King's
Bench abolish-
ed.

XXXVI. And be it enacted, that from and after the first day of January next, after the passing of this Act, so much of a certain Act of the Legislature of Lower Canada, passed in the thirty fourth year of the Reign of His late Majesty King George the Third, and intituled *An Act for the division of the Province of Lower Canada, for amending the Judicature thereof, and for repealing certain Laws therein mentioned*; or of a certain other Act passed in the tenth and eleventh years of the Reign of His late Majesty King George the Fourth, and intituled *An Act to repeal in part and amend an Act passed in the thirty fourth year of the Reign of His late Majesty, intituled An Act for the Division of the Province of Lower Canada, for amending the Judicature thereof, and for repealing certain Laws therein mentioned, in certain matters relating to the District of Three Rivers*, or of any other Act or Law as requires or makes it lawful, that Inferior Terms or Circuit Courts of the Courts of King's Bench for the Districts of Quebec, Montreal and Three Rivers, be held by any Judge or Judges thereof, or as vests any power in any Judge or Judges so sitting in Inferior Term, or in any such Circuit, shall be and are hereby repealed.

No Provincial
Court or cir-
cuit of the Pro-
vincial Court,
to be held in
the District of
St. Francis.

XXXVII. And be it enacted, that from and after the said first day of January, so much of a certain Act of the said Legislature passed in the third year of the Reign of His late Majesty King George the Fourth, intituled *An Act to erect certain Townships therein mentioned into an Inferior District, to be called the Inferior District of St. Francis*; or of another Act of the said Legislature, passed in the third year of the Reign of His late Majesty King William the Fourth, intituled *An Act to continue for a limited time, and to amend a certain Act therein mentioned relating to the Inferior District of St. Francis*; or of any other Act of the said Legislature as authorises or requires the holding of a Provincial Court, or of any Circuit of such Provincial Court, within the District or Inferior District of St. Francis, shall be, and so much of the said Acts is hereby repealed: Provided always, that nothing herein contained shall be construed to repeal or affect any part of any such Act relating to the Court of King's Bench in and for the said District of St. Francis, or any power of the Provincial Judge in or as a Member of, or with regard to, the said Court.

XXXVIII.

XXXVIII. And be it further enacted, that a certain Act of the Legislature of the late Province of Lower Canada, passed in the sixth year of the Reign of His late Majesty King William the Fourth, intituled *An Act to provide for the summary trial of small causes*; and also a certain Ordinance, made and passed by the Governor of the said late Province, by and with the advice of the Special Council for the affairs thereof, in the second year of Her Majesty's Reign, intituled *An Ordinance to establish Circuit Courts of Requests in the Districts of Quebec, Montreal and Three Rivers, and for other purposes*, shall from and after the said first day of January, be and the same are hereby repealed.

Act establishing Commissioners Courts. and Ordinance establishing Courts of Requests repealed.

XXXIX. And be it enacted, that no Suit, Action, Cause or Proceeding which shall be pending in the Inferior Term of any of the said Courts of King's Bench, or in the Provincial Court of the District of St. Francis, on the said first day of January, shall be therefore abated, discontinued or annulled; but the same shall be transferred in their present condition into the District Court for the Inferior District within which, respectively, the places where such Courts of King's Bench and Provincial Court are now held shall be included, and other and further proceedings shall be had therein, as if the same had originally commenced in such District Court.

In what Courts cases pending in the Courts hereby abolished shall be determined.

XL. And be it enacted, that the Registers, Muniments, recorded Official Acts and papers, judicial and other proceedings of the Circuit Courts of Requests in the several Districts of Quebec, Montreal and Three Rivers, shall forthwith after the said first day of January, be transmitted into and make part of the records, registers, muniments and judicial and other proceedings of the District Courts of the Inferior Districts, in which the place at which they shall have been respectively brought shall be situate, or to the Division Court nearest to the said places, respectively, that is to say: to the said District Court, in all cases where the sum of money, or thing demanded shall exceed six pounds five shillings, currency, and to the said Division Court when it shall not exceed that sum.

Records of the Courts abolished to be transmitted to the Courts substituted for them.

XLI. And be it enacted, that no judgment, order, rule or act of the said respective Circuit Courts of Requests, legally pronounced, had or done before the said first day of January next, shall be hereby avoided; but shall remain in full force as if this Act had not been passed: nor shall any action, suit, cause or proceeding depending in the said Circuit Courts of Requests, respectively, be abated, discontinued or annulled; but the same shall be transferred in their present condition, respectively, to and shall subsist and depend in the several and respective District Courts or Division Courts, into which the Registers, Muniments, recorded Official Acts, and papers, judicial and other proceedings of the said Circuit Courts of Requests, are to be transmitted as aforesaid: and other and further proceedings shall be

Suits pending in Circuit Courts, to be continued to judgment in the Courts, to which they shall be transferred.

be thereon had in the said respective District Courts, and Division Courts, to judgment and execution, as might have been had in the said District Courts or Division Courts if the suit had commenced therein.

Division Courts to be held in each Inferior District.

XLII. And be it enacted, that at the place where the District Court shall be held in each Inferior District, and at each of the places appointed by the Proclamation aforesaid, as those at which Division Courts, shall be held, there shall be held by the District Judge a Division Court which shall have the jurisdiction and powers hereinafter mentioned; and the Division Courts in each Inferior District shall be distinguished by numbers assigned to them respectively in the said Proclamation, that which shall be held at the same place with the District Court being called the Division Court number one.

Times at which the Division Courts shall be held.

XLIII. And be it enacted, that the several Division Courts in each District, shall be held at such times as the Governor of this Province shall appoint in the Proclamation hereinbefore mentioned.

A Deputy Judge may be appointed for the Division Courts for a limited time and subject to approval by the Governor.

XLIV. And be it enacted, that in case of the illness or unavoidable absence of the Judge of any such Division Court it shall be lawful for such Judge to appoint some other person who would be otherwise qualified to be appointed a Judge of such Division Court to act as his Deputy, and every person so appointed, shall, during the time for which he shall be so appointed have all the powers and privileges and be subject to all the duties of the Judge by whom he shall have been so appointed, as to the Division Courts only; and notice of every such appointment shall be forthwith sent by the Judge or Deputy Judge to the Governor of this Province, and such notice shall specify the name and residence of the Deputy Judge, and the cause of his appointment, and no such appointment shall be continued for more than one calendar month without a renewal of the like notice, and it shall be lawful for the Governor to annul any such appointment of which he shall disapprove.

Clerks of Division Courts, to be appointed by the Judge.

XLV. And be it enacted, that for every Division Court holden under the authority of this Act there shall be a Clerk, and the Judge of the District Court shall from time to time appoint, and at his pleasure remove the Clerks of the Courts holden by him: Provided always, that the Clerk of the District Court shall be the Clerk of the Court, for the Division within which his office is situate; and the Bailiffs of the District Court, shall be the Bailiffs of each Division Court in the District, and the security given by them shall extend to their Acts as Bailiffs of such Division Courts.

Who shall be Bailiffs of Division Courts.

XLVI. And be it enacted, that it shall be lawful for the Clerk of any such District

District or Division Court, (with the approval of the Judge thereof,) to appoint from time to time, a Deputy to act for him in the office of Clerk of the Court, at any time when he shall be prevented by illness or other unavoidable accident from acting in such office, and to remove such Deputy at his pleasure: and such Deputy, during the time for which he shall be so appointed, shall have the like powers and privileges, and be subject to the like duties as if he were the Clerk of the Court for the time being: and the Clerk of the Court shall be civilly responsible for all the Acts and Omissions of his Deputy.

Clerks of District or Division Courts, may appoint Deputies with the approval of the Judge.

XLVII. And whereas it is not expedient, that the emoluments of any Judge, should be increased or diminished in consequence of any increase or diminution in the number of suits brought before him and the amount of litigation in the Courts and District for which he may be such Judge: Be it therefore enacted, that the Clerk of every District Court, shall be the receiver of the Judge's Fees in the District Court, and in the several Division Courts within his District; and every such Clerk, shall be paid a percentage of five pounds on every hundred pounds of the gross produce of the Fees of the Courts of which he is Receiver; and every District Judge shall be paid by a certain salary; the salary of a Judge being in no case more than five hundred pounds, or less than three hundred pounds, yearly; and the Bailiffs of the Court shall be paid by the Fees hereby allowed to them; and the Governor in Council shall fix the remuneration to be paid to the District Judges, having due regard to the population of the several Inferior Districts and Divisions; and the remuneration to be paid to the Judges, may be increased, or as vacancies shall occur may be diminished by the same authority by which they shall be first fixed: Provided always, that nothing in this section shall extend to the Resident Judge of the District of Three Rivers, the Provincial Judge of the District of St. Francis or the Commissioner of the Inferior Term aforesaid, each of whom shall receive the salary attached to their said offices and no other, although they be at the same time District Judges, and in the Inferior Districts in which they shall be such District Judges, the fees payable to the Fee Fund shall, after deducting any authorised charges thereon, be paid to the Receiver General, and shall form part of the consolidated Revenue Fund of this Province.

District Judges to be paid by fixed salaries.

A Fee fund established.

XLVIII. And be it enacted, that the Clerk of each District or Division Court shall issue all summonses, warrants, precepts, and writs of execution, and register all orders and judgments of the Court, and keep an account of all such summonses, executions, and other process of the Court, and shall take charge of and keep an account of all Judge's Fees and Fines payable or paid into Court, and of all suitors' money paid into and out of Court, and shall enter an account of all such Fees, Fines and Monies in a book to be kept by him for that purpose, which book shall be open to all persons desirous of searching the same on payment of sixpence for

Clerks of the Courts to keep accounts of Process issued, and of Fees, &c., received.

Accounts to
be liable to in-
spection.

for each search, and shall from time to time, and at such time as shall be directed and appointed by the Governor, submit his accounts to be audited or settled by the Inspector General, or such other person as the Governor shall appoint to audit the same; and the Bailiffs of the Division Court shall serve all summonses and execute all such orders, warrants, precepts and writs.

Fees payable
in Division
Courts, to be
those in the
Schedules to
this Act.

XLIX. And be it enacted, that there shall be payable on every proceeding in the Division Courts holden in pursuance of this Act, and to the Bailiffs of the Court, such Fees as are set down in the Schedule to this Act annexed, or which shall be set down in any Schedule of reduced Fees under any power to be hereafter given for that purpose, and none other; and a table of such Fees shall be hung up in some conspicuous place in the offices of the several Clerks of Division Courts, and the Fees on every proceeding shall be paid in the first instance by the Plaintiff on or before such proceeding, and the Bailiff's Fees upon executions shall be paid to the Clerk of the Court, at the time of the issue of the precept of execution, and shall be paid over by such Clerk to the Bailiff upon the return of the precept of execution and not before: Provided always, that if the Bailiff shall neglect to make a return of any summons, process or execution within the time required by Law, he shall for each such neglect forfeit his Fees on such summons, process or execution; and all Fees so forfeited shall be accounted for and paid by the Clerk of the Court, to the Clerk of the District Court, to form part of the General Fee Fund.

Judge's Fees
fines, &c., in
the District and
Division Courts
to form a Dis-
trict Fee Fund
out of which
the salary of
the Judge shall
be paid.

L. And be it enacted, that the Clerk of each Division Court shall from time to time, and as often as he shall be required so to do by the Clerk of the District Court, deliver to him a full account in writing of the Judge's Fees received in such Court under the authority of this Act, and a like account of all fines levied by the Court, (accounting for and deducting the reasonable expenses of levying the same, and any allowance which the Judge may have made out of any such fine in pursuance of the power herein given,) and a like account of the monies paid into and received out of any Court by the Defendants and Plaintiffs in the said Court, under any orders and decrees of the Court, or under process of the Court, and of the balance then remaining in Court belonging to the Plaintiffs or Defendants in the Court: and the amount of such Fees from time to time received by such Clerk, shall be paid over from time to time to the Clerk of the District Court, (such payment being made at least once in every three months,) and shall with the Judge's Fees and the fines paid into the District Courts as aforesaid, form part of a fund to be called the District Fee Fund, which fund shall be applied for or towards the payment of the salary of the Judge.

LI. And be it enacted, that the Clerk of every District Court, shall on or before
the

the 30th day of June, and the 31st day of December, in every year, render to the Inspector General of this Province, a true account in writing of all monies received, and of all monies disbursed by him on account of the District Court and of the Division Courts, holden under the authority of this Act, during the period comprised in such account, (in such form and with such particulars as the said Inspector General shall from time to time require,) after first paying over to the Judge, the amount due to him for his salary up to the time which the account is rendered; and shall within ten days after the rendering of every such account, pay over any balance of such Fees and Monies to the Receiver General of this Province to form part of the consolidated Revenue Fund thereof; and if default shall be made in such payment, the amount due by the said Clerk shall be deemed a privileged debt to Her Majesty.

Balance of fees to be paid over to the Receiver General.

LII. And be it enacted, that in case the amount of Fees received in the District Court and Division Courts in any District shall not be sufficient to defray the disbursements required on account of such Courts, and the salary of the Judges during the periods comprised in the said account, it shall be lawful for the Governor of this Province, forthwith to issue his warrant on the Receiver General of this Province in favour of the Clerk of the District Court, for the amount which shall be required to make up the deficiency, and the amount of such warrant shall be charged upon the consolidated Revenue Fund of this Province.

If the Fee Fund be insufficient to pay the Judge's salary, the balance may be paid out of the public monies of the Province.

LIII. And be it enacted, that the accounts to be kept by the several Clerks of the District Courts, on account of the said District Court and of the Division Courts, shall be deemed public accounts, and shall be enquired into and audited, as such, and shall be within any provision of law now in force or hereafter to be in force for auditing public accounts.

Such accounts to be deemed public accounts.

LIV. And be it enacted, that if any person having resigned or having been removed from the office of Clerk of a District Court, or of a Division Court, shall neglect after twenty one days notice to such person, to account for and pay to the Clerk of the District Court for the time being, or to such person as he shall appoint to receive the same, all such sums as shall remain in his hands of monies received under the authority of this Act, it shall be lawful for such Clerk of the District Court, for the time being, in his own proper name only, or by his name and description of office, to sue for and recover the same from such person with double costs of suit, in any Court of Record in this Province having competent jurisdiction, in which action it shall be sufficient for such Clerk of the District Court to declare as for money had and received to the use of such Clerk of the District Court, for the purposes of this Act; and the Court in which the action shall be brought may at the instance of either of the parties, refer the account in dispute in a summary manner

Proceedings to be had in case any Clerk of a District or Division Court going out of office shall refuse to pay over to his successors the monies in his hands.

manner, to be audited by any officer of the Court or other fit person, who shall have power to examine both Plaintiff and Defendant upon oath : and upon the report of the referee, (unless either of the parties shall shew good cause to the contrary,) the Court may make a rule either for the payment of such sum as upon the report shall appear to be due, or for staying the proceedings in the action, and upon such terms and conditions as to the Court shall appear reasonable ; or the Court may order judgment to be entered, as by confession, for such sum as upon the report shall appear to be due.

Like proceedings against the legal representatives of any such Clerk, in case of his death.

LV. And be it enacted, that in case of the death of any person during the time that he shall be holding the office of Clerk of a District Court or of Clerk of any Division Court, or after he shall have resigned, or be removed from such office, the Clerk of the District Court for the time being, may in his own proper name and description of office, sue for and recover from the executors or administrators of such person deceased, all such sums as shall have been remaining in his hands, of money received under the authority of this Act, in any Court of Record in this Province having competent jurisdiction, in which action it shall be competent for the Plaintiff, to declare that the deceased was indebted to the Plaintiff for money had and received to his use for the purposes of this Act, or that the deceased died possessed of money had and received for the purposes of this Act, whereby an action hath accrued to the Plaintiff to demand and have the same from such executors or administrators ; and a like action may be brought against any executors, or administrators of executors or administrators ; and in all such actions the Defendant or Defendants may plead in like manner, and avail themselves of the like matters in the defence as in any action founded upon simple contracts of the original testator or intestate, and the Court may refer the account in dispute to be audited by any officer or person, and may proceed upon the report of such referee in like manner as in the case mentioned in the next preceding section.

What shall be sufficient proof of the quality of the Clerk of the District Court in any such proceedings.

LVI. And be it enacted, that in all actions to be brought as well as in all proceedings whatsoever to be instituted or carried on, as aforesaid, by any Clerk of a District Court, by virtue of this Act, proof of his acting in the execution of the office of the Clerk of the District Court, shall be sufficient evidence of his holding such office, unless the contrary shall be shewn in evidence by the Defendants in such action, or the parties against whom such proceeding shall be instituted and carried on.

Clerks of Courts receiving monies to give security.

LVII. And be it enacted, that the Clerk of each District Court and also every Clerk of a Division Court who shall receive monies in the execution of their duties, shall give security for such sum, and with so many sureties, and in such manner and form as the Governor of this Province shall see reason to direct, for the

the due performance of their several offices, and for the due payment of all monies received by them under any provision of this Act.

LVIII. And be it enacted, that the Judge at every Division Court established under this Act, shall have power, jurisdiction and authority to hold plea of all debts or contracts of the nature of those cognizable in the District Courts, when the subject matter of the demand shall not exceed the sum of six pounds five shillings, currency, and to hear and determine the same in a summary way; and every such Judge shall have power to make such orders, judgments and decrees thereupon, as shall appear to him to be just, and agreeable to equity and good conscience; and that upon any contract for the payment of a certain sum in labour, or in any kind of goods or commodities, or in any manner otherwise than in money, it shall be lawful for the Judge, after the day has passed on which the goods and commodities should have been delivered, or labour or other things performed, to give judgment for the amount in money, as if the contract had been so originally expressed, and this provision shall extend also to matters brought before any District Court: Provided always, that no action shall be brought in any such Division Court for any gambling debt nor for any spirituous or malt liquors drunk in a tavern or ale house: Provided also, that nothing contained in this Act shall be construed to constitute and create the said Division Courts, Courts of Record.

Cases in which the Division Courts shall have jurisdiction.

LIX. And be it enacted, that the Plaintiff, in any suit brought in any Division Court, shall enter a copy of his account or demand in writing, which shall be numbered according to the order in which it shall be entered, and thereupon a summons bearing the number of the account or demand on the margin thereof, shall be issued, which shall be in substance, in the form of the Schedule to this Act annexed, according to the nature of the demand; and a copy of such summons to which shall be attached a copy of such account or demand, shall be served on the Defendant three days at least before the day on which the Division Court shall be holden at which the cause shall be tried, and delivery of such copies of summons and account or demand to the Defendant, or delivery thereof to his wife or servant or any grown person, being an inmate of his dwelling house, or usual place of abode, trading or dealing, shall be deemed a good service of such summons.

How actions shall be commenced in Division Courts.

LX. And be it enacted, that no such summons shall be issued, unless the Plaintiff shall, at the time of entering his account or demand, deposite with the Clerk of the Court for every claim not exceeding twenty shillings, the sum of one shilling; and for every claim exceeding twenty shillings, one twentieth part thereof, (neglecting any sum less than six pence, in estimating such twentieth part,) and if upon the day of the return of any such summons or at any continuation or adjournment

A certain sum to be deposited by the plaintiff before any suit in a Division Court is commenced.

Such sum or part of it may in certain cases be awarded to the Defendant.

At what Division Court any suit may be brought.

Plaintiff shall not divide debts in order to bring them within the competence of a Division Court; but may abandon the Excess.

Plaintiff's under 21 years of age may sue in Division Courts for wages.

Proceedings at the hearing of the suit.

judgment of the said Court or of the cause for which the said summons shall have issued, the Plaintiff shall not appear in person or by some other person in his behalf, or appearing shall not make proof of his demand to the satisfaction of the Court, it shall be lawful for the Judge, if he shall think fit, to award to the Defendant a part or the whole of such deposite money, by way of costs and as satisfaction for his trouble and attendance, with such further sum as the Judge, in his discretion, shall think fit, and to order and compel the Plaintiff to pay such further sum, by such ways and means as any debt ordered to be paid by the said Court, can be recovered; but so much of the said deposite money as shall not be awarded to the Defendant, shall be returned on demand to the Plaintiff.

LXI. And be it enacted, that any suits brought under this Act, and of a nature to be tried at a Division Court, may be brought and tried at any Division Court within the Inferior District, at the District Court for which it might be brought if the sum demanded were more than six pounds five shillings; but if any such suit be brought at any Division Court other than that nearest to the place where the Defendant or Defendants actually served with process shall reside, no more costs shall be recovered by the Plaintiff, than if the suit had been brought at the nearest Division Court; and if judgment be given for the Defendant such additional sum may be awarded to him for his trouble and attendance as the Judge in his discretion may deem meet.

LXII. And be it enacted, that it shall not be lawful for any Plaintiff to divide any cause of action into two or more suits for the purpose of bringing the same within the jurisdiction of any Division Court; but any Plaintiff having a Cause of Action above the value of six pounds five shillings, for which a suit might be brought at a Division Court, if the same were not above the value of six pounds five shillings, may abandon the excess, and thereupon the Plaintiff shall, on proving his case, recover to an amount not exceeding six pounds five shillings; and the judgment of the Court upon such suit shall be in full discharge of all demands in respect of such Cause of Action, and the Entry of Judgment shall be made accordingly.

LXIII. And be it enacted, that it shall and may be lawful for any person under the age of twenty-one years, and above sixteen years, to prosecute any Suit in a Division Court, under this Act, for any sum of money not exceeding six pounds five shillings, which may be due to him or her for wages, in the same manner as if he or she were of full age.

LXIV. And be it enacted, that on the day named in the Summons, the Plaintiff shall appear in the Division Court in person, or by some person in his or her behalf

half, and thereupon the Defendant shall be required by himself or herself, or by some person in his or her behalf, to answer, and on answer being made in Court, the Judge shall proceed in a summary way to try the cause, and give judgment without further pleading or formal joinder of issue.

LXV. And be it enacted, that no evidence shall be given by the Plaintiff, on the trial of any such cause aforesaid, of any cause of action except such as shall be stated and contained in the demand or account entered as hereinbefore directed.

Plaintiff to prove no cause of action except that stated in his demand.

LXVI. And be it enacted, that in any Division Court all Defendants shall be allowed, without filing any incidental demand, to set off any debt or demand not exceeding six pounds five shillings, claimed to be due to them from the Plaintiff, or to set up by way of defence, and claim and have the benefit of any prescription of the debt: Provided always, that if the Defendant's set off as proved, exceed the claim proved by the Plaintiff, the Court may give judgment in favour of the Defendant for such balance, as may appear due from the Plaintiff, with costs of suit: Provided also, that no such defence shall be admitted on the hearing or trial of any cause under this Act, unless notice thereof in writing shall have been delivered to the Plaintiff, or left for him at his usual place of abode or business, three days at least before the trial.

Sett off and prescription may be pleaded by the Defendant.

Notice of any such defence to be given to the Plaintiff

LXVII. And be it enacted, that if on the day named in the summons the Defendant shall not appear as aforesaid, or sufficiently excuse his or her absence, or shall neglect to answer, the Judge, on proof of the service of the summons, may proceed to the hearing or trial of the cause on the part of the Plaintiff; and the order or judgment thereupon which shall be given, made or rendered after hearing the evidence to be adduced on the part of the Plaintiff, shall be final and absolute, and as valid as if both parties had attended: Provided always, that the Judge may make any order for granting time to the Plaintiff or Defendant to proceed in the prosecution or defence of the suit.

Proceedings in case of default by the Defendant.

Time may be granted to either party to proceed.

LXVIII. And be it enacted, that it shall and may be lawful for the Defendant in any action brought at any Division Court, at any time before the day appointed for the trial thereof, to pay into Court such sum of money as he shall think a full satisfaction for the demand of the Plaintiff, together with the costs incurred by the Plaintiff up to the time of such payment; and notice of such payment shall be forthwith communicated by the Clerk of the said Court to the Plaintiff, by Post or by sending the same to his usual place of abode or business, and the said sum of money shall be paid to the Plaintiff, and all proceedings in the said action shall be stayed, unless the Plaintiff shall within three days after the receipt of notice of such payment

Defendant may pay the sum he acknowledges to be due into Court.

Notice of such payment to be given to the plaintiff.

Consequence
of such pay-
ment into
Court.

payment, signify to the Clerk of the said Court his intention to proceed for the remainder of the demand claimed; and in such case the action shall proceed as if it had been brought originally for such remainder only: Provided always, that if the Plaintiff shall recover no further sum in the action than such sum as shall have been paid into Court under the provision hereinbefore contained, the Plaintiff shall pay to the Defendant all costs, charges and expenses incurred by him in the said action after such payment as aforesaid, and such costs, charges and expenses shall be settled by the Court, and shall be recovered by the Defendant by such ways and means as any debt ordered to be paid by the Court can be recovered.

Examination
of parties and
witnesses in
any suit
brought in a
Division
Court.

LXIX. And be it enacted, that on the trial of any such suit, the parties thereto, being credible persons, and all other credible persons whosoever may be examined upon oath or affirmation (being of any of the classes allowed by Law to affirm in any judicial proceedings,) which the Judge shall openly cause the Clerk to administer to each party or witness at the time of his giving his evidence touching the matters in dispute, without regard to any objection on the ground of incompetence from interest, relationship or other like cause: Provided always, that judgment shall in no case be given for either party in any action for any sum, on the oath or affirmation of the Plaintiff or Defendant respectively, without other sufficient evidence, except where the matter may have been referred by one party to the oath of the other, or the Judge may have required the suppletory oath of the party to perfect the evidence.

Oaths of the
parties how far
to be proof.

LXX. And be it enacted, that every person who in any examination shall wilfully and corruptly give false evidence, shall be liable to the penalties of wilful and corrupt perjury.

Any wilful
false statement
to be perjury.

Process may
be obtained
from any Divi-
sion Court for
compelling the
attendance of
witnesses, &c.

LXXI. And be it enacted, that either of the parties to the suit may obtain from the Clerk of the Division Court, wherein the same shall be brought, summons to witness, with or without a clause requiring the production of books, papers and writings in their possession or controul; and in any such summons any number of names may be inserted, and service of any such summons by any Bailiff of the District Court, shall be valid and effectual service; and every person, whether a party to the suit or not, on whom any such summons shall have been served, either personally or at his or her usual place of abode, and to whom at the same time, a tender of payment of his or her reasonable expenses shall have been made, and who shall refuse or neglect, without sufficient cause, to appear or produce any books, papers, or writings required by such summons to be produced, and also every person in Court called upon to give evidence and who shall refuse to be sworn and give evidence, shall forfeit and pay such fine not exceeding six pounds five shillings, currency, as the Judge shall set on him or her; and such fine

Penalty for
non attend-
ance, &c., or
for refusing to
be sworn, &c.

fine shall be recoverable in any Division Court (in whatever District it may be) in the jurisdiction of which the party so refusing shall then be ; and the whole or any part of such fine, in the discretion of the Judge (after deducting the costs) shall be applicable towards indemnifying the party injured by such refusal or neglect, and the remainder thereof shall form part of the District Fee Fund before mentioned.

Fines.

LXXII. And be it enacted, that any fine imposed under the authority of this Act, may be levied by the same process as any debt recovered in the same Court, and shall be accounted for as herein provided.

LXXIII. And be it enacted, that no action brought in any Division Court holden according to the provisions of this Act, nor any order, judgment or proceeding therein, shall be removed into any Superior Court, by any writ or process whatever ; but every such order, and judgment made by the Judge in any Division Court, shall be final and conclusive between the parties ; saving always, that if the Defendant shall plead that the suit is not of the nature of those cognizable at a Division Court, such exception may be brought, heard and determined as exceptions of a like kind may be if made in suits brought, in a District Court.

Actions not removable to other Courts.

LXXIV. And be it enacted, that the Clerk of each Division Court, shall cause a note of all summonses, and of all orders, and of all judgments and executions, and returns thereto, to be fairly entered from time to time, in a book which shall be kept at his office : and such Clerk shall sign his name on every page of such book ; and the entries in the said book so signed, or a copy thereof purporting to be signed and certified as a true copy by such Clerk, shall at all times be admitted in all Courts and places whatsoever, as evidence of such entry or entries and of the proceeding referred to by such entry or entries, without any further proof.

Entries relative to suits before Division Courts how made.

LXXV. And be it enacted, that the Judge may make orders concerning the time or times, and the proportion in which any sum and costs recovered by Judgment of any Division Court, shall be paid, and at the request of the party entitled to the same, may order such sums to be paid into Court : Provided always, that in any such order for time, reference shall be had to the day on which the summons was served on the Defendant, and the issuing of execution shall not be postponed without the consent of the party entitled to the same, for a longer period than thirty days from the service of the summons.

The Judge may make Orders as to the time and manner in which sums recovered in any district Court shall be paid.

Limitation.

LXXVI. And be it enacted, that if there be cross judgments between the parties, execution shall be taken out by that party only, who shall have obtained judgment for the larger sum, and for so much only as shall remain after deducting the

Cases where there may be cross judgments between the parties provided for.

the smaller sum, and satisfaction for the remainder shall be entered as well as satisfaction on the judgment for the smaller sum; and if both sums shall be equal satisfaction shall be entered upon both judgments.

No suit to be brought on a Judgment of a Division Court.

LXXVII. And be it enacted, that no suit shall be brought in any Court for the recovery of any sum awarded by any judgment in a Division Court held under this Act.

Execution to go against the goods and chattels.

LXXVIII. And be it enacted, that whenever the Judge of any Division Court shall have made an order for the payment of money, it shall be lawful for the said Judge immediately, or in case of default or failure of payment thereof, at the times and in the manner thereby directed, to award execution against the goods and chattels of the party against whom such order shall be made, and thereupon the Clerk of the Court, at the request of the party prosecuting such order for the payment of money, shall issue a precept in the nature of a writ of *Fieri Facias* to one of the Bailiffs of the Court, who, by virtue of such precept, shall levy by distress and sale of the goods and chattels of such party, being within the Inferior District in which the said Court was holden, such sum of money and costs as shall be so ordered.

How such execution may be executed in another Inferior District if no goods be found in that in which the Court sits.

LXXIX. And be it enacted, that it shall be lawful for any Bailiff of the Court, to whom a precept of execution, issuing out of any Division Court, shall be directed against the goods of any party according to the provisions of this Act, in case he shall not find sufficient goods and chattels of such party within the Inferior District in which such Division Court is holden, to apply to any Justice of the Peace acting for and within any other Inferior District in Lower Canada, in which the goods and chattels of such Defendant shall be, and such Justice of the Peace is hereby authorised and required upon such Bailiff producing the precept and making oath (which such Justice is hereby empowered to administer) that the same has been duly issued out of the said Division Court and that the goods and chattels of the Defendant are not to be found within the District in which such Division Court is held, but are believed by such officer to be within the District where such Justice acts, to sign his name on the back of such precept, and thereupon, such Bailiff shall have power to take the goods and chattels of such Defendant wheresoever the same shall be found within such Inferior District, and deal therewith in like manner as if the same had been taken within the Inferior District within which the said Division Court is held, and all constables and other Peace officers are hereby required to be aiding within their respective Jurisdictions, in the execution of the precept so endorsed.

LXXX. And be it enacted, that no sale of any goods which shall be taken in execution

execution on process issuing out of any District or Division Court, shall be had until after the end of eight days at least next following the day on which such goods shall have been so taken, unless upon the request in writing under the hand of the party whose goods shall have been taken; and public notice in writing shall be given (in the manner by law provided in like cases with regard to execution issuing out of other Courts) within the City, Town, Parish, or Township where such goods were taken, of the time and place of such sale, at least eight days before the same shall take place.

Notice of the time and place of sale of goods taken in execution to be given.

LXXXI. And be it enacted, that upon every precept of execution awarded against the goods and chattels of any person whomsoever, the Clerk of the Division Court, out of which such execution shall issue, shall cause to be endorsed the sum of money and costs adjudged: and if the party against whom such execution shall be awarded, shall before an actual sale of the goods and chattels pay or cause to be paid or tendered, to the Bailiff to whom the precept shall have been delivered such sum of money as aforesaid, or such part thereof as the Plaintiff shall agree to accept in full of his debt, together with the fees herein directed to be paid, the execution shall be superseded, and the goods and chattels shall be released and restored to the said party.

Precepts of execution to be endorsed with the sum to be levied &c.

And superseded on payment of such sum.

LXXXII. And be it enacted, that every opposition to any seizure or proceeding on any process of execution issued out of any District or Division Court under the authority of this Act, shall be heard and determined in the Court out of which such process shall have issued, and in a manner as nearly as may be possible similar or analogous to the mode of proceeding in such Court in other cases where the sum in dispute is of the like class in amount.

Oppositions heard and decided upon.

LXXXIII. And be it enacted, that if any person shall willfully insult the Judge of any Division Court, during his sitting or attendance in Court, or shall willfully interrupt the proceedings of such Court, it shall be lawful for any Bailiff or Officer of the Court, with or without the assistance of any other person but by order of the Judge, to take such offender into custody; and the Judge may impose upon such offender a fine and may also in his discretion commit such offender to Gaol.

Penalty on persons insulting the Judge of any Division Court.

LXXXIV. And be it enacted, that if any Bailiff or Officer of any District Court, acting under colour or pretence of the process of such Court, shall be guilty of extortion or misconduct, or shall not duly pay or account for any money levied or received by him, under the authority of this Act, it shall be lawful for the Judge, at any sitting of the Court or of any Division Court, if the party aggrieved shall think fit to complain to him, to enquire into such matter in a summary

Provisions for the punishment of Bailiffs guilty of misconduct.

mary way, and for that purpose to summon and enforce the attendance of all necessary parties, and to make such order thereupon for the repayment of any money extorted, or for the due payment of any money so levied or received as aforesaid, and for the payment of such damages and costs to the parties aggrieved, as the Judge shall think just; and in default of any money so ordered to be paid by such Bailiff within the time specified for the payment thereof in such order, it shall be lawful for the Judge, by warrant under his hand and seal, to cause such sum to be levied by distress and sale of the goods of the Offender, together with the reasonable charges of such distress and sale, and in default of such distress, to commit the Offender to the Common Gaol of the District, for any period not exceeding three Calendar months.

Clerks, Bailiffs &c. guilty of extortion or other offences, to be thereafter incapable of holding any office under this Act.

LXXXV. And be it enacted, that if any Clerk, Bailiff or other Officer, employed in putting this Act, or any of the powers thereof into execution, shall exact, take or accept any fee or reward whatsoever, other than, and except such fees as are or shall be appointed and allowed respectively, as aforesaid, for or on account of any thing done or to be done by virtue of this Act, or on any account whatsoever relating to putting this Act into execution every such person so offending shall, upon proof thereof before the District Court, be for ever, incapable of serving or being employed under this Act, in any Office of profit or emolument, and shall also be liable in damages to the party aggrieved.

Cases in which suits shall be brought in Superior Courts which ought to have been brought in Inferior Courts provided for.

LXXXVI. And be it enacted, that in case any action shall be prosecuted after the commencement of this Act in any Superior Court of Record, for any cause which might have been entered in a District or Division Court under this Act or in any District Court for any cause which might have been entered at a Division Court, and the Judgment shall be for the Plaintiff, such Plaintiff shall have judgment to recover such sum awarded only, and no costs, and shall have execution only against the goods and chattels of the Defendant, and shall not at any time be allowed to maintain any action on such judgment, in any Court; and if a Judgment shall not be found for the Plaintiff, the Defendant shall be entitled to his costs as between Attorney and Client, unless in either case, the Judge who shall try the cause shall certify on the back of the Record, that the Plaintiff had a probable cause of action for the debt, or damages sought to be recovered in such action, to an amount exceeding the Jurisdiction of a District Court or of a Division Court as the case may be.

Special damages only recoverable in case of irregularity.

LXXXVII. And be it enacted, that when any levy or seizure shall be made, for any sum of money to be levied by virtue of this Act, the seizure itself shall not be deemed unlawful, nor the party or parties making the same, be deemed a trespasser

trespasser or trespassers on account of any defect or want of form in the information, summons, conviction, warrant, precept or other proceeding relating thereto: nor shall the party or parties seizing, be deemed a trespasser or trespassers from the beginning on account of any irregularity which shall afterwards be committed in so seizing; but the person or persons aggrieved by such irregularity, shall and may recover full satisfaction for the special damage.

lar seizures in execution under this Act.

LXXXVIII. And be it enacted, that no order or Judgment, or other proceedings made in any Division Court, concerning any of the matters aforesaid, shall be quashed or vacated for any matter of form.

Mere want of form not to vitiate proceedings in Division Courts.

LXXXIX. And for the protection of persons acting in the execution of this Act, be it enacted, 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 was committed and not afterwards or 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 no Plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if after action brought a sufficient sum of money shall have been paid into Court with costs, by or on behalf of the Defendant.

Limitation of actions founded on things done under this Act.

Notice of action.

Sufficient amends.

XC. And be it enacted, that in construing this Act, the word "person" shall be taken to comprehend a body politic or corporate as well as an individual: and that every word importing the singular number, shall when necessary to give full effect to the enactments herein contained, be deemed to extend and be applied to several persons or things, as well as one person or thing; and that every word importing the masculine gender shall where necessary extend and be applied to a female as well as a male: and that the words "Lower Canada" shall be taken to mean that portion of the Province formerly constituting the Province of Lower Canada.

Interpretation clause.

XCI. And be it enacted, that a certain Ordinance of the Legislature of the late Province of Lower Canada, passed in the fourth year of Her Majesty's Reign, and intituled *An Ordinance to provide for the easy and expeditious administration of Justice in Civil Causes and matters involving small pecuniary value and interest throughout this Province*, shall be and is hereby repealed.

Ordinance of I. C. 4 Viet. c. 43, repealed.

XCII. And be it enacted, that so much of a certain Ordinance of the said Legislature passed in the fourth year of Her Majesty's Reign, and intituled, *An Ordinance*

So much of certain Ordinances as are

nance

contrary to the provisions of this Act repealed.

4 Vict. cap. I.

4 Vict. Cap. 15.

4 Vict. cap. 19.

nance to amend a certain Ordinance of the Legislature of this Province, made and passed in the fourth year of the Reign of Her Majesty, intituled, *An Ordinance to establish New Territorial Divisions of Lower Canada, and to alter and amend the Judicature, and provide for the better and more efficient administration of Justice throughout this Province*, and also a certain other Ordinance, of the same Legislature, made and passed in the same year, intituled, *An Ordinance to provide for the more easy and expeditious administration of Justice in civil causes and matters involving small pecuniary value and interest throughout this Province*, or of a certain Ordinance of the said Legislature passed in the same year, and intituled, *An Ordinance for the better regulation of the office of Sheriff*, or of a certain Ordinance of the said Legislature passed in the same year and intituled, *An Ordinance to amend two certain Ordinances therein mentioned relative to the administration of Justice in this Province and to make other and further provision on the same subject*, as vests any judicial power in any Sheriff or Deputy Sheriff, or relates in any way to the exercise of any such power, or to the Division of Lower Canada into Districts for the purposes of Judicature, or to the jurisdiction of any District Court, and so much of the said Ordinances or of any of them, or of any other Act or Law as may be in any way repugnant to or inconsistent with the provisions of this Act, shall be and is hereby repealed.

The Governor may appoint the day on which a certain Ordinance of Judicature, and those parts of certain others which are not hereby repealed shall come into force.

4 Vict. cap. 45.

Limitation.

XCIII. And be it enacted that it shall be lawful for the Governor of this Province, by Proclamation under the great Seal thereof to fix and appoint the day from and after which a certain Ordinance passed in the fourth year of Her Majesty's Reign and intituled, "*An Ordinance to establish New Territorial Divisions of Lower Canada, and to alter and amend the Judicature, and provide for the better and more efficient administration of Justice throughout this Province*" and also such parts of the several Ordinances mentioned in the next preceding section as are not yet in force and are not repealed by this Act, shall come into force and the same shall have force and effect from the day appointed for that purpose in such Proclamation and not before; any thing in any of the said Ordinances or in any Law, to the contrary notwithstanding: Provided always, that the day so to be fixed by such proclamation shall not be later than the thirty-first day of December, which will be in the year of Our Lord one thousand eight hundred and forty-two: Provided also that whenever the said Ordinance shall be brought into force, it shall be lawful for the Governor, Lieutenant Governor, or Person administering the Government, to appoint a Sheriff for each of the Inferior Districts into which this Province shall be divided, and by a Proclamation issued as aforesaid to divide the District of Gaspé into Inferior Districts, or to constitute the same an Inferior District for the purposes of this Act, and to appoint the times and places of holding District and Division Courts in such Inferior District or Districts to which all the provisions of this Act shall thenceforward apply.

XCIV.

XCV. And be it enacted, that a certain Ordinance of the Legislature of Lower Canada, passed in the fourth year of Her Majesty's Reign, and intituled, *An Ordinance to facilitate the despatch of the business now before the Court of King's Bench for the District of Montreal*, shall remain in force until the Thirty-first day of December, in the year of our Lord, One Thousand Eight Hundred and Forty-two, and no longer: Provided always, that if the Ordinance mentioned in the next preceding section should be brought into force before the day last mentioned, then the Ordinance continued by this Section shall cease and determine: And provided also, that the Commissioner appointed under the authority of the said first mentioned Ordinance shall, from and after the issuing of the Proclamation mentioned in the first section of this Act, be the District Judge of the Inferior District in which the City of Montreal shall be included; but, shall also, while the said Ordinance shall remain in force, have all such powers and perform all such duties as are vested in or assigned to him by the said Ordinance, and shall not be repugnant to or inconsistent with the provisions of this Act, or with the due performance of his duties as such District Judge.

Proviso with regard to the Commissioner for the Inferior Terms at Montreal.

XCV. And be it enacted, that all the provisions and enactments of a certain Ordinance of the said Legislature, passed in the fourth year of Her Majesty's Reign and intituled *An Ordinance to provide for the erection and establishment of Court Houses and Gaols in certain Judicial Districts in this Province*, shall, so far as the same may not be inconsistent with or repugnant to the provisions of this Act, be applied to the Inferior Districts to be constituted under the authority of this Act, in the place and stead of the Judicial Districts in the said Ordinance mentioned.

The provisions of the Ordinance.
4 Vict. cap. 18.

Extended to the Inferior Districts, to be established under this Act.

SCHEDULE REFERRED TO IN THIS ACT.

FORMS TO BE USED IN DIVISION COURTS.

SUMMONS.

Demand £

Costs £

The

Division Court, of the Inferior District of

You are hereby summoned to appear at the next sitting of this Court to be hold-
en at on the day of

at

of the clock of the same day, to answer to the
complaint

complaint of _____ who claims from you the payment of the account, a statement whereof is hereunto annexed: and in case you fail to appear by yourself or some person on your behalf, the Plaintiff will obtain judgment and execution against you by your default.

Take notice, that if on the trial of this cause you mean to set off any debt which you claim to be due to you from the Plaintiff in this cause, or to take the benefit of any prescription you must give to the Clerk, or leave at his office, notice in writing thereof _____ days at least before the said day of _____ dated the _____ day of _____ in the year of Our Lord one thousand eight hundred and _____ Entered No. _____

To Mr. _____ } By the Court,
the Defendant, } Clerk.

SUMMONS TO A WITNESS.

The _____ Division Court of the Inferior District of _____
To _____

You are hereby summoned to appear at the sittings of the said Court to be hold- en at _____ on _____ the _____ day of _____ at _____ o'clock of the same day to give evidence on the part of the _____ in the cause between Plaintiff and Defendant

(If the witness be required to produce any paper, etc., add the words necessary to describe the same and to command him to produce it.)

Dated the _____ day of _____ one thousand eight hundred and _____ By the Court _____ Clerk.

ABSOLUTE ORDER FOR PAYMENT OF A SUM RECOVERED.

The _____ Division Court of the Inferior District of _____ holden on, etc., between _____ Plaintiff, and Defendant. It is ordered, that the Defendant do pay to the Plaintiff the sum _____

sum of £
day of

debt and £
next, after notice of this order.

costs on the

Entered

By the Court,

Clerk.

ABSOLUTE ORDER FOR PAYMENT OF A SUM RECOVERED BY INSTALMENTS.

The Division Court of the Inferior District of
holden on, &c., between Plaintiff, and
Defendant. It is ordered that the Defendant do pay to the Plaintiff the sum
of £ on the next, after the date of this
order, and the further sum of £ on every following
until payment of the full sum of £ debt and costs be satisfied.
By the Court,

Entered,

Clerk.

PRECEPT OR WARRANT AGAINST GOODS.

Debt, £
Costs, _____
£ _____
Paid, £
Levy, £

}

The Division Court of the
Inferior District of
to a Bailiff of the said Court.

IN THE CAUSE, ETC.

You are hereby commanded to levy, and cause to be made, of the goods and
chattels of the sum of
and your lawful fees on the execution of this precept, so that you have the said
money, within twenty days after the receipt hereof, to satisfy.
for the debt and costs adjudged to by the said
Court.

Herein fail not at your peril. Given under my hand and Seal, this
day of one thousand eight hundred and
Judge of the Division Court,

Entered.

T

SCHEDULE

SCHEDULE OF FEES,

IN THE DISTRICT COURTS.

TO THE FEE FUND FOR THE JUDGE.	1 st Class, under £ 10 sterling.		2 ^d Class, under £ 15 currency.		3 ^d Class, under £ 20 sterling.		In every case.	
	s.	d.	s.	d.	s.	d.	s.	d.
On every Summons or attachment, (<i>Saisie Arret, Saisie Gagerie, or Saisie Revendication.</i>).....	5	0	7	6	10	0	..	..
For taking any recognizance.....	2	6
For taking any affidavit.....	1	0
On the entry of any final Judgment and Taxing Costs.....	2	6	5	0	7	6	..	..
On every writ or precept of Execution.....	1	0
On every rule or motion in open Court.....	1	0
On every other rule.....	0	6
On every Witness sworn.....	0	6
On every <i>Avis de parents.</i>	5	0
On every Commission in the nature of a <i>Commission Rogatoire.</i>	1	3
On the closing of any Inventory.....	5	0
On every <i>Insinuation.</i>	2	6
On affixing or taking off seals of safe custody.....	5	0
On any other Ministerial Act, for the performance of which the presence or signature of the Judge may be necessary.....
On every Subpœna.....	1	0
On the entry of any opposition or intervention...	1	0
On the entry of any final Judgment on the same...	10	0
	5	0

TO THE ATTORNEY.						
	s.	d.	s.	d.	s.	d.
Taking instructions to sue or defend.....	6	8	12	6	20	0
For conducting the case of the Plaintiff to final Judgment.....	5	0	..	..	..	..
If not contested.....	..	..	7	6	..	..
If contested.....	..	..	12	6	..	..
If not contested.....	..	..	..	..	10	0
If contested.....	..	..	..	..	20	0
Drawing, engrossing, and filing any declaration, specially required by an order of the Court.....	5	0	7	6	10	0
For filing appearance for Defendant, general issue and proceedings to final Judgment.....	11	8	17	6	25	0
For every special plea, copy and filing.....	5	0	7	6	10	0
For suing out any Commission in the nature of a <i>Commission Rogatoire</i> , including the interrogatories and incidental trouble.....	10	0	12	6	15	6
For every necessary notice.....	..	..	..	..	..	1 0
For drawing and engrossing any Affidavit and Copy thereof.....	..	..	..	..	..	1 0
For drawing and engrossing Bill of Costs and attendance at taxation.....	1	0	1	8	3	4
On oppositions and interventions, and proceedings relative to oppositions and interventions.....	12	6	..	..	..	..
If not contested.....	..	..	13	4	..	..
If contested.....	..	..	20	0	..	..
If not contested.....	..	..	..	..	20	0
If contested.....	..	..	..	..	25	0
For drawing any Bond or recognizance.....	..	..	..	..	..	2 0
On every special motion made in open Court.....	2	0	3	4	6	8
For any Copy of any paper per 100 words.....	..	..	..	..	..	0 6

TO THE CLERK.

For every summons or attachment (<i>Saisie Gagerie Saisie Arret or Saisie Revendication</i>) and filing precipe for it.....	1	6	2	0	3	0
For every copy of the same.....	..	..	..	..	0	6
For every Subpœna.....	..	..	..	..	1	0
For every copy of Subpœna.....	..	..	..	..	0	3

For

	s.	d.	s.	d.	s.	d.	s.	d.
For every commission for the examination of witnesses . . . . .	..	..	..	..	2	0	..	..
For entering and filing any opposition or intervention	1	6	..	..	..	..	..	..
If not contested . . . . .	..	..	5	0	..	..	..	..
If contested . . . . .	..	..	7	6	..	..	..	..
If not contested . . . . .	..	..	..	..	7	6	..	..
If contested . . . . .	..	..	..	..	15	0	..	..
For entering Judgment on any opposition or intervention, and copy thereof	1	0	1	3	3	0	..	..
For entering cause, proceedings up to final Judgment, and copy thereof	1	6	..	..	..	..	..	..
If not contested . . . . .	..	..	5	0	7	6	..	..
If contested . . . . .	..	..	7	6	15	0	..	..
For entering Writ of Execution and filing precipe.	..	..	..	..	..	..	2	0
On every appointment of a Tutor or Guardian, or of a <i>Subrogé Tutor (Acte de Tutelle ou Curatelle)</i> and copy thereof . . . . .	..	..	..	..	..	..	4	0
On any other Act founded on <i>avis de parents</i> and copy thereof . . . . .	..	..	..	..	..	..	4	0
On the closing of any Inventory . . . . .	..	..	..	..	..	..	2	0
On enregistration of written instruments subject to enregistration (<i>insinuation</i>) per one hundred words . . . . .	..	..	..	..	..	..	0	6
On certificate of such registration . . . . .	..	..	..	..	..	..	1	0
On any office copy of any document, and certificate per hundred words . . . . .	..	..	..	..	..	..	0	6
And for certificate . . . . .	..	..	..	..	..	..	1	0
TO THE BAILIFF.								
For each service of process, rules or orders, and a certificate thereof	1	0	1	0	1	0	..	..
For the seizure of goods & chattels, under execution, and all incidental trouble, travelling not included.	5	0	5	0	5	0	..	..
For the sale of goods and chattels under execution, and all incidental trouble, including publication of notices, travelling not included	5	0	5	0	5	0	..	..
For returning the writ of execution	1	3	1	3	1	3	..	..
For milage on the service of process, at the rate of one shilling per mile, without any charge for the distance in returning, and without any charge for milage, on more than one process against the same Defendant . . . . .	..	..	..	..	..	..	..	..
TO THE CRIER.								
For calling each cause	0	6	0	6	0	6	..	..

IN

IN THE DIVISION COURTS.

TO THE FEE FUND FOR THE JUDGE.	1st Class, under £2 10 currency		2d Class, not exceeding £6 5 currency	
	s.	d.	s.	d.
On every summons or attachment (<i>Saisie Gageric, Saisie Arret,</i> <i>or Saisie Revendication</i>).....	1	3	2	0
On every affidavit.....	1	0	1	0
On every final Judgment.....	1	6	2	0
On every execution.....	0	6	0	9
On every subpoena.....	0	3	0	6
On all proceedings on oppositions and interventions.....	5	0	7	6
TO THE ATTORNEY.				
Taking instructions to sue and defend.....	1	3	2	0
For conducting the cause of the Plaintiff to final Judgment.....	6	8	10	0
For filing appearance for Defendant, and proceedings to final Judgment.....	6	8	10	0
For every necessary notice.....	1	0	1	0
For drawing every affidavit.....	1	0	1	0
On oppositions and interventions, and proceedings relative to op- positions and interventions, the same fees as for similar acts in the principal cause.....				
TO THE CLERK.				
For every summons or attachment (<i>Saisie Gageric, Saisie Arret,</i> <i>or Saisie Revendication</i>).....	1	3	1	6
For every copy of the same.....	0	6	0	6
For every Subpœna.....	0	6	0	6
For every copy of a Subpœna.....	0	3	0	3
For entering every Judgment and copy thereof.....	1	3	2	0
For every precept of execution.....	1	0	1	3
For entering and filing every opposition or intervention.....	1	0	1	3
For every judgment on an opposition or intervention and copy thereof	0	3	0	6
				TO

TO THE BAILIFF.	s.	d.	s.	d.
For service of process, rules or orders on each person, and certificate thereof.....	1	0	1	0
For the seizure of goods and chattels under execution, and all incidental trouble, except travelling.....	4	0	4	0
For the sale of goods and chattels under execution, and all incidental trouble, including publication of sale, notices, &c., except travelling.....	4	0	4	0
For returning the writ of execution.....	0	3	0	6
For milage on the service of process or in execution of any rule or order of the Court, at the rate of one shilling per mile, without any charge for the distance in returning, and without any charge for milage, on more than one process against the same Defendant				
TO THE CRIER.				
For calling each cause.....	0	6	0	6

CAP. XXI.

An Act to make certain alterations in the Laws relative to the duty upon Sales of Property by Auction.

[18th September, 1841.]

MOST GRACIOUS SOVEREIGN,

Preamble.

WHEREAS certain duties are payable on goods sold by Public Auction in that part of this Province heretofore Upper Canada, and it is expedient that duties should also be levied in that part of this Province heretofore Lower Canada, to aid in the construction of the Public Improvements of the Province, May it therefore please Your Majesty, that it may be enacted; And be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to Re-unite the Provinces of Upper and Lower Canada and for the Government of Canada*, and it is hereby enacted by the authority of the same, that all goods, wares, merchandise and effects which shall or may at any time or times from and after the first

first day of January next after the passing of this Act, be put up to sale at any Public Auction or outcry within that part of this Province called Lower Canada, by any Auctioneer, or by any person whomsoever duly qualified and licensed as by this Act is hereafter prescribed and directed, and sold to the highest bidder, shall be and are hereby declared to be subject to a duty of one pound for every hundred pounds of the value or price at which the same shall be sold, as aforesaid, and at and after the same rate for every greater or less sum, which duty shall be retained, and paid to the District Inspector by the Auctioneer who shall sell the same, out of the proceeds of the sale, in the manner hereinafter mentioned; and at the cost of the seller, unless it be expressly stipulated that the same shall be at the cost of the buyer, and so added to the amount bid by him.

Duty imposed on goods sold by Auction in Lower Canada.

II. And be it enacted, that no person whomsoever, other than a person licensed in the manner hereinafter prescribed, shall from and after the said first day of January next, after the passing of this Act, sell, dispose of, or expose to sale at Public Auction or outcry within Lower Canada, any goods, wares, merchandise or effects whatsoever; and that it shall be lawful for the District Inspector and he is hereby required by licence under his hand and seal, to authorize and empower any person, being a subject of Her Majesty, who shall or may apply for the same (being qualified as by this Act is hereinafter required) to act as Auctioneer within Lower Canada; and such license shall remain in force for one year from the date thereof; and the person receiving the same shall pay therefore to such Inspector the sum of five pounds currency, to be by him paid over to the Receiver General.

No person to sell by Auction without a License.

III. And be it enacted, that no License shall be granted to any person in the manner hereinbefore mentioned, until such person shall have entered into recognizance to our Sovereign Lady the Queen, with two good and sufficient sureties before the said Inspector, or before some person by him duly authorized to that effect, in the sum of five hundred pounds, current money of this Province, with condition for the payment of the duty hereinbefore mentioned, to the District Inspector or to some person by him duly authorised to receive the same; and conditioned also that the person so licensed as an Auctioneer shall in all things well, truly and faithfully behave and demean himself according to the true intent and meaning of this Act; which recognizance the Inspector or person taking the same shall cause to be made in duplicate, and one duplicate shall be transmitted to the Receiver General and the other shall be left in the office of the Inspector.

Persons licensed to give Bond.

IV. And be it enacted, that any person who shall sell or dispose of by Public Auction or outcry, any goods, wares, merchandize or effects on the sale of which a duty is by this Act imposed, without having a License, as aforesaid, then in force, shall

Penalty on persons selling by Auction without a License.

shall forfeit the sum of one hundred pounds, currency, for each offence; and one moiety of such forfeiture shall belong to the prosecutor and the other moiety to Her Majesty, or if any Officer of the Crown be the prosecutor the whole shall belong to Her Majesty: and such forfeiture may be sued for and recovered by action at law in any Court of Record having competent civil jurisdiction in the place where the offence shall have been committed, or recovered in any way in which debts to the Crown may be recovered in Lower Canada: Provided always, that the prosecution or action shall be brought within three months next after the offence shall have been committed, and not afterwards.

Proviso.

Exemptions from duty.

V. Provided always, and be it enacted that the goods or effects belonging to the Crown and all goods or effects seized by any public officer in execution or under process of any Court, or as being forfeited, and all goods and effects of deceased persons or appertaining to any DISSOLUTION DE COMMUNAUTE', or belonging to any Church, shall be free from the duty aforesaid, and may be sold by Auction without a license.

Fee to the Inspector on Licenses.

VI. And be it enacted, that the District Inspector who shall grant such license and cause such recognizance to be taken as aforesaid, shall take the sum of five shillings, and no more, for the said services.

Account to be rendered by each licensed Auctioner.

VII. And be it enacted, that every Auctioneer qualified and licensed as in this Act is directed, who shall sell or dispose by public Auction or outcry, of any goods, wares, merchandize or effects, on the sale of which a duty is imposed by this Act, shall within the first ten days of each of the months of January, April, July and October in each year, render to the District Inspector or to some person by him authorized to receive the same, a just and true account in writing, signed by such Auctioneer or his Chief Clerk, Agent or Partner, stating the amount of all goods, wares, merchandize and effects on the sale of which a duty is imposed, as aforesaid, by him sold during the period for which no account shall have been previously rendered, stating also the amount of each day's sale; and such account shall be attested by the person making the same on oath (or affirmation if he be of the class of persons allowed to affirm in civil cases instead of taking an oath) in the following form:—" I do solemnly swear (or affirm) that the account now exhibited by me and to which I have subscribed my name, contains a just and true account of the amount of all goods, wares, merchandize and effects sold by me (or by as the case may be) within the time mentioned in the said account, and subject to duty on such sale, and of the days on which the same were respectively so sold;—So help me God;" and such oath or affirmation may be made before any Justice of the Peace in and for any part of Lower Canada.

Form of attestation.

VIII.

VIII. And be it enacted, that if any Auctioneer shall refuse or neglect to render such account, or cause the same to be rendered in the manner required by this Act, according to the true intent and meaning thereof, or to pay to the District Inspector at the times hereby required, all monies due by him on account of such sales, he shall for such refusal or neglect, incur a forfeiture of one hundred pounds, currency, to Her Majesty, for the public use of the Province, which may, as well as the monies due for any such duties, be recovered with costs in any manner in which debts of like amount due to the Crown may be recovered in Lower Canada; and the said District Inspector may also cause a notice to be inserted in the public Gazette of this Province, declaring the person so in default to have forfeited his license as an Auctioneer, and such license shall be forfeited accordingly, and shall be thereafter of no effect, nor shall any new license be granted to such defaulter until after such forfeiture and debt shall have been paid and satisfied.

Penalty for refusing to render such Account.

License to be forfeited.

IX. And be it enacted, that any wilful false statement in any oath or affirmation required by this Act, shall be deemed to be wilful and corrupt perjury, and the person convicted thereof, shall be liable to be punished accordingly.

Wilful or false statement to be perjury.

X. And be it enacted, that all forfeitures or penalties recovered under this Act, or so much thereof as shall belong to Her Majesty, shall be paid over to the Receiver General, by the District Inspector or other person or persons receiving the same, within three months after they shall have been so received, and shall, as shall all other monies paid to him under this Act, form part of the consolidated Revenue Fund of this Province, and shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct.

Penalties and forfeitures how recovered.

Applied.

And accounted for.

XI. And be it enacted, that the District Inspector may retain for his services under this Act, a sum equal to two and a half per cent on the duties by him collected under this Act; and that the recognizance given by any such District Inspector under the Act, passed in the present Session and intituled, *An Act to impose a duty upon Distilleries in that part of the Province heretofore called Lower Canada*, shall also be conditioned for the due payment to the Receiver General, of all duties received by such Inspector under this Act, and for the due performance of all duties hereby assigned to him.

Allowance to the Inspector; security given by him.

XII. And in order to equalize the duties payable in such cases as aforesaid throughout this Province; Be it enacted, that from and after the said first day of January next after the passing of this Act, the duty payable on Sales by Auction under the provisions of the Act of the Parliament of Upper Canada, passed in the

Duties on Sales by Auction in Upper Canada reduced

fifty

fifty eighth year of the Reign of His late Majesty King George the Third, and intituled *An Act granting to His Majesty a duty on Licenses to Auctioneers and on goods, wares and merchandise sold by Auction*, or any Act of the said Parliament continuing or amending the same, shall be one per cent on the amount of such sales, and no more; any thing in the said Act or Acts to the contrary notwithstanding.

C A P. XXII

An Act to provide temporarily for the administration of Justice in the Magdalen Islands in the Gulf of Saint Lawrence.

[18th September, 1841.]

Preamble.

WHEREAS it is expedient to make temporary provision for the administration of Justice in the Magdalen Islands in the Gulf Saint Lawrence; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted, by the authority of the same, that there shall be held, annually, during this Act, at the periods hereinafter mentioned, at the Magdalen Islands, by any one Commissioner to be specially appointed for the purpose, annually, by the Governor, Lieutenant Governor, or person administering the Government of the Province, a Court for the trial of all causes arising in the said Islands of a personal nature only, (those purely of Admiralty jurisdiction excepted,) where the sum demanded or matter in dispute shall not exceed twenty five pounds, currency: Provided always, that the Commissioner to be appointed under this Act shall not be an inhabitant of or resident upon, any of the said Magdalen Islands, nor in anywise concerned in the fisheries or trade there carried on.

A Commissioner to be appointed by the Governor, and to hold a Court on the Magdalen Islands for certain purposes, and at certain times.

Name of the Court.

Place of sitting.

Time.

Mode of trial.

Notes and Register of proceedings at such Court.

II. And be it enacted, that the said Court shall be styled "*The Commissioners' Court for the Magdalen Islands*," and shall sit at Amherst Harbour, on the principal Island of the said Magdalen Islands, from the twentieth to the thirtieth day of June, both days inclusively, Sundays and Holidays excepted, and shall in a summary manner hear, try and determine, according to law, all cases within the cognizance of the said Commissioner under this Act, the said Commissioner keeping notes of the evidence in all cases exceeding ten pounds sterling, coming before him

him, and causing a Register to be kept by the Clerk to be appointed as hereinafter mentioned, of all cases tried and determined before him, that reference in case of need may be thereunto had.

III. And be it enacted, that it shall and may be lawful for the Governor, Lieutenant Governor or Person administering the Government of the Province, for the time being, to nominate and appoint by a Commission under his hand and seal, a fit and proper person, being resident on the said Islands, to act as Clerk of the said Commissioners' Court, which said Clerk, before entering upon the duties of his office, shall make and execute before the Senior Justice of the Peace, resident on the said Islands, a bond jointly and severally, with sureties to be approved of by such Justice of the Peace, in the sum of fifty pounds, currency, that he will faithfully discharge the duties of his said office, and truly transcribe and keep a correct record of all proceedings, entries and judgments of the said Court, and further shall take and subscribe an oath before the said Justice of the Peace, (which said oath the said Justice of the Peace is hereby authorized and required to administer,) in the words following, to wit: "I, A. B., do promise and swear, that I will faithfully, diligently and justly serve and perform the office and duties of Clerk of the Commissioner's Court for the Magdalen Islands, according to the best of my ability—So help me God;" which said oath shall be filed and kept among the records of the said Court.

Clerk of the Court.

IV. And be it enacted, that in no case shall execution issue pursuant to any judgment by such Commissioner, before the expiration of twenty days next after the day in which judgment shall have been given, and that the said Commissioner may, in cases where he shall see fit, suspend execution for any term not exceeding twelve months after judgment.

No execution to issue within 20 days after judgment.

Commissioner may suspend execution for 12 months.

V. And be it enacted, that it shall be the duty of the said Clerk, in conformity with any judgment rendered by the said Commissioner, to issue such writs of execution against the goods and chattels of any party against whom such Judgment has been pronounced after the expiration of the delay allowed by this Act, or specially granted by the Commissioner under the provisions of this Act, which said writs of execution shall have been previously signed and sealed by the Commissioner aforesaid, and kept in the custody of the said Clerk.

Issue of Writs.

VI. And be it enacted, that in case any opposition is entered to the sale of any goods and chattels seized under and by virtue of any writ of execution, issuing as aforesaid, it shall and may be lawful for the said Clerk to administer an oath to the party opposing such execution, to the truth of the allegations contained in such opposition, and thereupon to direct that all further proceedings be suspended under such writ of execution, until the return of such opposition before the next ensuing Session

Opposition to sale of goods seized.

Session

Session of the said Court, when the several parties may be heard on the merits of the said opposition.

Right of appeal to Courts of King's Bench or Common Pleas.

VII. Provided always, that an appeal shall lie in all causes exceeding ten pounds, sterling, from the decision of the said Commissioner to Her Majesty's Court of King's Bench, or Common Pleas at Quebec, the party aggrieved giving notice within twenty days after judgment, to the Commissioner, by whom the Judgment shall have been given, or to the Clerk, together with security for the amount of Judgment and costs, in case he shall fail to prosecute his appeal within six months next after date of the Judgment, and the said Clerk shall after such notice shall have been given, and such security been entered forthwith, and with all convenient speed, at the instance and request of the party appealing, transmit a true and certified copy of the record of the cause so appealed to the said Court of King's Bench, or Court of Common Pleas at Quebec, the party appealing paying for the copy of such record to the said Clerk, at the rate of six pence for every hundred words and no more.

Fees to be taken by the Clerk of the Court.

VIII. And be it enacted, that no other or greater fees shall be exacted nor taken by the Clerk of the said Commissioner, than the following, that is to say: for a Writ of Summons, one shilling and six pence; for a copy thereof, one shilling; for a Subpœna, one shilling; for every copy thereof, six pence; for an Execution, one shilling and six pence; for every Rule or Order of Court, six pence; for entering a Judgment, nine pence; for every copy of a Judgment (when such copy is required) six pence; for every entry of an opposition, nine pence.

Bailiffs of the Court.

IX. And be it enacted, that the said Commissioner shall have power and authority to nominate and appoint such number of Bailiffs as he may deem fit and necessary, for the service and execution of all writs, orders, or rules of the said Court, and every such Bailiff, before entering upon the duties of his office, shall give security in such amount as the said Commissioner shall deem fit and proper, for the faithful discharge of his duties, and for the duly paying and accounting for of all monies that shall come into his hands.

Time between the service of process and appearance under it.

X. And be it enacted, that between the service and the return of any summons issuing pursuant to this Act, there shall intervene at least three days, and that an additional day shall be allowed for every three leagues between the place of the Defendant's domicile and that whereto the Court is held, and that for every service of such Summons or Subpœna in any cause, one shilling, currency, shall be allowed to the Bailiff, Constable or Officer serving the same, and for mileage one shilling per league, (the distance in returning not counted,) from the place of residence of such Bailiff, Constable, or Officer, to the Defendant's domicile.

Fees for service of process.

XI.

XI. And be it enacted, that for levying monies under any execution issuing from the said Court, no other or greater costs or charges shall be allowed nor taken than the following, that is to say : for the seizure and inventory one shilling and sixpence, currency ; for the publication of the time and place of sale of the moveables seized one shilling and six pence, and on the amount seized a poundage at the rate of two and a half per cent.

For levying monies under execution.

XII. And be it enacted, that in case of the death, sickness, or absence of the Clerk, the Senior Justice of the Peace, resident on the said Islands, shall forthwith and with all convenient speed notify such death, sickness, or absence to the Governor, Lieutenant Governor, or person administering the Government of this Province, for the time being, and it shall and may be lawful for the said Senior Justice of the Peace to nominate and appoint, by a warrant under his Hand and Seal, any fit and competent person resident on the said Islands to act as Clerk to the said Court, until another Clerk shall have been appointed by the Governor, Lieutenant Governor, or Person administering the Government of this Province for the time being, and such acting Clerk shall hold, enjoy and possess all the powers, authorities, privileges, and remuneration allowed to the Clerk to be appointed as aforesaid.

Clerk *pro tem*.

XIII. And be it enacted, that any Summons, Subpœna, or Execution which the said Commissioner shall issue, under and for the purposes of this Act, may be in the form prescribed in the Appendix hereunto annexed.

Form of Summons, Subpœna or Execution.

XIV. And be it enacted, that in case there shall at any time be no Justice of the Peace residing on the said Islands, all the powers, authorities and duties hereby conferred upon or required from such Justice of the Peace shall be held, possessed, enjoyed or performed by the Senior Missionary resident on the said Islands.

XV. And be it enacted, that this Act shall be and remain in force until the first day of May, one thousand eight hundred and and forty-four, and thence until the end of the then next ensuing Session of the Legislature. and no longer.

Duration of this Act.

XVI. And be it enacted, that any Laws in force in that part of the Province called Lower Canada, repugnant to this Act, shall, in so far as they relate to the Magdalen Islands, be suspended during this Act and no longer.

APPENDIX.

APPENDIX.

(FORM OF SUMMONS.)

Province of Canada, }
Magdalen Islands. } COMMISSIONER'S COURT.

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

To all and every the Bailiffs, Constables, and other Officers within the Magdalen Islands,

GREETING :

IN Her Majesty's name, you are hereby commanded to summon
of the Magdalen Islands, if he may be found therein, to be and
appear, at Amherst Harbour, at the domicile of before
our Commissioner for the trial of certain causes or actions of a personal
nature arising in the said Magdalen Islands, on the day of
at of the clock noon, then and there
to answer of in a demand for the
sum of and whereof an account in detail is hereunto
annexed, and do you make your return of this Summons with your doings thereon,
on or before the said day.

WITNESS, our said Commissioner at this
day of in the year of our Reign, and
in the year of our Lord one thousand eight hundred and

[L. S.]

Commissioner.

(FORM OF SUBPÆNA.)

Province of Canada, }
Magdalen Islands. } COMMISSIONER'S COURT.

To

GREETING :—

I command you, that laying aside all and singular business and excuses, you and

and each of you be and appear in your proper person, before me, Her Majesty's Commissioner for the Magdalen Islands, at Amherst Harbour, at the domicile of _____ on _____ the _____ day of _____ at _____ o'clock in the _____ noon, then and there to testify all and singular those things which you or either of you know in a certain cause between _____ plaintiff, and _____ defendant, before me the said Commissioner; and this you or either of you shall by no means omit, under the penalties of the law.

Given under my hand and seal, at _____

this

[L. S.]

Commissioner.

(FORM OF A WARRANT OF EXECUTION.)

Province of Canada, }
Magdalen Islands. } COMMISSIONER'S COURT.

To all and every the Bailiffs, Constables, and other Officers within the Magdalen Islands:

WHEREAS A. B. of _____ did, on the _____ day of _____ before me, Her Majesty's Commissioner for the trial of certain causes or actions of a personal nature, arising in the said Magdalen Islands, recover Judgment against _____ of the said Islands, for the sum of _____ for his debt, and _____ for his costs, of which (or of so much as may remain due), execution remains to be done: You are therefore hereby commanded in Her Majesty's name to levy of the goods and chattels of the said _____ (except his beast of the plough, his implements of husbandry, the tools of his trade, his fishing gear and tackle, unless the other goods and chattels shall prove insufficient, and not in any case the bed and bedding, nor the necessary wearing apparel of him or his family, nor any cow, sheep, or hog, or any stove or firewood exempted by law from seizure,) the aforesaid sum and costs, together with _____ for the expenses of this execution, returning to the said _____ the overplus, if any there be, after having fully satisfied the aforesaid sum of _____

WITNESS

Persons, in that District, shall be, and the same are hereby continued, and shall remain in full force and effect, in that part of the Province heretofore called Upper Canada, until the first day of November, which will be in the year of our Lord one thousand eight hundred and forty four, and thence to the end of the next Session of the Parliament of this Province, and no longer, any thing in the said Act to the contrary notwithstanding.

III. And be it enacted, that the Act of the Legislature of that part of this Province called Upper Canada, passed in the seventh year of the Reign of His late Majesty William the Fourth, intituled *An Act to establish Agricultural Societies, and to encourage Agriculture in the several Districts of this Province*, shall be, and the same is hereby continued, and shall remain in full force and effect, in that part of the Province heretofore called Upper Canada, until the first day of November, which will be in the year of our Lord one thousand eight hundred and forty-four, and thence to the end of the next Session of the Parliament of this Province, and no longer, any thing in the said Act to the contrary notwithstanding.

7. W. 4. Cap.
23.

C A P. XXIV.

An Act for improving the administration of Criminal Justice in this Province.

[18th September, 1841.]

WHEREAS it is expedient, with a view to improve the administration of Justice in Criminal Cases in this Province, to define under what circumstances persons may be admitted to bail in cases of Felony; and to make better provision for taking examinations, informations, bailments and recognizances, and returning the same to the proper tribunals; and to relax in some instances the technical strictness of criminal proceedings, so as to insure the punishment of the guilty without depriving the accused of any just means of defence; and to abolish the benefit of clergy and some matters of form which impede the due administration of Justice; and to make better provision for the punishment of offenders in certain cases; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted, by the authority of the same, that where any person shall be taken on a charge of felony, or suspicion

Preamble.

Who may be
admitted to
bail on a charge

of felony, and
who may not.

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 the manner hereinafter mentioned; but if there shall be only one Justice present, and the whole evidence given before him shall 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, and such person 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 the opinion of such Justices, not be such as to raise a strong presumption of the guilt of the person charged, and to require the committal of such person, or such evidence shall be adduced on behalf of the person charged as shall, in the opinion of such Justices, weaken the presumption of guilt, but there shall, notwithstanding, appear to such justices, in either of such cases, to be sufficient ground for judicial inquiry into the guilt of the person charged, such person 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 such Justice or Justices to hear evidence on behalf of any person so charged as aforesaid, unless it shall appear to such Justice or Justices, to be meet and conducive to the ends of justice to hear the same.

Before any
person charged
with felony &c.
shall be bailed
or committed,
the Justice
shall take down
in writing the
examination
&c., and bind
witnesses to
appear at trial.

II. And be it enacted, that two Justices of the Peace, before they shall admit to bail, and one or more 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 shall put the same, or as much thereof as shall be material, 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 admitting to bail shall certify the bailment in writing; and every such Justice shall have authority to summon any person within his jurisdiction, whom he shall have reason to consider capable of giving material evidence concerning any such felony or suspicion of felony, and to examine such person on oath, touching the same, and 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, or Gaol Delivery, or other Court at which the trial of such offence is intended to be had, then and there to prosecute and give evidence against the party accused; and such Justices and Justice, respectively, shall subscribe all such examinations, informations

tions, bailments, and recognizances, and deliver, or cause to be delivered the same to the proper officer of the Court in which the trial is to be, before, or at the opening of the Court; and in case any person so summoned shall refuse to submit to such examination or to enter into such recognizance, it shall be lawful for the Justice or Justices to commit such person to the common Gaol of the District, County, City or Town, until such person shall submit to such examination, or shall enter into such recognizance, or be discharged by due course of law: Provided that no such examination shall subject the party examined to any prosecution or penalty, or be given in evidence against such party, save on any indictment for having committed wilful and corrupt perjury in such examination.

Examinations
&c., to be delivered to the
Court.

III. And be it enacted, 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 person charged, and the information upon oath of those who shall know the facts and circumstances of the case, and shall put the same, or as 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 against the party accused in like manner as in cases of felony; and shall subscribe all examinations, informations, bailments, and recognizances, and deliver or cause to be delivered the same to the proper Officer of the Court in which the trial is to be, before, or at the opening of the Court, in like manner as in cases of felony, and that no traverse or other postponement of any trial thereupon had, shall be allowed except upon special cause shewn to the satisfaction of the said Court or by consent of the prosecutor.

Duty of Jus-
tices on charges
of misde-
meanor.

No traverse
allowed.

IV. And be it enacted, that every Coroner, upon any inquisition taken before him, 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 as 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 know or declare any thing material touching the said manslaughter or murder, or the said offence of being accessory to murder, to appear at the next Court of Oyer and Terminer, or Gaol Delivery, or other Court at which the trial is to be, then and there to prosecute or give evidence against the party charged; and every such Coroner shall certify and subscribe the same evidence, and all such recognizances, and also the inquisition before him taken, and shall deliver the same to the proper Officer of the Court in which the trial is to be, before, or at the opening of the Court.

Duty of
Coroner.

V.

When party committed wishes to be bailed, the Justices on notice thereof to forward all informations to Clerk of the Crown.

V. And be it enacted, 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 Her Majesty's Court of Superior Jurisdiction for that part of the Province in which such person stands committed, 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, with all convenient expedition 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 informations, examinations, and other evidences, touching the offence wherewith 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 it shall be certified on the outside thereof to contain the information touching the case in question.

Same orders to be made as in Habeas Corpus.

VI. And be it enacted, that upon any application to Her Majesty's Court of Superior Criminal Jurisdiction, for that part of the Province within which such person stands committed, or to any Judge thereof, the same order touching the Prisoner being bailed or continued in custody, shall be made as if the party were brought up upon a Habeas Corpus.

Penalty on Justices and Coroners.

VII. And be it enacted, that if any Justice or Coroner shall neglect or offend in any thing contrary to the true intent and meaning of any of the provisions of this Act, it shall be lawful for the Court to whose Officer any such examination, information, evidence, bailment, recognizance, or inquisition ought to have been delivered, and such Court is hereby authorised and required, upon examination and proof of the offence, in a summary manner, to set such fine upon every such Justice or Coroner as the Court shall think meet.

Provisions to apply to all Justices and Coroners.

VIII. And be it enacted, that the provisions of this Act relating to Justices and Coroners, shall apply to the Justices and Coroners, not only of Districts and Counties at large, but also of all other jurisdictions.

Persons tried for felony to have benefit of Counsel.

IX. And be it enacted, that all persons tried for felonies shall be admitted, after the close of the case for the prosecution, to make full answer and defence thereto by Counsel, learned in the law, or by Attorney in the Courts where Attornies practice as Counsel.

Same in cases

X. And be it enacted, that in all cases of summary conviction, persons accused shall

shall be admitted to make their full answer and defence, and to have all witnesses examined and cross-examined by Counsel or Attorney.

of summary conviction.

XI. And be it enacted, 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, or other Court, it shall and may be lawful for the Court before whom such Prisoners shall be required to attend, in its discretion to make 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.

Orders for delivery of prisoners to be tried at Assizes.

Proviso.

XII. And be it enacted, that all persons who, after the passing of this Act, shall be held to bail or committed to prison for any offence against the law, shall be entitled to require and have on demand (from the person who shall have the lawful custody thereof and who is hereby required to deliver the same,) copies of the examinations of the witnesses, respectively, upon whose depositions they have been so held to bail, or committed to prison, on payment of a reasonable sum for the same, not exceeding three pence for each folio of one hundred words: Provided always, that if such demand shall not be made before the day appointed for the commencement of the Assize or Sessions at which the trial of the person on whose behalf such demand shall be made, is to take place, such person shall not be entitled to have any copy of such examination of witnesses, unless the Judge or other person to preside at such trial, shall be of opinion that such copy may be made and delivered without delay or inconvenience to such trial, but it shall, nevertheless, be competent for such Judge or other person so to preside at such trial, if he shall think fit, to postpone such trial on account of such copy of the examination of witnesses not having been previously had by the party charged.

Prisoners entitled to copies of depositions against them.

XIII. And be it enacted, that all persons under trial shall be entitled, at the time of their trial, to inspect without fee or reward all depositions (or copies thereof) which have been taken against them, and returned into the Court before which such trial shall be had.

Persons under trial may inspect all depositions.

XIV. And be it enacted, that if any person, whatever, being arraigned upon any indictment for treason, felony, or piracy, shall plead thereto a plea of "not guilty," such person shall, by such plea, without any further form, be deemed to have put himself

A plea of not guilty without more shall put the prisoner on his trial by Jury.

himself or herself upon the Country for trial, and the Court shall, in the usual manner, order a Jury for the trial of such person accordingly.

If he refuse to plead, the Court may order a plea of "not guilty" to be entered.

XV. And be it enacted, that if any person, being being arraigned upon or charged with any Indictment or information for Treason, Felony, Piracy, or Misdemeanor, shall stand mute of malice, or will not answer directly to the Indictment or information, 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.

Every challenge beyond the legal number shall be void.

XVI. And be it enacted, that if any person indicted for any Treason, Felony, or Piracy, 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 shall proceed as if no such challenge had been made.

Attainder of another crime not pleadable.

XVII. And be it enacted, that no plea setting forth any Attainder shall be pleaded in bar of any Indictment, unless the Attainder be for the same offence as that charged in the Indictment.

Jury shall not inquire of prisoner's lands &c., nor whether he fled.

XVIII. And be it enacted, that where any person shall be indicted for Treason or Felony, the Jury impanelled to try such person shall not be charged to inquire concerning his lands, tenements or goods, nor whether he fled for such Treason or Felony.

Benefit of Clergy abolished.

XIX. And be it enacted, that benefit of Clergy with respect to persons convicted of Felony shall be abolished; but that nothing herein contained shall prevent the joinder in any Indictment of any counts which might have been joined before the passing of this Act.

What felonies only shall be capital.

XX. And be it enacted, that no person convicted of Felony shall suffer Death, unless it be for some Felony which was excluded from the benefit of Clergy by the Law in force in that part of this Province in which the trial shall be before the commencement of this Act, or which shall be made punishable with death by some Act passed after that day.

Every punishment for felony after it has been endured shall

XXI. And whereas it is expedient to prevent all doubts respecting the civil rights of persons convicted of Felonies not capital, who have undergone the punishment to which they were adjudged; be it therefore enacted, that where any offender

offender had been or shall be convicted of any Felony not punishable with death, and hath endured or shall endure the punishment to which such offender hath been or shall be adjudged for the same, the punishment so endured hath and shall have the like effects and consequences as a pardon under the Great Seal as to the Felony whereof the offender was so convicted: Provided always, that nothing herein contained, nor the enduring of such punishment, shall prevent or mitigate any punishment to which the offender might otherwise be lawfully sentenced, on a subsequent conviction for any other Felony.

have the effect of a pardon under the great seal.

XXII. And whereas there are certain Misdemeanors which render the parties convicted thereof incompetent witnesses, and it is expedient to restore the competency of such parties after they have undergone their punishment; be it therefore enacted, that where any offender hath been or shall be convicted of any such Misdemeanor (except Perjury or subornation of Perjury) and hath endured or shall endure the punishment to which such offender hath been or shall be adjudged for the same, such offender shall not, after the punishment so endured, be deemed to be by reason of such Misdemeanor an incompetent witness in any Court or proceeding Civil or Criminal.

No misdemeanor (except perjury) shall render a party an incompetent witness after he has undergone the punishment.

XXIII. And be it enacted, that in all cases in which any person shall be charged with Felony, the Officers of the Court before which such person shall be tried, or any proceeding had with regard to such charge, and who shall render any official services in the matter of such charge, or in the course of such trial, to the person so charged with Felony, shall be paid their lawful Fees for all such services out of the Public Funds, in the same manner as other Fees due and payable to them in respect of official services, by them rendered to the Crown, in the conduct of Public prosecutions, are now paid, and no such Fees shall in any case be demanded of or payable by the person charged with such Felony.

Clerk to be paid fees from public funds.

XXIV. And be it enacted, that every person convicted of any Felony not punishable with death, shall be punished in the manner prescribed by the Statute or Statutes specially relating to such Felony; and that every person convicted of any Felony for which no punishment hath been or hereafter may be specially provided, shall be deemed to be punishable under this Act, and shall be liable, at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary for any term not less than seven years, or to be imprisoned in any other prison or place of confinement for any term not exceeding two years.

Felonies not capital, punishable under the Act relating thereto, otherwise under this Act.

XXV. And be it enacted, that if any person sentenced or ordered, or hereafter to be sentenced or ordered, to be transported, or who shall have agreed or shall agree to transport or banish himself or herself on certain conditions, either for life

Persons returning from transportation

or

may be tried
where found
&c.

or for any number of years, shall be afterwards at large within any part of this Province, contrary to such sentence, order or agreement, without some lawful cause, before the expiration of his or her term of transportation or banishment, every such offender shall be guilty of Felony, and shall be liable to be transported beyond the Seas, for his or her natural life, and previously to transportation shall be imprisoned for any term not exceeding four years; and every such offender may be tried either in the District, County, or Place where such offender shall be found at large, or in the District, County, or Place, in or at which such sentence, or order of transportation or banishment was passed or made.

Allegation of
sentence &c.
of transporta-
tion sufficient,
without refer-
ence to in-
dictment.

XXVI. And be it enacted, that in any Indictment or information against any offender for being at large in this Province contrary to the provisions of this Act, or of any other Act hereafter to be in force in this Province, it shall be sufficient to allege the sentence or order of transportation or banishment of such offender, without alleging any indictment, information, trial, conviction, judgment or other proceeding, or any pardon or intention of mercy, or signification thereof, of or against or in any manner relating to such offender.

Certificate of
the sentence,
by the Clerk of
the Court, suf-
ficient evi-
dence, &c.

XXVII. And be it enacted, that the Clerk of the Court or other Officer having the custody of the Records of the Court where any such sentence or order of transportation or banishment shall have been passed or made, or his Deputy, shall, at the request of any person on behalf of Her Majesty, make out and give a certificate in writing, signed by him, containing the effect and substance only (omitting the formal part) of any indictment, information, and conviction of such offender, and of the sentence or order for his or her transportation or banishment, (not taking for the same more than the sum of five shillings,) which certificate shall be sufficient evidence of the conviction and sentence or order for the transportation or banishment of such offender; and every such certificate shall be received in evidence upon proof of the signature of the person signing the same.

The Court may
order hard la-
bor or solitary
confinement as
part of the sen-
tence of impri-
sonment.

XXVIII. And be it enacted, that where any person shall be convicted of any offence punishable under this Act, for which imprisonment may be awarded, it shall be lawful for the Court to sentence the offender to be imprisoned, or to be imprisoned and kept to hard labour in the Common Gaol, or House of Correction, and also to direct that the offender shall be kept in solitary confinement, for any portion or portions of the term of such imprisonment or of such imprisonment with hard labour, not exceeding one month at any one time, and not exceeding three months in any one year, as to the Court, in its discretion, shall seem meet.

If a person
under sentence
for another
crime is con-

XXIX. And be it enacted, that whenever sentence shall be passed for Felony on a person already imprisoned under sentence for another crime, it shall be lawful

lawful for the Court to award imprisonment for the subsequent offence, to commence at the expiration of the imprisonment to which such person shall have been previously sentenced ; and where such person shall be already under sentence of imprisonment, the Court may award such sentence for the subsequent offence, to commence at the expiration of the imprisonment to which such person shall have been previously sentenced, although the aggregate term of imprisonment may exceed the term for which such punishment could be otherwise awarded.

victed of Felony the Court may pass a second sentence to commence after the expiration of the first.

XXX. And whereas it is expedient to provide for the more exemplary punishment of offenders who commit Felony after a previous conviction for Felony, whether such conviction shall have taken place before or after the commencement of this Act ; Be it therefore enacted, that if any person shall be convicted of any Felony not punishable with death, committed after a previous conviction for Felony, such person shall on such subsequent conviction be liable, at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary for any term not less than seven years, or to be imprisoned in any other prison or place of confinement for any term not exceeding two years ; and in any Indictment for any such Felony committed after a previous conviction for Felony, it shall be sufficient to state that the offender was at a certain time and place convicted of Felony, without otherwise describing the previous felony ; and a certificate containing the substance and effect only, (omitting the formal part) of the Indictment and conviction for the previous Felony, purporting to be signed by the Clerk of the Court or other Officer having the custody of the Records of the Court where the offender was first convicted, or by the Deputy of such Clerk or Officer, (for which certificate a fee of five shillings and no more, shall be demanded or taken,) shall upon proof of the identity of the person of the offender be sufficient evidence of the first conviction, without proof of the signature or official character of the person appearing to have signed the same ; and if any such Clerk, Officer, or Deputy shall utter any false certificate of any Indictment and conviction for a previous Felony, or of any sentence or order of transportation or banishment, or if any person, other than such Clerk, Officer, or Deputy, shall sign any such certificate as such Clerk, Officer or Deputy, or shall utter any such certificate with a false or counterfeit signature thereto, every such offender shall be guilty of Felony, and being lawfully convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary for any term not less than seven years, or to be imprisoned in any other Prison or place of confinement for any term not exceeding two years.

Punishment for a subsequent offence.

XXXI. And whereas it is expedient to abolish the Punishment of the Pillory ; Be it therefore enacted, that from and after the commencement of this Act, Judgment shall not be given and awarded against any person or persons convicted of any

Punishment of the Pillory abolished.

any offence, that such person or persons do stand in or upon the Pillory, any Law, Statute or usage to the contrary notwithstanding : Provided that nothing herein contained shall extend or be construed to extend in any manner to change, alter or affect any punishment whatever which may now be by Law inflicted in respect of any offence, excepting only the Punishment of the Pillory.

No Report: to be made to the Governor of the case of any capital convict.

XXXII. And be it enacted, that from and after the commencement of this Act, it shall not be necessary that any Report should be made to the Governor, Lieutenant Governor or Person administering the Government, in the case of any prisoner convicted before any Court and now under sentence of death, or who may be hereafter convicted before any Court and sentenced to the like punishment, previously to such sentence being carried into execution ; any Law, Usage, or Custom to the contrary notwithstanding.

The Court may abstain from pronouncing judgment on persons convicted of crimes liable to the punishment of death ; and order the same to be entered of record.

XXXIII. And be it enacted, that whenever any offender shall hereafter be convicted before any Court of Criminal Judicature, of any crime for which such offender shall be liable to the punishment of Death, and the Court shall be of opinion that, under the particular circumstances of the case, such offender is a fit and proper subject to be recommended for 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 the Court, to require and ask, (whereupon such Officer shall require and ask) whether 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 arrest or bar such Judgment, the Court shall and may, and is hereby authorized 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 proper 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 form, 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 by the Court.

Such record to have the same effect as if pronounced.

XXXIV. And be it enacted, that a Record of every such Judgment so entered, as aforesaid, shall have the like effect to all intents, and be followed by all the same consequences as if such Judgment had actually been pronounced in open Court.

Court to direct execution in certain cases.

XXXV. And be it enacted, that whenever any offender shall hereafter be convicted before any Court of Criminal Judicature, of any offence for which such offender shall be liable to and shall receive Sentence of Death, and the Court shall be of opinion that, under the circumstances of the case, the Judgment of the Law ought

ought to be carried into effect, it shall be lawful for the said Court, and such Court is hereby required, to order and direct execution to be done on such offender in the same manner as any Court is empowered to order and direct execution by the Law as it stood before the passing of this Act.

XXXVI. Provided always, and be it enacted, that nothing in this Act contained shall affect Her Majesty's Royal Prerogative of Mercy.

Not to affect the Royal Prerogative.

XXXVII. And for the more effectual prosecution of accessories before the fact to Felony, Be it enacted, that if any person shall counsel, procure or command any other person to commit any Felony, whether the same be a Felony at Common Law, or by virtue of any Statute or Statutes made or to be made, the person so counselling, procuring, or commanding, shall be deemed guilty of Felony, and may be indicted and convicted as an accessory before the fact to the principal Felony, either together with the principal Felon, or after the conviction of the principal Felon; or may be indicted for and convicted of a substantive Felony, whether the principal Felon shall or shall not have been previously convicted, or shall or shall not be amenable to Justice, and may be punished in the same manner as any accessory before the fact to the same Felony, if convicted as an accessory, may be punished; and the offence of the person so counselling, procuring, or commanding, howsoever indicted, may be inquired of, tried, determined, and punished by any Court which shall have jurisdiction to try the principal Felon, in the same manner as if such offence had been committed at the same place as the principal Felony, although such offence may have been committed either on the High Seas or at any place on land, whether within Her Majesty's Dominions or without; and in case the principal Felony shall have been committed within the body of any District or County, and the offence of counselling, procuring, or commanding shall have been committed within the body of any other District or County, the last mentioned offence may be enquired of, tried, determined, and punished in either of such Districts or Counties: Provided always, that no person who shall be once duly tried for any such offence, whether as an accessory before the fact, or as for a substantive Felony, shall be liable to be again indicted or tried for the same offence.

Accessory before the fact may be tried as such, or as a substantive Felon, by any Court which has jurisdiction to try the principal felon, although the offence be committed on the seas or abroad.

If the offence be committed in different districts and counties, accessory may be tried in either.

XXXVIII. And for the more effectual prosecution of accessories after the fact of Felony, Be it enacted, that if any person shall become an accessory after the fact to any Felony, whether the same be a Felony at Common Law, or by virtue of any Statute or Statutes made or to be made, the offence of such person may be inquired of, tried, determined, and punished by any Court which shall have jurisdiction to try the principal Felon, in the same manner as if the act by reason whereof such person shall have become an accessory had been committed at the same

Accessory after the fact may be tried by any Court which has jurisdiction to try the principal felon.

If the offence be committed in different districts or counties, accessory may be tried in either.

same place as the principal Felony, although such act may have been committed either on the High Seas, or at any place on land, whether within Her Majesty's Dominions or without; and in case the principal Felony shall have been committed within the body of any District or County, and the act by reason whereof any person shall have become accessory, shall have been committed within the body of any other District or County, the offence of such accessory may be enquired of, tried, determined and punished in either of such Districts or Counties: Provided always, that no person who shall be once duly tried for any offence of being an accessory shall be liable to be again indicted or tried for the same offence.

Accessory may be prosecuted after conviction of the principal, though the principal be not attainted.

XXXIX. And in order that all accessories may be convicted and punished in cases where the principal Felon is not attainted, Be it enacted, that if any principal offender shall be in anywise convicted of any Felony, it shall be lawful to proceed against any accessory either before or after the fact, in the same manner as if such principal Felon had been attainted thereof, notwithstanding such principal Felon shall die, or be pardoned, or otherwise delivered before attainer; and every such accessory shall suffer the same punishment, if such accessory be in anywise convicted, as such accessory should have suffered if the principal had been attainted.

Offences committed on the boundaries of districts and counties may be tried in either.

XL. And for the more effectual prosecution of offences committed near the boundaries of Districts or of Counties, or partly in one District or County and partly in another, Be it enacted, that where any Felony or Misdemeanor shall be committed on the boundary or boundaries of two or more Districts or Counties, or within the distance of five hundred yards of any such boundary or boundaries, or shall be begun in one District or County and completed in another, every such Felony or Misdemeanor may be dealt with, inquired of, tried, determined, and punished in any of the said Districts or Counties, in the same manner as if it had been actually and wholly committed therein.

Offences committed during a journey or voyage, may be tried in any county or district through which the coach &c. passed.

XLI. And for the more effectual prosecution of offences committed during journeys from place to place, Be it enacted, that where any Felony or Misdemeanor shall be committed on any person, or on or in respect of any property, in or upon any coach, waggon, cart, or other carriage, whatever, employed in any journey, or shall be committed on any person, or on or in respect of any property, on board any vessel whatever employed in any voyage or journey upon any navigable river, canal, or inland navigation, such Felony or Misdemeanor may be dealt with, inquired of, tried, determined, and punished in any District or County through any part whereof such coach, waggon, cart, carriage, or vessel shall have passed in the course of the journey or voyage, during which such Felony or Misdemeanor shall have been committed, in the same manner as if it had been actually committed in such

such District or County; and in all cases where the side, centre or other part of any highway, or the side, bank, centre or other part of any such river, canal, or navigation, shall constitute the boundary of any two Districts or Counties, such Felony or Misdemeanor may be dealt with, inquired of, tried, determined, and punished in either of such Districts or Counties, through or adjoining to or by the boundary of any part whereof such coach, waggon, cart, carriage, or vessel, shall have passed in the course of the journey or voyage, during which such Felony or Misdemeanor shall have been committed, in the same manner as if it had been actually committed in such District or County.

When sides, &c. of highway constitute boundary, offender may be tried in either district or county.

XLII. And in order to remove the difficulty of stating the names of all the owners of property, in the case of partners and other joint owners, Be it enacted, that in any Indictment or Information for any Felony or Misdemeanor, wherein it shall be requisite to state the ownership of any property whatsoever, whether real or personal, which shall belong to or be in the possession of more than one person, whether such persons be partners in trade, joint tenants, parceners or tenants in common, it shall be sufficient to name one of such persons, and to state such property to belong to the person so named and another or others, as the case may be; and whenever in any Indictment or Information for any Felony or Misdemeanor, it shall be necessary to mention for any purpose whatsoever, any partners, joint tenants, parceners, or tenants in common, it shall be sufficient to describe them in the manner aforesaid; and this provision shall be construed to extend to all joint-stock companies and trustees.

In Indictments for offences committed on the property of partners, it may be laid in any one partner by name, and others.

XLIII. And be it enacted, that in any Indictment or Information for any Felony or Misdemeanor committed in, upon, or with respect to any Church, Chapel, or Place of Religious Worship, or to any Bridge, Court, Court-house, Gaol, House of correction, Penitentiary, Infirmary, Asylum, or other public building, or any canal, lock, drain or sewer erected or maintained in whole or in part at the expense of the Province, or of any division or sub-division thereof, or on or with respect to any materials, goods, or chattels, whatsoever, provided for or at the expense of the Province, or of any division or sub-division thereof, to be used for making, altering or repairing any bridge or highway, or any Court or other such building, canal, lock, drain, or sewer as aforesaid, or to be used in or with any such Court or other building, canal, lock, drain, or sewer, it shall not be necessary to state such Church, Chapel, or Place of Religious Worship, or such Bridge, Court, Court-House, Gaol, House of Correction, Penitentiary, Infirmary, Asylum, or other building, or such canal, lock, drain, or sewer, or any such materials, goods, or chattels to be the property of any person.

In Indictments for felonies &c. relating to Churches, bridges, or public buildings, property need not be stated as being in any person.

XLIV. And with respect to property under turnpike trusts; Be it enacted that
in

Property of
Turnpike Trustees
may be
laid in Trustees
&c.

in any Indictment or information for any Felony or Misdemeanor, committed on or with respect to any house, building, gate, machine, lamp, board, stone, post, fence or other thing erected or provided, in pursuance of any Act in force in this Province, for making any turnpike road, or of any conveniences or appurtenances thereunto respectively belonging, or any materials, tools or implements provided for making, altering, or repairing any such road, it shall be sufficient to state any such property to belong to the Trustees or Commissioners of such road, and it shall not be necessary to specify the names of any such Trustees or Commissioners.

Indictments
not to abate by
dilatatory plea of
misnomer, &c.

XLV. And for preventing abuses from dilatatory pleas, Be it enacted, that no Indictment or Information shall be abated by reason of any dilatatory plea of misnomer, or of want of addition, or of wrong addition of any party offering such plea, if the Court shall be satisfied, by affidavit or otherwise, of the truth of such plea; but in such case the Court shall forthwith cause the Indictment or Information to be amended according to the truth, and shall call upon such party to plead thereto, and shall proceed as if no such dilatatory plea had been pleaded.

What defects
shall not vitiate
an indictment
after verdict or
otherwise.

XLVI. And in order that the punishment of offenders may be less frequently intercepted in consequence of technical niceties, Be it enacted, that no Judgment upon any Indictment or Information for any Felony or Misdemeanor, whether after verdict or outlawry, or by confession, default or otherwise, shall be stayed or reversed for want of the averment of any matter unnecessary to be proved, nor for the omission of the words, "as appears by the record," or of the words "with force and arms," or of the words, "against the peace," nor for the insertion of the words "against the form of the Statute," instead of the words, "against the form of the Statutes" or *vice versa*, nor for that any person or persons mentioned in the Indictment or Information is or are designated by a name of office or other descriptive appellation, instead of his, her or their proper name or names, nor for omitting to state the time at which the offence was committed, in any case where time is not of the essence of the offence, nor for stating the time imperfectly, nor for stating the offence to have been committed on a day subsequent to the finding of the Indictment, or exhibiting the Information, or on an impossible day, or on a day that never happened, nor for a want of a proper or perfect venue, where the Court shall appear by the Indictment or Information to have had jurisdiction over the offence.

Certain formal
defects shall
not stay or re-
verse judgment
after verdict.

XLVII. And be it enacted, that no Judgment after verdict upon any Indictment or Information for any Felony or Misdemeanor, shall be stayed or reversed for want of a similitur, nor by reason that the Jury process has been awarded to a wrong Officer upon an insufficient suggestion, nor for any misnomer or misdescription of the Officer returning such process, or of any of the Jurors, nor because any
person

person has served upon the Jury who has not been returned as a Juror by the Sheriff or other Officer; and that where the offence charged shall be an offence theretofore created by any Statute, or subjected to a greater degree of punishment, or excluded from the benefit of Clergy, by any Statute, the Indictment or Information shall after verdict be held sufficient if it describe the offence in the words of the Statute creating the offence, or prescribing the punishment, or excluding the offender from the benefit of Clergy.

XLVIII. And be it declared and enacted, that where the Queen's Majesty, or the Governor, Lieutenant Governor, or Person administering the Government of this Province for the time being, shall be pleased to extend the Royal Mercy to any offender convicted of any Felony, punishable with death or otherwise, and by warrant under the Royal Sign Manual, countersigned by one of the Principal Secretaries of State, or by warrant under the hand and seal at arms of such Governor, Lieutenant Governor, or Person administering the Government as aforesaid, shall grant to such offender either a free or a conditional pardon, the discharge of such offender out of custody, in case of a free pardon, and the performance of the condition in the case of a conditional pardon, shall have the effect of a pardon under the Great Seal for such offender, as to the Felony for which such pardon shall have been granted: Provided always, that no free pardon, or any such discharge in consequence thereof, nor any conditional pardon, nor the performance of the condition thereof, in any of the cases aforesaid, shall prevent or mitigate the punishment to which the offender might otherwise be lawfully sentenced, on a subsequent conviction for any Felony committed after the granting of any such pardon.

Effect of a free or conditional pardon of a convict.

XLIX. And whereas the practice of indiscriminately estreating recognizances for the appearance of persons to prosecute or give evidence, or to answer for a common assault, or in the other cases hereinafter specified, has been found in many instances productive of hardship to persons who have entered into such recognizances; Be it therefore enacted, that in every case where any person bound by recognizance for his or her appearance, (or for whose appearance any other person shall be so bound) to prosecute or give evidence in any case of Felony or Misdemeanor, or to answer for any common assault, or to articles of the peace, shall therein make default, the officer of the Court by whom the estreats are made out, shall, and such Officer is hereby required to prepare a list in writing, specifying the name of every person so making default, and the nature of the offence in respect of which every such person, or his or her surety was so bound, together with the residence, trade, profession, or calling of every such person and surety, and shall in such list distinguish the principals from the sureties, and shall state the cause, if known, why each such person has not appeared, and whether by reason

Recognizances in certain cases not to be estreated without a Judge's order.

reason of the non-appearance of such person, the ends of Justice have been defeated or delayed ; and every such Officer shall, and such Officer is hereby required, before any such recognizance shall be estreated, to lay such list, if at a Court of Oyer and Terminer or Gaol Delivery in any District or County, or at any of Her Majesty's Superior Courts of Record in this Province, before one of the Justices of those Courts, respectively, or if at a Session of the Peace, before two of the Justices of the Peace, who shall have attended such Courts, who are respectively authorized and required to examine such list, and to make such order touching the estreating or putting in process any such recognizance as shall appear to them, respectively, to be just ; and it shall not be lawful for the Officer of any Court to estreat or put in process any such recognizance without the written order of the Justice, or Justices of the Peace before whom respectively such list shall have been laid.

Rule for the interpretation of this and all criminal acts.

L. And be it enacted, that wherever in this Act or in any other Act relating to any offence, whether punishable upon Indictment or summary conviction, in describing or referring to the offence or the subject matter on or with respect to which it shall be committed, or the offender or the party affected or intended to be affected by the offence, any word or words have been or shall be used or employed importing the singular number or the masculine gender only, every such Act shall be understood to include several matters of the same kind, as well as one matter, and several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction ; and wherever any forfeiture or penalty is or shall be made payable to a party aggrieved, it shall be payable to a body corporate in every case where such a body shall be the party aggrieved.

All Acts repugnant to this Act repealed.

LI. And be it enacted, that all Acts or parts of Acts or provisions of Law in force in this Province, or any part thereof, immediately before the time when this Act shall come into force, which shall be inconsistent with or contradictory to this Act, or which make any provision in any matter provided for by this Act, other than such as is hereby made in such matter, shall from and after the time when this Act shall come into force, be and they are hereby repealed, except in so far as may relate to any offence committed before the commencement of this Act, which shall be dealt with and punished as if this Act had not been passed.

From what period the imprisonment is to be reckoned.

LII. And be it enacted, that the period of imprisonment in the Provincial Penitentiary, in pursuance of any sentence passed under this Act or under any other Act relating to the punishment of offences by confinement and imprisonment in the Provincial Penitentiary, shall be held to commence from the period of passing

passing such sentence, whether the convict upon whom such sentence shall be passed shall be removed to the said Provincial Penitentiary forthwith, or be detained in custody in any other prison or place of confinement, previously to such removal.

LIII. And be it enacted, that this Act shall commence and take effect from and after the first day of January one thousand eight hundred and forty two.

Commencement of this Act.

C A P. XXV.

An Act for consolidating and amending the Laws in this Province, relative to Larceny and other Offences connected therewith.

[18th September, 1841.]

WHEREAS it is expedient to amend and consolidate the provisions contained in various Statutes now in force in this Province, relative to Larceny and other offences of stealing, and to Burglary, Robbery, and threats for the purpose of Robbery or of Extortion, and to embezzlement, false pretences, and the receipt of stolen property; Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, that this Act shall commence from and after the first day of January, one thousand eight hundred and forty two.

Preamble.

Commencement of Act.

II. And be it enacted, that the distinction between Grand Larceny and Petty Larceny shall be abolished; and every Larceny, whatever be the value of the property stolen, shall be deemed to be of the same nature, and shall be subject to the same incidents in all respects, as Grand Larceny was before the commencement of this Act; and every Court whose power as to the trial of Larceny was, before the commencement of this Act, limited to Petty Larceny, shall have power to try every case of Larceny, the punishment of which cannot exceed the punishment hereinafter mentioned for simple Larceny, and also to try all accessories to such Larceny.

Distinction between Grand & Petty Larceny abolished; all Larceny shall be considered as Grand Larceny.

III. And be it enacted, that every person convicted of Simple Larceny, or of any felony

Punishments for simple Larceny, or felony punishable as such.

felony hereby made punishable like Simple Larceny, shall (except in the cases hereinafter otherwise provided for) be liable, at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary for any term not less than seven years, or to be imprisoned in any other prison or place of confinement for any term not exceeding two years.

For all offences under this Act, hard labour or solitary confinement may be added to imprisonment.

IV. And with regard to the place and mode of imprisonment for all indictable offences punishable under this Act;—Be it enacted, that where any person shall be convicted of any felony or misdemeanor punishable under this Act, for which imprisonment may be awarded, it shall be lawful for the Court to sentence the offender to be imprisoned, or to be imprisoned and kept to hard labour, in the Common Gaol, or House of Correction, and also to direct that the offender shall be kept in solitary confinement for any portion or portions of such imprisonment, or of such imprisonment with hard labour, not exceeding one month at any one time, and not exceeding three months in any one year, as to the Court in its discretion shall seem meet.

Stealing public or private securities for money, or warrants for goods, &c. shall be felony punishable according to the circumstances, as stealing goods.

V. And be it enacted, that if any person shall steal any tally, order, or other security whatsoever, entitling or evidencing the title of any person or body corporate to any share or interest in any public stock or fund, whether of this Province or of the United Kingdom of Great Britain and Ireland, or of any British Colony, or of any Foreign State or Colony, or in any fund of any body corporate, company or society, or to any deposit in any Savings Bank, or shall steal any debenture, deed, bond, bill, note, warrant, order, or other security whatsoever, for money or for payment of monies, whether of this Province or of Great Britain, or of any British Colony, or of any Foreign State or Colony, or shall steal any warrant or order for the delivery or transfer of any goods or valuable thing, every such offender shall be deemed guilty of felony, of the same nature and in the same degree, and punishable in the same manner, as if he had stolen any chattel of like value with the share, interest, or deposit to which the security so stolen may relate, or with the money due on the security so stolen or secured thereby and remaining unsatisfied, or with the value of the goods or other valuable thing mentioned in the warrant or order; and each of the several documents hereinbefore enumerated, shall, throughout this Act, be deemed for every purpose to be included under, and denoted by, the words "valuable security."

Rule of interpretation.

Punishment of robbery attended with cutting, &c.

VI. And be it enacted, that whosoever shall rob any person, and at the time of or immediately before or immediately after such robbery, shall stab, cut, or wound any person, shall be guilty of felony, and being convicted thereof shall suffer death.

VII.

VII. And be it enacted, that whosoever shall, being armed with any offensive weapon or instrument, rob, or assault with intent to rob any person, or shall, together with one or more person or persons, rob, or assault with intent to rob any person, or shall rob any person, and at the time of or immediately before or immediately after such robbery, shall beat, strike, or use any other personal violence to any person, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary for the term of his natural life, or for any term not less than seven years, or to be imprisoned in any other prison or place of confinement for any term not exceeding two years.

Of robbery
attended with
violence.

VIII. And be it enacted, that whosoever shall accuse or threaten to accuse, any person of the abominable crime of buggery, committed either with mankind or with beast, or of any assault with intent to commit the said abominable crime, or of any attempt or endeavour to commit the said abominable crime, or of making or offering any solicitation, persuasion, promise or threat to any person whereby to move or induce such person to commit or permit the said abominable crime, with a view or intent in any of the cases aforesaid, to extort or gain from such person, and shall by intimidating such person, by such accusation or threat, extort or gain from such person any property, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary for the term of his natural life, or for any term not less than seven years, or to be imprisoned in any other Prison or place of confinement for any term not exceeding two years.

Punishment
for obtaining
property by
threat of accus-
ing of unnatur-
al crimes.

IX. And be it enacted, that whosoever shall rob any person, or shall steal any chattel, money, or valuable security from the person of another, shall be liable, at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary for any term not exceeding fourteen years nor less than seven years, or to be imprisoned in any other prison or place of confinement for any term not exceeding two years.

Punishment
of stealing from
the person.

X. And be it enacted, that whosoever shall assault any person, with intent to rob, shall be guilty of felony, and being convicted thereof shall (save and except in cases where a greater punishment is provided by this Act,) be liable to be imprisoned for any term not exceeding three years.

Punishment
for assault with
intent to rob.

XI. And be it enacted, that whosoever shall, with menaces or by force, demand any chattel, money, or valuable security, of any person with intent to steal the same, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding three years.

Attempting
to obtain prop-
erty by men-
aces.

XII.

Sending letter containing menacing demands, to extort money, &c.

XII. And be it enacted, that if any person shall knowingly send or deliver any letter or writing, demanding of any person with menaces, and without any reasonable or probable cause, any chattel, money, or valuable security; or if any person shall accuse or threaten to accuse, or shall knowingly send or deliver any letter or writing, accusing or threatening to accuse any person of any crime punishable by law with death, or transportation, or of any assault with intent to commit any rape, or of any attempt or endeavor to commit rape with a view or intent to extort or gain from such person any chattel, money or valuable security, every such offender shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned at hard labour at the Provincial Penitentiary for any term not less than seven years, or to be imprisoned in any other prison or place of confinement for any term not exceeding two years.

Sacrilege when Capital.

XIII. And be it enacted, that if any person shall break and enter any Church or Chapel, and steal therein any chattel, or having stolen any chattel, money, or valuable security in any Church or Chapel shall break out of the same, every such offender being convicted thereof, shall be liable to be imprisoned at hard labour at the Provincial Penitentiary for any term not less than seven years, or to be imprisoned in any other prison or place of confinement for any term not exceeding two years.

Burglars using violence to suffer death.

XIV. And be it enacted, that whosoever shall burglariously break and enter into any dwelling house, and shall assault with intent to murder any person being therein, or shall stab, cut, wound, beat, or strike any such person, shall be guilty of felony, and being convicted thereof shall suffer death.

Punishment of Burglars.

XV. And be it enacted, that whosoever shall be convicted of the crime of burglary shall be liable, at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary for the term of his natural life, or for any term not less than seven years, or to be imprisoned in any other prison or place of confinement for any term not exceeding two years.

When breaking into a house considered burglary.

Burglary.

XVI. Provided always, and be it enacted, that so far as the same is essential to the offence of burglary, the night shall be considered and is hereby declared to commence at nine of the clock in the evening of each day, and to conclude at six of the clock in the morning of the next succeeding day: And it is hereby declared that if any person shall enter the dwelling house of another with intent to commit felony, or being in such dwelling house, shall commit any felony, and shall in either case break out of the said dwelling house in the night time, such person shall be deemed guilty of burglary.

XVII. And be it enacted, that whosoever shall steal any chattel, money or valuable

valuable security in any dwelling house, and shall by any menace or threat put any one, being therein, in bodily fear, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned at hard labour in the Provincial Penitentiary for any term not exceeding fourteen years nor less than seven years, or to be imprisoned in any other prison or place of confinement for any term not exceeding two years.

Stealing in a dwelling house with menaces.

XVIII. Provided always, and be it enacted, 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, or for any of the purposes aforesaid, unless there shall be a communication between such building and dwelling house, either immediate, or by means of a covered and inclosed passage leading from the one to the other.

What buildings only are part of a house for Capital purposes.

XIX. And be it enacted, that if any person, shall break and enter any building, and steal therein any chattel, money, or valuable security, such building being within the curtilage of a dwelling house, and occupied therewith, but not being part thereof, according to the provision hereinbefore mentioned, every such offender, being convicted thereof, (either upon an indictment for the same offence, or upon an indictment for burglary, house breaking, or stealing to the value of five pounds sterling, in a dwelling house, containing a separate count for such offence,) shall be liable to be imprisoned at hard labour in the Provincial Penitentiary for any term not exceeding fourteen years, nor less than seven years, or to be imprisoned in any other prison or place of confinement for any term not exceeding two years.

Robbery in any building within the same curtilage as the house, but not privileged as part of the house.

XX. And be it enacted, that if any person shall break and enter any shop, warehouse, or counting house, and steal therein any chattel, money or valuable security, every such offender, being convicted thereof, shall be liable to any of the punishments which the Court may award as hereinbefore last mentioned.

Robbery in a shop, warehouse, &c.

XXI. And be it enacted, that if any person shall steal any goods or merchandize in any vessel, barge, or boat of any description whatsoever, in any port of entry or discharge, or upon any navigable river or canal, or in any creek belonging to or communicating with any such port, river, or canal, or shall steal any goods or merchandize from any dock, wharf, or quay, adjacent to any such port, river, canal or creek, every such offender, being convicted thereof, shall be liable to any of the punishments which the Court may award as hereinbefore last mentioned.

Stealing goods from a vessel in a port, river, or canal, &c.

XXII. And be it enacted, that whosoever shall plunder or steal any part of any ship or vessel which shall be in distress, or wrecked, stranded or cast on shore, or any

Punishment for wrecking.

any goods, merchandize, or articles of any kind belonging to such ship or vessel, and be convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary for any term not exceeding fourteen years, nor less than seven years, or to be imprisoned in any other prison, or place of confinement for any term not exceeding two years.

Persons in possession of shipwrecked goods, not giving a satisfactory account shall pay a penalty.

XXIII. And be it enacted, that if any goods, merchandize, or articles of any kind, belonging to any ship or vessel in distress, or wrecked, stranded, or cast on shore, as aforesaid, shall, by virtue of a search-warrant, to be granted as hereinafter mentioned, be found in the possession of any person, or on the premises of any person with his knowledge, and such person, being carried before a Justice of the Peace, shall not satisfy the Justice that he came lawfully by the same, then the same shall, by order of the Justice, be forthwith delivered over to, or for the use of, the rightful owner thereof; and the offender, on conviction of such offence before the Justice, shall forfeit and pay such sum of money, not exceeding twenty pounds, as to the Justice shall seem meet.

If any person offer shipwrecked goods for sale, the goods may be seized, &c.

XXIV. And be it enacted, that if any person shall offer or expose for sale any goods, merchandize, or articles whatsoever, which shall have been unlawfully taken, or reasonably suspected so to have been, from any ship or vessel in distress, or wrecked, stranded, or cast on shore as aforesaid, in every such case any person to whom the same shall be offered for sale, or any officer of the Customs, or Peace Officer, may lawfully seize the same, and shall with all convenient speed carry the same, or give notice of such seizure, to some Justice of the Peace; and if the person who shall have offered or exposed the same for sale, being duly summoned by such Justice, shall not appear and satisfy the Justice that he came lawfully by such goods, merchandize, or articles, then the same shall, by order of the Justice, be forthwith delivered over to, or for the use of the rightful owner thereof, upon payment of a reasonable reward, (to be ascertained by the Justice,) to the person who seized the same; and the offender, on conviction of such offence by the Justice, shall forfeit and pay such sum of money not exceeding twenty pounds, as to the Justice shall seem meet.

The stealing &c. of records and other proceedings of Courts of Justice, &c.

XXV. And be it enacted, that if any person shall steal, or shall for any fraudulent purpose take from its place of deposit for the time being, or from any person having the lawful custody thereof, or shall unlawfully and maliciously obliterate, injure, or destroy any record, writ, return, panel, process, interrogatory, deposition, affidavit, rule, order, or warrant of attorney, or any original document whatsoever, of or belonging to any Court of Justice, or relating to any matter, civil or criminal, begun, depending, or terminated in any such Court, or any bill, answer, interrogatory, deposition, affidavit, order, or decree, or any original document whatsoever

soever, of or belonging to any Court, or relating to any cause, or matter begun, depending, or terminated in any such Court, or any notarial minute, or the original of any other authentic act, every such offender shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary, for any term not exceeding fourteen years, nor less than seven years, or to be imprisoned in any other prison or place of confinement for any term not exceeding two years, or to suffer such other punishment by fine or imprisonment, or by both, as the Court shall award; and it shall not in any indictment for such offence be necessary to allege that the article, in respect of which the offence is committed, is the property of any person, or that the same is of any value.

XXVI. And be it enacted, that if any person shall, either during the life of the testator or testatrix, or after his or her death, steal, or for any fraudulent purpose destroy or conceal, any will, codicil, or other testamentary instrument, whether the same shall relate to real or personal estate, or to both, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to any of the punishments which the Court may award, as hereinbefore last mentioned; and it shall not in any indictment for such offence be necessary to allege that such will, codicil, or other instrument, is the property of any person, or that the same is of any value.

The stealing
&c. of Wills.

XXVII. And be it enacted, that if any person shall steal any original paper or parchment, written or printed, or partly written and partly printed, being evidence of the title, or of any part of the title to any real estate, every such offender shall be deemed guilty of a misdemeanor, and, being convicted thereof, shall be liable to any of the punishments which the Court may award, as hereinbefore last mentioned; and in any indictment for such offence, it shall be sufficient to allege the thing stolen to be evidence of the title, or of part of the title, of the person or of some one of the persons having a present interest, whether legal or equitable, in the real estate to which the same relates, and to mention such real estate or some part thereof; and it shall not be necessary to allege the thing stolen to be of any value.

The stealing
of writings re-
lative to real
estates.

XXVIII. Provided always, and be it enacted, that nothing in this Act contained relating to either of the misdemeanors aforesaid, nor any proceeding, conviction, or judgment, to be had or taken thereupon, shall prevent, lessen or impeach any remedy at law or equity, which any party aggrieved by any such offence, might or would have had if this Act had not been passed; but nevertheless the conviction of any such offender shall not be received in evidence in any action at law or suit in equity against him; and no person shall be liable to be convicted

These provi-
sions as to
wills and wri-
tings shall not
lessen any other
remedy.

Conviction
shall not be
evidence in ac-
tions against
offender.

Offender shall not be convicted by evidence disclosed by himself.

convicted of either of the misdemeanors aforesaid, by any evidence whatever, in respect of any act done by him, if he shall at any time previously to his being indicted for such offence, have disclosed such act, on oath, in consequence of any compulsory process of any Court of Law or Equity in any action, suit, or proceeding which shall have been *bona fide* instituted by any party aggrieved, or if he shall have disclosed the same in any examination or deposition before any Commissioners of Bankrupt.

Stealing Horses, Cows, Sheep, &c.

XXIX. And be it enacted, that if any person shall steal any horse, mare, gelding, colt, or filly, or any bull, cow, ox, heifer, or calf, or any ram, ewe, sheep, or lamb, or shall wilfully kill any of such cattle with intent to steal the carcass, or skin, or any part of the cattle so killed, every such offender shall be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary for any term not exceeding fourteen years nor less than seven years, or to be imprisoned in any other Prison or place of confinement for any term not exceeding two years.

Stealing Dogs, or stealing beasts, or birds ordinarily kept in confinement, and not the subjects of larceny.

XXX. And be it enacted, that if any person shall steal any dog, or shall steal any beast or bird ordinarily kept in a state of confinement, not being the subject of larceny at common law, every such offender, being convicted thereof before a Justice of the Peace, shall for every such offence forfeit and pay, over and above the value of the dog, beast, or bird, such sum of money not exceeding five pounds, as to the Justice shall seem meet.

Stealing trees, shrubs, &c. wheresoever growing &c.

XXXI. And be it enacted, that if any person shall steal, or shall cut, break, root up, or otherwise destroy or damage with intent to steal, the whole or any part of any tree, sapling, or shrub, or any underwood, wheresoever the same may be respectively growing, the stealing of such article or articles, or the injury done, being to the amount of a shilling at the least, every such offender being convicted before a Justice of the Peace, shall for every such offence forfeit and pay over and above the value of the article or articles stolen, or the amount of the injury done, such a sum of money, not exceeding five pounds, as to the Justice shall seem meet.

Stealing &c. any live, or dead fence, wooden fence, stile or gate.

XXXII. And be it enacted, that if any person shall steal, or shall cut, break, or throw down with intent to steal, any part of any live or dead fence, or any wooden post, pale, or rail, set up or used as a fence, or any stile or gate, or any part thereof, respectively, every such offender, being convicted before a Justice of the Peace, shall for every such offence forfeit and pay, over and above the value of the article or articles so stolen, or the amount of the injury done, such sum of money not exceeding five pounds, as to the Justice shall seem meet.

XXXIII.

XXXIII. And be it enacted, that if the whole or any part of any tree, sapling, or shrub, or any underwood, or any part of any live or dead fence, or any post, pale, rail, stile, or gate, or any part thereof, being of the value of two shillings at the least, shall, by virtue of a search warrant, to be granted as hereinafter mentioned, be found in the possession of any person, or on the premises of any person with his knowledge, and such person, being carried before a Justice of the Peace, shall not satisfy the Justice that he came lawfully by the same, he shall on conviction by the Justice, forfeit and pay, over and above the value of the article or articles so found, any sum not exceeding two pounds.

Suspected persons in possession of wood, &c. not satisfactorily accounting for it.

XXXIV. And be it enacted, that if any person shall steal, or shall destroy, or damage with intent to steal any tree, sapling, shrub, bush, plant, root, fruit, or vegetable production growing in any garden, orchard, nursery-ground, hot-house, green-house, or conservatory, every such offender being convicted thereof before a Justice of the Peace, shall forfeit and pay, over and above the value of the article or articles so stolen, or the amount of the injury done, such sum of money, not exceeding five pounds, as to the Justice shall seem meet; and if any person so convicted shall afterwards commit any of the said offences, such offender shall be deemed guilty of felony, and being convicted thereof shall be liable to be punished in the same manner as in the case of Simple Larceny.

Stealing, &c. of any vegetable production in a garden &c. punishable on summary conviction.

XXXV. And be it enacted, that if any person shall steal, or shall destroy or damage, with intent to steal, any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land open or enclosed, not being a garden, orchard or nursery-ground, every such offender, being convicted thereof before a Justice of the Peace, shall forfeit and pay, over and above the value of the article or articles so stolen, or the amount of the injury done, such sum of money, not exceeding twenty shillings, as to the Justice shall seem meet, and in default of payment thereof, together with the costs, if ordered, shall be committed to the House of Correction for any term not exceeding one calendar month, unless payment be sooner made.

Stealing &c. vegetable productions not growing in gardens, &c.

XXXVI. And be it enacted, that if any person shall steal or rip, cut or break with intent to steal, any glass or wood-work belonging to any building whatsoever, or any lead, iron, copper, brass, or other metal, or any utensil or fixture, whether made of metal or other material, respectively, fixed in or to any building whatsoever, or any thing made of metal fixed in any land, being private property, or for a fence to any dwelling house, garden or area, or in any square, street, or other place, dedicated to public use or ornament, every such offender shall be guilty of felony, and being convicted thereof, shall be liable to be punished in the same manner as

Stealing glass, wood-work or fixtures of any kind from buildings, and metal fixtures from grounds.

in

in the case of simple Larceny; and in case of any such thing fixed in any square, street, or other like place it shall not be necessary to allege the same to be the property of any person.

Tenants and lodgers stealing any property from houses or apartments let to them.

XXXVII. And for the punishment of depredations committed by tenants and lodgers; Be it enacted, that if any person shall steal any chattel or fixture let to be used by him or her, in or with any house or with any house or lodging, whether the contract shall have been entered into by him or her, or by her husband, or by any person on behalf of him or her, or her husband, every such offender shall be guilty of felony, and being convicted thereof, shall be liable to be punished in the same manner as in the case of simple Larceny; and in every such case of stealing any chattel, it shall be lawful to prefer an indictment in the common form as for Larceny, and in every such case of stealing any fixture, to prefer an indictment in the same form as if the offender were not a tenant or lodger, and in either case to lay the property in the owner or person letting to hire.

Clerks and servants stealing property of their masters.

XXXVIII. And for the punishment of depredations committed by clerks and servants in cases not punishable capitally; Be it enacted, that if any clerk or servant shall steal any chattel, money, or valuable security belonging to or in the possession or power of his master, every such offender, being convicted thereof, shall be liable at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary for any term not exceeding fourteen years, nor less than seven years, or to be imprisoned in any other Prison or place of confinement for any term not exceeding two years.

Clerks or servants receiving any money, &c. on their Master's account, and embezzling it, shall be deemed to have feloniously stolen it.

XXXIX. And for the punishment of embezzlements committed by clerks and servants: Be it declared and enacted, that if any clerk or servant, or any person employed for the purpose or in the capacity of a clerk or servant, shall by virtue of such employment receive or take into his possession any chattel, money or valuable security for, or in the name or on the account of his master, and shall fraudulently embezzle the same or any part thereof, every such offender shall be deemed to have feloniously stolen the same from his master, although such chattel, money or security was not received into the possession of such master otherwise than by the actual possession of his clerk, servant or other person so employed; and every such offender being convicted thereof, shall be liable, at the discretion of the Court, to any of the punishments which the Court may award as hereinbefore last mentioned.

Distinct acts of embezzlement may be charged in

XI. And for preventing the difficulties that have been experienced in the prosecution of the last mentioned offenders; Be it enacted, that it shall be lawful to charge in the indictment and proceed against the offender for any number of distinct

distinct acts of embezzlement, not exceeding three, which may have been committed by him against the same master within the space of six calendar months from the first to the last of such acts; and in every such indictment, except where the offence shall relate to any chattel, it shall be sufficient to allege the embezzlement to be of money, without specifying any particular coin or valuable security; and such allegation, so far as regards the description of the property, shall be sustained if the offender shall be proved to have embezzled any amount, although the particular species of coin or valuable security of which such amount was composed shall not be proved; or, if he shall be proved to have embezzled any piece of coin or valuable security, or any portion of the value thereof, although such piece of coin or valuable security may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, and such part shall have been returned accordingly.

same indictment.

As to allegation and proof of property embezzled.

XLI. And for the punishment of embezzlements committed by agents entrusted with property, Be it enacted, that if any money or security for the payment of money shall be intrusted to any banker, merchant, broker, attorney or other agent, with any direction in writing to apply such money or any part thereof, or the proceeds or any part of the proceeds of such security, for any purpose specified in such direction, and he shall in violation of good faith, and contrary to the purpose so specified, in any wise convert to his own use or benefit such money, security or proceeds, or any part thereof, respectively, every such offender shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary, for any term not less than seven years, or imprisoned in any other Prison or place of confinement for any term not exceeding two years, or to suffer such other punishment by fine or imprisonment, or by both, as the Court shall award; and if any chattel or valuable security, or any power of attorney for the sale or transfer of any share or interest in any public stock or fund, whether of this Province or of the United Kingdom of *Great Britain* and *Ireland*, or of *Great Britain* or of *Ireland*, or of any British Colony or Foreign State or Colony, or in any fund of any body corporate, company, or society, shall be intrusted to any banker, merchant, broker, attorney, or other agent for safe custody, or for any special purpose without any authority to sell, negotiate, transfer or pledge, and he shall in violation of good faith, and contrary to the object or purpose for which such chattel, security or power of attorney shall have been entrusted to him, sell, negotiate, transfer, pledge or in any manner convert to his own use or benefit such chattel or security, or the proceeds of the same or any part thereof, or the share or interest in the stock or fund to which such power of attorney shall relate or any part thereof, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable at the discretion of the Court, to any of the punishments which the Court may award as hereinbefore last mentioned.

Agents embezzling money intrusted to them to be applied to any special purposes;

Or embezzling any goods or valuable security entrusted to them for safe custody, or for any special purpose, guilty of a misdemeanor.

XLIH.

Not to affect trustees or mortgagees.

Nor bankers &c. receiving money due on securities.

Or disposing of securities on which they have a lien.

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

Factors pledging for their own use any goods, or documents relating to goods entrusted to them for the purpose of sale, guilty of a misdemeanor.

Not to extend to cases where the pledge does not exceed the amount of their lien.

XLIII. And be it enacted, that if any factor or agent, intrusted for the purpose of sale with any goods or merchandize, or intrusted with any bill of lading, warehouse keeper's or wharfinger's certificate or warrant or order for delivery of goods or merchandize, shall for his own benefit and in violation of good faith, deposit or pledge any such goods or merchandize, or any of the said documents as a security for any money, or negotiable instrument borrowed or received by such factor or agent, at or before the time of making such deposit or pledge, or intended to be thereafter borrowed or received, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary for any term not less than seven years, or imprisoned in any other Prison or place of confinement, for any term not exceeding two years, or to suffer such other punishment by fine or imprisonment, or by both, as the Court shall award, but no such factor or agent shall be liable to any prosecution for depositing or pledging any such goods or merchandize, or any of the said documents, in case the same shall not be made a security for or subject to the payment of any greater sum of money than the amount which at the time of such deposit or pledge was justly due and owing to such factor or agent from his principal, together with the amount of any bill or bills of exchange drawn by or on account of such principal, and accepted by such factor or agent.

These provisions as to agents shall not lessen any remedy which the party aggrieved now has.

XLIV. Provided always, and be it enacted, that nothing in this Act contained, nor any preceding conviction or judgment to be had or taken thereupon against any banker, merchant, broker, factor, attorney, or other agent as aforesaid, shall prevent, lessen or impeach any remedy at law or in equity, which any party aggrieved by such offence might or would have had if this Act had not been passed; but, nevertheless, the conviction of any such offender shall not be received in evidence in any action at law or suit in equity against him; and no banker, merchant, broker,

broker, factor, attorney, or other agent as aforesaid, shall be liable to be convicted by any evidence whatever as an offender against this Act, in respect of any act done by him, if he shall at any time previously to his being indicted for such offence, have disclosed such act on oath, in consequence of any compulsory process of any Court of law or equity in any action, suit or proceeding which shall have been *bona fide* instituted by any party aggrieved, or if he shall have disclosed the same in any examination or deposition before any commissioners of bankrupt.

XLV. And whereas a failure of justice frequently arises from the subtle distinction between larceny and fraud : for remedy thereof, be it enacted, that if any person shall, by any false pretence, obtain from any other person any chattel, money, or valuable security, with intent to cheat or defraud any person of the same, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary for any term not exceeding fourteen years, nor less than seven years, or imprisoned in any other prison or place of confinement for any term not exceeding two years, or to suffer such other punishment, by fine or imprisonment, or by both; as the Court shall award: Provided always, that if upon the trial of any person indicted for such misdemeanor, it shall be proved that he obtained the property in question in any such manner as to amount in law to larceny, he shall not by reason thereof be entitled to be acquitted of such misdemeanor; and no such indictment shall be removable by *certiorari*; and no person tried for such misdemeanor shall be liable to be afterwards prosecuted for larceny upon the same facts.

Obtaining money under false pretences, a misdemeanor.

No acquittal on the ground that the case proved amounts to larceny.

XLVI. And with regard to receivers of stolen property, Be it enacted, that if any person shall receive any chattel, money, valuable security, or other property whatsoever, the stealing or taking whereof shall amount to a felony, either at common law or by virtue of this Act, such person knowing the same to have been feloniously stolen or taken, every such receiver shall be guilty of felony, and may be indicted and convicted either as an accessory after the fact, or for a substantive felony, and in the latter case, whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice; and every such receiver howsoever convicted, shall be liable, at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary for any term not exceeding fourteen years, nor less than seven years, or imprisoned in any other prison or place of confinement for any term not exceeding two years: Provided always, that no person howsoever tried for receiving as aforesaid, shall be liable to be prosecuted a second time for the same offence.

Where the original offence is felony, the receiver of stolen property may be tried either as an accessory after the fact, or for a substantive felony.

XLVII. And be it enacted, that if any person shall receive any chattel, money, valuable

Where the original offence is a misdemeanor, receivers may be prosecuted for a misdemeanor.

valuable security, or other property whatsoever, the stealing, taking, obtaining, or converting whereof is made an indictable misdemeanor by this Act, such person knowing the same to have been unlawfully stolen, taken, obtained, or converted, every such receiver shall be guilty of a misdemeanor, or may be indicted and convicted thereof, whether the person guilty of the principal misdemeanor shall or shall not have been previously convicted thereof, or shall or shall not be amenable to justice; and every such receiver shall on conviction, be liable, at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary for any other term not less than seven years, or to be imprisoned in any other prison or place of confinement for any term not exceeding two years.

All receivers may be tried where the property is found in their possession, as well as where the receiving takes place.

XLVIII. And be it enacted, that if any person shall receive any chattel, money, valuable security, or other property whatsoever, knowing the same to have been feloniously or unlawfully stolen, taken, obtained or converted, every such person whether charged as an accessory after the fact to the felony, or with a substantive felony, or with a misdemeanor only, may be dealt with, tried, and punished in any District, County or place in which he shall have or shall have had any such property in his possession, or in any District, County, or place in which the party guilty of the principal felony or misdemeanor may by law be tried, in the same manner as such receiver may be dealt with, indicted, tried, and punished in the District, County, or place where he actually received such property.

The owner of stolen property prosecuting thief or receiver to conviction shall have restitution of his property.

XLIX. And to encourage the prosecution of offenders, be it enacted, that if any person guilty of any such felony or misdemeanor as aforesaid, in stealing, taking, obtaining, or converting, or in knowingly receiving any chattel, money, valuable security, or other property whatsoever, shall be indicted for any offence by or on the behalf of the owner of the property, or his heir, curator, executor, or administrator, and convicted thereof, in such case the property shall be restored to the owner or his representative; and the Court before whom any such person shall be so convicted, shall have power to award from time to time writs of restitution for the same property, or to order the restitution thereof in a summary manner: Provided always, that if it shall appear, before any award or order made, that any valuable security shall have been *bona fide*, paid or discharged by some person or body corporate liable to the payment thereof, or being a negotiable instrument, shall have been *bona fide* taken or received by transfer or delivery by some person or body corporate, for a just and valuable consideration without any notice or without any reasonable cause to suspect that the same had by any felony or misdemeanor been stolen, taken, obtained, or converted as aforesaid, in such case the Court shall not award or order the restitution of such security.

Exception.

L. And be it enacted, that every person who shall corruptly take any money or reward,

reward, directly or indirectly, under pretence or on account of helping any person to any chattel, money, valuable security, or other property whatsoever, which shall by any felony or misdemeanor have been stolen, taken, obtained, or converted, as aforesaid, shall, (unless he cause the offender to be apprehended and brought to trial for the same,) be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary for any term not less than seven years, or to be imprisoned in any other Prison or place of confinement for any term not exceeding two years.

Taking a reward for holding to the recovery of stolen property without bringing the offender to trial.

II. And be it enacted, that if any person shall publicly advertise a reward for the return of any property whatsoever, which shall have been stolen or lost, and shall in such advertisement use any words purporting that no question will be asked, or shall make use of any words in any public advertisement, purporting that a reward will be given or paid for any property which shall have been stolen or lost, without seizing or making any inquiry after the person producing such property, or shall promise or offer in any such public advertisement to return to any pawnbroker or other person who may have bought or advanced money by way of a loan upon any property stolen or lost, the money so paid or advanced, or any other sum of money or reward for the return of such property, or if any person shall print or publish any such advertisement in any of the above cases, every such person shall forfeit the sum of twenty pounds for every such offence, to any person who will sue for the same, by action of debt to be recovered with full costs of suit.

Advertising a reward for the return of property without inquiry.

LII. And be it enacted, that where the stealing or taking of any property whatsoever is by this Act punishable on summary conviction, either for every offence, or for the first and second offence only, or for the first offence only, any person who shall receive any such property, knowing the same to be unlawfully come by, shall on conviction thereof before a Justice of the Peace, be liable for every first, second or subsequent offence of receiving, to the same forfeiture and punishment to which a person guilty of a first, second, or subsequent offence of stealing or taking such property is by this Act made liable.

Receivers of property, where the original offence is punishable on summary conviction.

LIII. And be it enacted, that in the case of every felony punishable under this Act, every principal in the second degree, and every accessory before the fact, shall be punishable with death or otherwise, in the same manner as the principal in the first degree is by this Act punishable; and every accessory after the fact to any felony punishable under this Act, (except only a receiver of stolen property,) shall on conviction be liable to be imprisoned for any term not exceeding two years; and every person who shall aid, abet, counsel or procure the commission of any misdemeanor punishable under this Act, shall be liable to be indicted and punished as a principal offender.

Principals in the second degree, and accessories.

Abettors in misdemeanors.

LIV.

Abettor: in offences punishable on summary conviction.

LV. And be it enacted, that if any person shall aid, abet, counsel, or procure the commission of any offence which is by this Act punishable on summary conviction, either for every time of its commission or for the first and second time only, or for the first time only, every such person shall, on conviction before a Justice or Justices of the Peace, be liable for every first, second or subsequent offence of aiding, abetting, counselling, or procuring, to the same forfeiture and punishment to which a person guilty of a first, second or subsequent offence as a principal offender is by this Act made liable.

A person in the act of committing any offence may be apprehended without a warrant.

LV. And for the more effectual apprehension and discovery of all offenders punishable under this Act; Be it enacted, that any person found committing any offence punishable either upon indictment, or upon summary conviction, by virtue of this Act, may be immediately apprehended without a warrant, by any Peace Officer, or by the owner of the property on or with respect to which the offence shall be committed, or by the servant of any person authorized by such owner, and forthwith taken before some neighbouring Justice of the Peace, to be dealt with according to law; and if any credible witness shall prove upon oath, before a Justice of the Peace, that there is reasonable cause to suspect that any property whatsoever, on or with respect to which any such offence shall have been committed, is in any dwelling-house, out-house, garden, yard, croft, or other place or places, the Justice may grant a warrant to search such dwelling-house, out-house, garden, yard, croft or other place or places, for such property, as in the case of stolen goods; and any person to whom any property shall be offered to be sold, pawned, or delivered, if he shall have reasonable cause to suspect that any such offence has been committed, on or with respect to such property, is hereby authorized, and if in his power is required to apprehend and forthwith to carry before a Justice of the Peace, the party offering the same, together with such property, to be dealt with according to law.

A Justice, upon good ground of suspicion, proved on oath, may grant a search warrant.

Any person to whom stolen property is offered, may seize the party offending.

Limitation as to summary proceedings.

LVI. And be it enacted, that the prosecution of every offence punishable on summary conviction 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.

Mode of compelling the appearance of persons punishable on summary conviction.

LVII. And for the more effectual prosecution of all offences punishable on summary conviction under this Act, Be it enacted, that where any person shall be charged, on the oath of a credible witness, before any Justice of the Peace, with any such offence, the Justice may summon the person charged to appear at a time and place to be named in the 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, or by leaving the same at his usual place of abode)

the

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 or Justices of the Peace; or the Justice before whom the charge shall be made, may (if he shall so think fit,) without any previous summons (unless when otherwise specially directed) issue such a warrant; and the Justice or Justices before whom the person charged shall appear or be brought, shall proceed to hear and determine the case.

LVIII. And with regard to the application of all forfeitures and penalties upon summary convictions under this Act; Be it enacted, that every sum of money which shall be forfeited for, or as the value of any property stolen or taken, or for or as the amount of any injury done (such value or amount to be assessed in each case by the convicting Justice or Justices) shall be paid to the party aggrieved, if known, except where such party shall have been examined in proof of the offence, and in that case, or where the party aggrieved is unknown, such sum shall be applied in the same manner as a penalty: Provided always, that where several persons shall join in the commission of the same offence, and shall, upon conviction thereof, each be adjudged to forfeit a sum equivalent to the value of the property, or to the amount of the injury done, in every such case no further sum shall be paid to the party aggrieved than that which shall be forfeited by one of such offenders only, and the corresponding sum or sums, forfeited by the other offender or offenders, shall be applied in the same manner as any penalty imposed by a Justice of the Peace is hereinbefore directed to be applied.

Application of forfeitures and penalties on summary convictions.

Proviso.

LIX. And be it enacted, that in every case of a summary conviction under this Act, where the sum which shall be forfeited for the value of the property stolen or taken, or for the amount of the injury done, or which shall be imposed as a penalty by any Justice or Justices, together with the costs, if awarded, (which costs such Justice or Justices is and are hereby authorized to award, if he or they shall think fit, in any case of a summary conviction under this Act) shall not be paid either immediately after the conviction, or within such period as the Justice or Justices shall at the time of the conviction appoint, which he or they is and are hereby authorized to appoint, it shall be lawful for the convicting Justice or Justices (unless where otherwise specially directed,) to commit the offender to the Common Gaol or House of Correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, according to the discretion of the Justice or Justices, for any term not exceeding two calendar months, where the amount of the sum forfeited, or of the penalty imposed, or of both, as the case may be, together with the costs, shall not exceed five pounds; and for any term not exceeding six calendar months, where the amount with costs shall exceed five pounds, and shall not

If a person summarily convicted shall not pay, &c. the Justice may commit him.

Scale of imprisonment.

not exceed ten pounds; the commitment to be determinable in each of the cases aforesaid, upon payment of the amount and costs.

Justice may discharge the offender in certain cases.

LX. Provided always, and be it enacted, that where any person shall be summarily convicted, before a Justice or Justices of the Peace, of any offence against this Act, and it shall be a first conviction, it shall be lawful for the Justice or Justices, if he or they 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 such Justice or Justices.

Pardon for non payment of money.

LXI. And be it enacted, that it shall be lawful for the Queen's Majesty, and for the Governor, Lieutenant Governor, or Person Administering the Government of this Province, to extend the 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.

A summary conviction shall be a bar to any other proceeding for the same offence.

LXII. And be it enacted, that in case any person convicted of any offence punishable upon summary conviction by virtue of this Act, shall have paid the sum adjudged to be paid, together with costs, if awarded, under such conviction, or shall have received a remission thereof from the Crown, or shall have suffered the imprisonment awarded for non-payment thereof, or the imprisonment adjudged in the first instance, or shall have been discharged from his conviction in the manner aforesaid, in every such case he shall be released from all further or other proceedings for the same cause.

Form of conviction.

LXIII. And be it enacted, that the Justice or Justices 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*: "Be it remembered, that on the

day of _____ in the year of our Lord

at _____ in the District of

(*as the case may be*) A. O. is convicted before me, J. P. one of Her Majesty's Justices (*or* before us J. P. and S. L. Justices) of the Peace for the said District, for that he, the said A. O. did (*specify the offence and the time and place when and where the same was committed, as the case may be, and on a second conviction state the first conviction*) and I, the said J. P. (*or*, we the said J. P. and S. L.) adjudge the said A. O. for his said offence to be imprisoned in the

(*or*, to be imprisoned in the

and there kept to hard labour) for the space of

(*or*, to forfeit and pay

here state the penalty actually imposed, or state the penalty and also the value of the articles stolen, embezzled or taken

taken

taken, or the amount of the injury done, as the case may be) and (in any case where costs shall be awarded) also to pay the sum of _____ *for costs, and in default of immediate payment of the said sum (or sums,) to be imprisoned in the* _____ *or to be imprisoned in the* _____ *and there kept to hard labour, for the space of* _____ *unless the said sum (or sums, shall be sooner paid (or, and I or we) order that the said sum (or sums) shall be paid by the said A. O. on or before the* _____ *day of* _____ *that the said sum of* _____ *(i. e. the penalty only) shall be paid to me (or us the convicting Justice or Justices,) and that the sum of* _____ *(i. e. the value of the articles stolen, or the amount of the injury done) shall be paid to C. D. (the party aggrieved, unless he is unknown or has been examined in proof of the offence, in which case state that fact, and dispose of the whole like the penalty as before) and (if the Justice or Justices shall think proper to award the complainant his costs) I (or we) order that the said sum of* _____ *for costs shall be paid to C. D. (the complainant). Given under my hand and seal, (or our hands and seals) the day and year first above mentioned."*

LXIV. And be it enacted, that in all cases where by this Act 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 parties to appear before two or more Justices of the Peace; and after examination upon oath into the merits of the said complaint, and the adjudication thereupon by any such two Justices being made, all and every the subsequent proceedings to enforce obedience thereto, or otherwise, whether respecting the penalty, fine, imprisonment, costs, or other matter or thing relating to the offence, may be enforced by either of the said Justices, or by any other Justice of the Peace for the same District, County, City, Town or Place, in such and the like manner as if done by the same two Justices who so heard and adjudged the said complaint; and where the original complaint or information shall be made to any Justice or Justices of the Peace, different from the Justice or Justices before whom the same shall be heard and determined, the form of conviction shall be made conformable and according to the fact.

One Justice may receive original information, &c. where two or more Justices are empowered to hear and determine

LXV. And be it enacted, that in all cases where the sum adjudged to be paid upon any summary conviction, shall exceed five pounds, or the imprisonment adjudged shall exceed one calendar month, or the conviction shall take place before one Justice only, any person who shall think himself aggrieved by any such conviction, may appeal to the next Court of General, or Quarter Sessions, which shall be holden not less than twelve days after the day of such conviction, for the District, County, or Place wherein the cause of complaint shall have arisen: Provided that

Appeal.

Proviso.

that such person shall give to the complainant a notice in writing of such appeal, and of the cause and matter thereof, within three days after such conviction, and seven clear days at the least before such 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 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 on such 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 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, the Court shall order and adjudge the offender to be punished according to the conviction, and to pay such costs, if any, as shall be awarded, and shall, if necessary, issue process for enforcing such Judgment.

Convictions to be returned to Quarter Sessions.

How far evidence in future cases.

LXVI. And be it enacted, 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 or Quarter Sessions, which shall be holden for the District, County or Place 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.

Venue in proceedings against persons acting under this act.

Notice of action.

General issue, &c.

LXVII. And for the protection of persons acting in the execution of this Act; Be it enacted, 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, County, or Place 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 any 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

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.

LXVIII. And be it enacted, that if any person having stolen or otherwise unlawfully taken any chattel, money, valuable security, or other property whatsoever, the stealing or unlawfully taking whereof is made punishable by indictment, by any of the provisions of this Act, in any part of Her Majesty's dominions, shall afterwards have the same property in his possession in any part of this Province, he may be dealt with, indicted, tried and punished for such offence under this Act, in that part of this Province where he shall so have such property, in the same manner as if he had actually stolen or unlawfully taken it in that part; and if any person in any part of this Province shall receive or have any chattel, money, valuable security, or other property whatsoever, which shall have been stolen or otherwise unlawfully taken in any other part of Her Majesty's dominions, such person knowing the said property to have been stolen or otherwise unlawfully taken, he may be dealt with, indicted, tried, and punished for such offence in that part of this Province where he shall so receive or have the stolen property, in the same manner as if it had been originally stolen or unlawfully taken in that part of this Province as aforesaid.

This Act to extend to offences committed out of this Province in certain cases.

LXIX. And be it enacted, that all fines, forfeitures and penalties imposed by this Act, and all sums expressed as the value of any goods, chattels or other property herein mentioned, shall be deemed and taken to be current money of this Province.

All sums to be currency.

LXX. And be it enacted, that all Acts or parts of Acts or provisions of Law in force in this Province, or any part thereof immediately before the time when this Act shall come in force, which shall be inconsistent with or contradictory to this Act, or which make any provision in any matter provided for by this Act other than such as is hereby made in such matter, shall, from and after the time when this Act shall come into force, be and they are hereby repealed, except in so far as may relate to any offence committed before the said time, which shall be dealt with and punished as if this Act had not been passed.

All Acts repugnant to this Act repealed.

C A P. XXVI.

An Act for consolidating and amending the Laws in this Province relative to Malicious Injuries to Property.

[18th September, 1841.]

Preamble.

WHEREAS it is expedient to amend and consolidate the provisions contained in various Statutes now in force in this Province relative to Malicious Injuries to property; Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada and for the Government of Canada*; and it is hereby enacted by the authority of the same, that this Act shall commence from and after the first day of January one thousand eight hundred and forty-two.

Commencement of this Act

Setting fire to a dwelling house &c.

II. And be it enacted, that whosoever shall unlawfully and maliciously set fire to any dwelling house, any person being therein, shall be guilty of felony, and being convicted thereof shall suffer death.

Setting fire to a Church or Chapel, House, Ware-house, &c.

III. And be it enacted, that whosoever shall unlawfully and maliciously set fire to any Church, Chapel or Meeting House for the exercise of any mode or form of religious worship whatever, or shall unlawfully and maliciously set fire to any house, stable, coach-house, out-house, Warehouse, Office, shop, mill, malt-house, hop-oast, barn, or granary, or to any building or erection used in carrying on any trade or manufacture, or any branch thereof, whether the same or any of them, respectively, shall then be in the possession of the offender, or in the possession of any other person, shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court to be imprisoned at hard labour in the Provincial Penitentiary for the term of his natural life or for any term not less than seven years, or to be imprisoned in any other prison or place of confinement for any term not exceeding two years.

Destroying silk, woollen, linen, or cotton goods in the loom &c., or any machinery belonging to those manufactures, &c.

IV. And be it enacted, that if any person shall unlawfully and maliciously cut, break or destroy, or damage with intent to destroy, or to render useless, any goods or article of silk, woollen, linen or cotton, or of any one or more of those materials, mixed with each other or mixed with any other material, or any frame-work-knitted piece, stocking, hose or lace, respectively, being in the loom or frame, or on any machine or engine, or on the rack or tenters, or in any stage, process, or progress of

manufacture

manufacture ; or shall unlawfully and maliciously cut, break, or destroy, or damage with intent to destroy or to render useless, any warp or shute of silk, woollen, linen, or cotton, or of any one or more of those materials mixed with each other, or mixed with any other material, or any loom, frame, machine, engine, rack, tackle, or implement, whether fixed or moveable, prepared for or employed in carding, spinning, throwing, weaving, fulling, shearing, or otherwise manufacturing or preparing any such goods or articles : or shall by force enter into any house, shop, building, or place, with intent to commit any of the offences aforesaid, every such offender shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court to be imprisoned at hard labour in the Provincial Penitentiary for any term not less than seven years, or to be imprisoned in any other prison or place of confinement for any term not exceeding two years.

V. And be it enacted, that if any person shall unlawfully and maliciously cut, break, or destroy, or damage with intent to destroy or to render useless, any threshing machine, or any machine or engine, whether fixed or moveable, prepared for or employed in any manufacture whatsoever, (except the manufacture of silk, woollen, linen, or cotton goods, or goods of any one or more of those materials mixed with each other, or mixed with any other material, or any framework-knitted piece, stocking, hose or lace,) every such offender shall be guilty of felony, and being convicted thereof, shall be liable at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary for any term not less than seven years, or in any other prison or place of confinement for any term not exceeding two years.

Destroying
threshing or
other ma-
chines in any
other manufac-
ture than the
foregoing.

VI. And be it enacted, that if any persons, riotously and tumultuously assembled together to the disturbance of the public peace, shall unlawfully and with force demolish, pull down, or destroy, or begin to demolish, pull down, or destroy any church, chapel, or meeting house, for the exercise of any mode or form of religious worship, or any house, stable, coach-house, out-house, warehouse, office, shop, mill, malt-house, hop-oast, barn or granary, or any building or erection used in carrying on any trade or manufacture, or any branch thereof, or any machinery, whether fixed or moveable, prepared for or employed in any manufacture, or in any branch thereof, every such offender shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary for the term of his natural life, or for any term not less than seven years, or to be imprisoned in any other prison or place of confinement for any term not exceeding two years.

Riotously
demolishing
&c. a church,
chapel, house,
or certain
buildings, or
any machinery
used in any
manufacture,

VII. And be it enacted, that whosoever shall unlawfully and maliciously set fire

Setting fire to ships or vessels with intent to commit murder.

fire to, cast away, or in any wise destroy any ship or vessel, either with intent to murder any person, or whereby the life of any person shall be endangered, shall be guilty of felony, and being convicted thereof shall suffer death.

Hanging out false lights to cause shipwreck.

VIII. And be it enacted, that whosoever shall unlawfully exhibit any false light or signal, with intent to bring any ship or vessel into danger, or shall unlawfully and maliciously do any thing to the immediate loss or destruction of any ship or vessel in distress, shall be guilty of felony, and being convicted thereof shall suffer death.

Setting fire to ships or vessels with intent to destroy the same.

IX. And be it enacted, that whosoever shall unlawfully and maliciously set fire to, or in any wise destroy any ship or vessel, whether the same be completed or in an unfinished state, or shall unlawfully and maliciously set fire to, cast away, or in any wise destroy any ship or vessel, with intent thereby to prejudice any owner or part owner of such Ship or Vessel, or of any goods on board the same, or any person that hath underwritten or shall underwrite any policy of insurance upon such Ship or Vessel, or on the freight thereof, or upon any goods on board the same, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary for the term of his natural life, or for any other term not less than seven years, or to be imprisoned in any other prison or place of confinement for any time not exceeding two years.

Impeding any person endeavouring to save life from any ship wrecked &c.

X. And be it enacted, that whosoever shall by force prevent or impede any person endeavouring to save his life from any ship or vessel which shall be in distress, or wrecked, stranded, or cast on shore, (whether he shall be on board or shall have quitted the same) shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary for the term of his natural life, or for any term not less than seven years, or to be imprisoned in any other Prison or place of confinement for any term not exceeding two years.

Destroying wrecks or any articles belonging thereto.

XI. And be it enacted, that whosoever shall unlawfully and maliciously destroy any part of any ship or vessel which shall be in distress, or wrecked, stranded, or cast on shore, or any goods, merchandise, or article of any kind belonging to such ship or vessel, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary for any term not less than seven years, or to be imprisoned in any other Prison or place of confinement for any term not exceeding two years.

XII. And be it enacted, that if any person shall unlawfully and maliciously
break

break down or cut down any sea bank or sea wall, or the bank or wall of any river, canal or marsh, whereby any land shall be overflowed or damaged, or shall be in danger of being so, or shall unlawfully and maliciously throw down, level or otherwise destroy any lock, sluice, flood-gate, or other work on any navigable river or canal, every such offender shall be guilty of felony, and being convicted thereof, shall be imprisoned for any term not exceeding four years; and if any person shall unlawfully and maliciously cut off, draw up or remove any piles, chalk, or other materials fixed in the ground and used for securing any sea bank or sea wall, or the bank or wall of any river, canal, or marsh, or shall unlawfully and maliciously open or draw up any flood-gate, or do any other injury or mischief to any navigable river or canal with intent, and so as thereby to obstruct or prevent the carrying on, completing, or maintaining the navigation thereof, every such offender shall be guilty of felony, and being convicted thereof shall be imprisoned for any term not exceeding two years.

Destroying any sea bank &c. or works on any river or canal, felony.

Removing the piles of any sea-bank &c. or doing any damage to obstruct the navigation of a River or Canal.

XIII. And be it enacted, that if any person shall unlawfully and maliciously pull down, or in any wise destroy any public bridge, or do any injury with intent, and so as thereby to render such bridge or any part thereof dangerous or impassable, every such offender shall be guilty of felony, and being convicted thereof, shall be imprisoned for any term not exceeding four years.

Injury to a public bridge.

XIV. And be it enacted, that if any person shall unlawfully and maliciously throw down, level, or otherwise destroy, in whole or in part, any turnpike gate, or any wall, chain, rail, post, bar, or other fence belonging to any turnpike gate, or set up or erected to prevent passengers passing by without paying any toll directed to be paid by any Act or Acts, Ordinance or Ordinances, relating thereto, in force in this Province, or any house, building or weighing engine erected for the better collection, ascertainment, or security of any such toll, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be punished accordingly.

Destroying a turnpike gate, toll house, &c.

XV. And be it enacted, that if any person shall unlawfully and maliciously break down or otherwise destroy, the dam of any fish pond, or of any water which shall be private property, or in which there shall be any private right of fishery, with intent thereby to take or destroy any of the fish in such pond or water or so as thereby to cause the loss or destruction of any of the fish, or shall unlawfully and maliciously put any lime or other noxious material in any such pond or water, with intent thereby to destroy any of the fish therein, or shall unlawfully and maliciously break down or otherwise destroy the dam of any mill pond, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be punished accordingly.

Breaking down the dam of a fishery, &c. or mill dam.

XVI.

Killing or maiming cattle.

XVI. And be it enacted, that if any person shall unlawfully and maliciously kill, maim or wound any cattle, every such offender shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary for any term not less than seven years, or to be imprisoned in any other prison or place of confinement for any term not exceeding two years.

Setting fire to agricultural produce.

XVII. And be it enacted, that whosoever shall unlawfully or maliciously set fire to any stack of corn, grain, pulse, peat, coals, charcoal, or wood, or any steer of wood, shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary for the term of his natural life, or for any term not less than seven years, or to be imprisoned in any other prison or place of confinement for any term not exceeding two years.

Destroying hop-binds.

XVIII. And be it enacted, that if any person shall unlawfully and maliciously cut or otherwise destroy any hop-binds, growing on poles in any plantation of hops, every such offender shall be guilty of felony, and being convicted thereof, shall be imprisoned for any term not exceeding four years.

Destroying or damaging trees, shrubs &c. growing in certain situations.

XIX. And be it enacted, that if any person shall unlawfully and maliciously cut, break, bark, root up, or otherwise destroy or damage the whole or any part of any tree, sapling, or shrub, or any under-wood, respectively growing in any park, pleasure-ground, garden, orchard, or avenue, or in any ground adjoining or belonging to any dwelling house, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be punished accordingly; and if any person shall unlawfully and maliciously cut, break, bark, root up, or otherwise destroy or damage the whole or any part of any tree, sapling, or shrub, or any underwood respectively, growing elsewhere than in any of the situations hereinbefore mentioned, every such offender (in case the amount of the injury done shall exceed the sum of one pound,) shall be guilty of a misdemeanor, and being convicted thereof, shall be punished accordingly.

The like as to trees, &c. growing elsewhere if the damage exceed one pound.

XX. And be it enacted, that if any person shall unlawfully and maliciously cut, break, bark, root up, or otherwise destroy or damage the whole or any part of any tree, sapling, or shrub, or any underwood, wheresoever the same may be respectively growing, the injury done being to the amount of one shilling at the least, every such offender, being convicted thereof, before a Justice of the Peace, shall forfeit and pay, over and above the amount of the injury done, such sum of money not exceeding one pound as to the Justice shall seem meet.

Destroying or damaging trees, shrubs or underwood, &c. wheresoever growing to the amount of damage punishable on summary conviction.

XXI.

XXI. And be it enacted, that if any person shall unlawfully and maliciously destroy, or damage with intent to destroy any plant, root, fruit or vegetable production, growing in any garden, orchard, nursery ground, hot-house, green-house or conservatory, every such offender being convicted thereof before a Justice of the Peace, shall forfeit and pay, over and above the amount of the injury done, such sum of money not exceeding two pounds as to the Justice shall seem meet.

Destroying any fruit or vegetable production in a garden &c.

XXII. And be it enacted, that if any person shall unlawfully and maliciously destroy, or damage with intent to destroy, any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land, open or enclosed, not being a garden, orchard or nursery ground, every such offender being convicted thereof, before a Justice of the Peace, shall forfeit and pay, over and above the amount of the injury done, such sum of money not exceeding twenty shillings, as to the Justice shall seem meet.

Destroying &c. vegetable production not growing in gardens.

XXIII. And be it enacted, that if any person shall unlawfully and maliciously cut, break, throw down, or in anywise destroy any fence of any description whatsoever, or any wall, stile, or gate, or any part thereof respectively, every such offender, being convicted, before a Justice of the Peace, shall forfeit and pay, over and above the amount of the injury done, such sum of money not exceeding one pound, as to the Justice shall seem meet.

Destroying &c. any fence, wall, stile or gate.

XXIV. And be it enacted, that if any person shall wilfully or maliciously commit any damage or injury, or spoil to or upon any real or personal property whatsoever, either of a public or private nature, for which no remedy or punishment is hereinbefore provided, 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 where such party shall have been examined in proof of the offence; and in such case, or in the case of property of a public nature, or wherein any public right is concerned, the money shall be applied in such manner as every penalty imposed by a Justice of the Peace under this Act, is hereinafter directed to be applied: 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 committing damage to property in any case not previously provided for, may be compelled by a Justice to pay compensation not exceeding £5.

Proviso.

XXV. And be it enacted, that every punishment and forfeiture by this Act imposed on any person maliciously committing any offence, whether the same be punishable upon indictment, or upon summary conviction, shall equally apply and be

Malice at the owner not essential to any offence under this Act.

be enforced, whether the offence be committed from malice conceived against the owner of the property in respect of which it shall be committed or otherwise.

Principals in the second degree and accessories.

XXVI. And be it enacted, that in the case of every felony punishable under this Act, every principal in the second degree, and every accessory before the fact, shall be punishable with death or otherwise, in the same manner as the principal in the first degree is by this Act punishable; and every accessory after the fact to any felony punishable under this Act, shall, on conviction, be liable to be imprisoned for any term not exceeding two years, and every person who shall aid, abet, counsel or procure the commission of any misdemeanor, punishable under this Act, shall be liable to be indicted and punished as a principal offender.

Abettors in misdemeanors.

The Court may, for all offences within this Act, order hard labour or solitary confinement.

XXVII. And be it enacted, that where any person shall be convicted of any indictable offence punishable under this Act, for which imprisonment may be awarded, it shall be lawful for the Court to sentence the offender to be imprisoned, or to be imprisoned and kept to hard labour, in the Common Gaol or House of Correction; and also to direct that the offender shall be kept in solitary confinement for any portion or portions of such imprisonment, or of such imprisonment with hard labour, not exceeding one month at any one time, and not exceeding three months in any one year; as to the Court in its discretion shall seem meet.

Persons in the act of committing any offence may be apprehended without a warrant.

XXVIII. And for the more effectual apprehension of all offenders against this Act; Be it enacted, that any person found committing any offence against this Act, whether the same be punishable upon indictment or upon summary conviction, may be immediately apprehended, without a warrant, by any Peace Officer or the owner of the property injured, or his servant or any person authorized by him, and forthwith taken before some neighbouring Justice of the Peace, to be dealt with according to law.

Limitation as to summary proceedings.

XXIX. And be it enacted, that the prosecution for every offence punishable on summary conviction 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 District, County or place in which the offence shall have been committed, notwithstanding any forfeiture or penalty incurred by the offence may be payable to any public fund of such District, County or place.

Competency of witnesses.

Mode of compelling the appearance of persons pu-

XXX. And for the more effectual prosecution of all offences punishable on summary conviction under this Act; Be it enacted, that where any person shall be charged on the oath of a credible witness, before any Justice of the Peace, with any such offence, the Justice may summon the person charged to appear at a time and

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, or by leaving the same at his usual place of abode) 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, (unless where otherwise specially directed) issue such warrant; and the Justice before whom the person charged shall appear or be brought, shall proceed to hear and determine the case.

punishable on summary conviction.

XXXI. And be it enacted; that where any offence is by this Act punishable on summary conviction, any person who shall aid, abet, counsel, or procure the commission of such offence, shall, on conviction before a Justice of the Peace, be liable for every such offence of aiding, abetting, counselling, or procuring, to the same forfeiture and punishment to which a person guilty of such offence as a principal offender is by this Act made liable.

Abettors in offences punishable on summary conviction.

XXXII. And with regard to the application of all forfeitures and penalties upon summary convictions under this Act; Be it enacted, that every sum of money which shall be forfeited for the amount of any injury done, (such amount to be assessed in each case by the convicting Justice) shall be paid to the party aggrieved, if known, except where such party shall have been examined in proof of the offence; and in that case, or where the party aggrieved is unknown, such sum shall be applied in the same manner as a penalty; and every sum which shall be imposed as a penalty by any Justice of the Peace, whether in addition to such amount or otherwise, shall be paid to the convicting Justice: Provided always, that where several persons shall join in the commission of the same offence, and shall, upon conviction thereof, each be adjudged to forfeit a sum equivalent to the amount of the injury done, in every such case no further sum shall be paid to the party aggrieved than that which shall be forfeited by one of such offenders only, and the corresponding sum or sums forfeited by the other offender or offenders together with all penalties, shall be applied in the same manner as any penalty is by law directed to be applied.

Application of forfeitures and penalties upon summary convictions.

Proviso.

XXXIII. And be it enacted, that in every case of a summary conviction under this Act, where the sum which shall be forfeited for the amount of the injury done, or which shall be imposed as a penalty by the Justice, shall not be paid, either immediately after the conviction; or within such period as the Justice shall, at the time of conviction, appoint, it shall be lawful for the convicting Justice, (unless where otherwise specially directed) to commit the offender to the Common Goal

If a person summarily convicted shall not pay &c. the Justice may commit him.

Scale of imprisonment.

Gaol or House of Correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, according to the discretion of the Justice, for any term not exceeding two calendar months, where the amount of the sum forfeited or of the penalty imposed, or of both (as the case may be) together with the costs, shall not exceed five pounds; and for any term not exceeding four calendar months where the amount with costs shall exceed five pounds, and not exceed ten pounds; and for any term not exceeding six calendar months where the amount with costs shall exceed ten pounds; the commitment to be determinable in each of the cases aforesaid upon the payment of the amount and costs.

The Justice may discharge the offender in certain cases.

XXXIV. Provided always, and be it enacted, that where any person shall be summarily convicted before a Justice of the Peace of any offence against this Act, and it shall be a first conviction, 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.

Pardon for non-payment of money.

XXXV. And be it enacted, that it shall be lawful for the Queen's Majesty, or for the Governor, Lieutenant Governor or Person administering the Government of this Province for the time being, to extend the 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.

A summary conviction shall be a bar to any other proceeding for the same cause.

XXXVI. And be it enacted, that in case any person convicted of any offence punishable upon summary conviction by virtue of this Act, shall have paid the sum adjudged to be paid together with costs, under such conviction, or shall have received a remission thereof from the Crown, or shall have suffered the imprisonment awarded for non-payment thereof, or the imprisonment adjudged in the first instance, or shall have been discharged from his conviction in the manner aforesaid, in every such case he shall be released from all further or other proceedings for the same cause.

Form of conviction.

XXXVII. And be it enacted, 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 may require, *videlicet* :—

“ Be it remembered that on the _____ day of _____ in the year of our Lord _____ at _____ in the District (or City, &c. _____ as the case may be) A. O. is convicted before me J. P. one of Her Majesty's Justices of the Peace for the said District (or City, &c.) for that he the said A. O. did (*specify the offence, and the time and place*

place when and where the same was committed, as the case may be,) and I the said J. P. adjudge the said A. O. for his said offence to be imprisoned in the
 (or to be imprisoned in the _____ and there
 kept to hard labour) for the space of _____ (or,) I adjudge the said
 A. O. for his said offence to forfeit and pay _____ (here state the penalty
 actually imposed, or state the penalty and also the amount of the injury done as the
 case may be,) and also to pay the sum of _____ for costs, and in default
 of immediate payment of the said sums, to be imprisoned in the _____
 (or, to be imprisoned in the _____ and there kept
 to hard labour) for the space of _____ unless the said sums shall be
 sooner paid; (or, and I order that the said sums shall be paid by the said A. O.
 on or before the _____ day of _____) and I direct that the
 said sum of _____ (i. e. the penalty only) shall be paid to me the con-
 victing Justice, and that the said sum of _____ (i. e. the sum for
 the amount of the injury done) shall be paid to C. D. (the party aggrieved, unless he
 is unknown, or has been examined in proof of the offence, in which case state that 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.

XXXVIII. And be it enacted, that in all cases where the sum adjudged to be paid on any summary conviction shall exceed five pounds, or the imprisonment adjudged shall exceed one calendar month, or the conviction shall take place before one Justice only, any person who shall think himself aggrieved by any such conviction, may appeal to the next Court of General or Quarter Sessions, which shall be holden not less than twelve days after the day of such conviction for the District, Inferior District, County or place wherein the cause of complaint shall have arisen; provided that such person shall give to the complainant a notice in writing of such appeal, and of the cause and matter thereof within three days after such conviction, and seven clear 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 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

Appeal.

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.

Conviction to be returned to the Quarter Sessions.

XXXIX. And be it enacted, 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 or Quarter Sessions which shall be holden for the District, or Inferior District, County or Place, 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 shown.

How far evidence in future cases.

Limitation of time, and venue in proceedings under this Act.

XL. And, for the protection of persons acting in the execution of this Act ; be it enacted, 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 or Inferior 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 any 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, shall certify his approbation of the action, and of the verdict obtained thereupon.

Notice of action.

General issue.

Fines &c. to be in current money.

XLI. And be it enacted, that all fines, forfeitures and penalties imposed by this Act, and all sums expressed as the value of any goods, chattels, or other property herein mentioned, shall be deemed and taken to be current money of this Province.

XLII. And be it enacted, that all Acts or parts of Acts, or Provisions of Law in

in force in this Province or any part thereof, immediately before the time when this Act shall come into force, which shall be inconsistent with or contradictory to this Act, or which make any provision in any matter provided for by this Act, other than such as is hereby made in such matter shall, from and after the time when this Act shall come into force, be, and they are hereby repealed, except in so far as may relate to any offence committed before the said time, which shall be dealt with and punished as if this Act had not been passed.

C A P. XXVII.

An Act for consolidating and amending the Statutes in this Province relative to Offences against the person.

[18th September, 1841.]

WHEREAS it is expedient to amend and consolidate the provisions contained in various Statutes now in force in this Province, relative to offences against the person; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that this Act shall commence and take effect from and after the first day of January, one thousand eight hundred and forty two.

Preamble.

Commencement of this Act.

II. And be it enacted, that every offence, which before the commencement of this Act, would have amounted to petit treason, shall be deemed to be murder only, and no greater offence; and all persons guilty in respect thereof, whether as principals or as accessories, shall be dealt with, indicted, tried, and punished as principals and accessories in murder.

Petit treason to be treated in all respects as murder.

III. And be it enacted, that every person convicted of murder, or of being an accessory before the fact to murder, shall suffer death as a felon; and every accessory after the fact to murder, shall be liable, at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary for the term of his natural life, or for any term not less than seven years, or to be imprisoned in any other prison or place of confinement for any term not exceeding two years.

Punishment of principals and accessories in murder.

IV. And be it enacted, that from and after the passing of this Act, sentence of death

death may be pronounced after convictions for murder, in the same manner, and the Court before which the conviction may be had shall have the same power in all respects as after convictions for other capital offences.

Prison regulations as to murderers under sentence.

V. And be it enacted, that every person convicted of murder, shall, after judgment, be confined in some safe place within the prison, apart from all other prisoners, and shall be fed with bread and water only, and with no other food or liquor, except in case of receiving the sacrament, or in case of any sickness or wound, in which case the Surgeon of the Prison may order other necessaries to be administered; and no person but the gaoler and his servants, and the chaplain and surgeon of the Prison, shall have access to any such convict, without the permission, in writing, of the Court or Judge before whom such convict shall have been tried, or of the Sheriff or his Deputy.

Provision for the trial of murder and manslaughter where the death, or the cause of death only, happens in this Province.

VI. And be it enacted, that where any person, being feloniously stricken, poisoned, or otherwise hurt upon the sea, or at any place out of this Province, shall die of such stroke, poisoning, or hurt, in this Province, or being feloniously stricken, poisoned, or otherwise hurt at any place in this Province, shall die of such stroke, poisoning, or hurt, upon the sea, or at any place out of this Province, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory before the fact to murder, or after the fact to murder, or manslaughter, may be dealt with, enquired of, tried, determined, and punished in the District, County, or Place in this Province, in which such death, stroke, poisoning, or hurt shall happen, in the same manner, in all respects, as if such offence had been wholly committed in such District, County or Place.

Punishment of manslaughter.

VII. And be it enacted, that every person convicted of manslaughter, shall be liable, at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary for the term of his natural life, or for any term not less than seven years, or to be imprisoned in any other prison or place of confinement for any term not exceeding two years, or to pay such fine as the Court shall award.

As to homicide not felonious.

VIII. Provided always, and be it enacted, that no punishment or forfeiture shall be incurred by any person who shall kill another by misfortune or in his own defence, or in any other manner without felony.

Punishment for administering poison &c.

IX. And be it enacted, that whosoever shall administer or cause to be taken by any person, any poison or other destructive thing, or shall stab, cut or wound any person, or shall by any means whatsoever cause to any person any bodily injury, dangerous

dangerous to life, with intent, in any of the cases aforesaid, to commit murder, shall be guilty of felony, and being convicted thereof shall suffer death.

with intent to commit murder.

X. And be it enacted, that whosoever shall attempt to administer to any person any poison or other destructive thing, or shall shoot at any person, or shall by drawing a trigger or in any other manner, attempt to discharge any kind of loaded arms at any person, or shall attempt to drown, suffocate, or strangle any person, with intent in any of the cases aforesaid to commit the crime of murder, shall, although no bodily injury shall be effected, be guilty of felony, and being convicted thereof shall be liable, at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary for the term of his natural life, or for any term not less than seven years, or to be imprisoned in any other prison or place of confinement for any term not exceeding two years.

Punishment for offences with intent to commit murder though no injury effected.

XI. And be it enacted, that whosoever unlawfully and maliciously shall shoot at any person, or shall, by drawing a trigger, or in any other manner, attempt to discharge any kind of loaded arms at any person, or shall stab, cut or wound any person, with intent in any of the cases aforesaid to maim, disfigure, or disable such person, or to do some other grievous bodily harm to such person, or with intent to resist or prevent the lawful apprehension or detainer of any person, shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary for the term of his natural life, or for any term not less than seven years, or to be imprisoned in any other prison or place of confinement for any term not exceeding two years.

Punishment for cutting and maiming with intent to disfigure.

XII. And be it enacted, that whosoever shall unlawfully and maliciously send or deliver to or cause to be taken, or received by any person, any explosive substance, or any other dangerous or noxious thing, or shall cast or throw upon or otherwise apply to any person, any corrosive fluid, or other destructive matter, with intent in any of the cases aforesaid, to burn, maim, disfigure, or disable any person, or to do some other grievous bodily harm to any person, and whereby in any of the cases aforesaid any person shall be burnt, maimed, disfigured or disabled, or receive some other grievous bodily harm, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary for the term of his natural life, or for any term not less than seven years, or to be imprisoned in any other prison or place of confinement for any term not exceeding two years.

Punishment for sending explosive substances or throwing destructive matter with intent to do bodily harm

XIII. And be it enacted, that whosoever, with intent to procure the miscarriage of any woman, shall unlawfully administer to her, or cause to be taken by her, any
poison

Punishment for trying to procure abortion.

poison or other noxious thing, or shall unlawfully use any instrument or other means whatsoever with the like intent, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary for the term of his natural life, or for any term not less than seven years, or to be imprisoned in any other prison or place of confinement for any term not exceeding two years.

A woman secreting the dead body of her child, to conceal the fact of its birth, guilty of misdemeanor.

Proviso.

XIV. And be it enacted, 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 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.

Sodomy.

XV. And be it enacted, that every person convicted of the abominable crime of Buggery, committed either with mankind or with any animal, shall suffer death as a felon.

Rape.

XVI. And be it enacted, that every person convicted of the crime of rape, shall suffer death as a felon.

Carnal knowledge of a girl under 10; the like of a girl above 10 and below 12.

XVII. And be it enacted, that if any person shall unlawfully and 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; and if any person shall unlawfully and carnally know and abuse any girl, being above the age of ten years, and under the age of twelve years every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to be imprisoned for such term as the Court shall award.

What shall be sufficient proof of carnal knowledge in the four preceding cases.

XVIII. And whereas upon trials for the crime of buggery, and of rape, and of carnally abusing girls under the respective ages hereinbefore mentioned, offenders frequently escape by reason of the difficulty of the proof which has been required of the completion of those several crimes; for remedy thereof, be it enacted, that it shall not be necessary, in any of those cases, to prove the actual emission of seed in order to constitute a carnal knowledge, but that the carnal knowledge shall be deemed complete upon proof of penetration only.

XIX.

XIX. And be it enacted, that where any woman shall have any interest, whether legal or equitable, present or future, absolute, conditional, or contingent, in any real or personal estate, or shall be an heiress presumptive or next of kin to any one having such interest, if any person shall, from motives of lucre, take away or detain such woman against her will, with intent to marry or defile her, or to cause her to be married or defiled by any other person, every such offender, and every person counselling, aiding or abetting such offender, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned at hard labour in the Provincial Penitentiary, for any term not less than seven years, or to be imprisoned in any other prison or place of confinement for any term not exceeding two years.

Forcible abduction of a woman on account of her fortune with intent to marry her. &c.

XX. And be it enacted, that if any person shall unlawfully take, or cause to be taken, any unmarried girl, being under the age of sixteen years, out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to suffer such punishment, by fine or imprisonment, or by both, as the Court shall award.

Unlawful abduction of a girl from her parents or guardians.

XXI. And be it enacted, that if any person shall maliciously, either by force or fraud, lead or take away, or decoy, or entice away or detain, any child under the age of ten years, with intent to deprive the parent or parents, or any other person having the lawful care or charge of such child, of the possession of such child, or with intent to steal any article upon or about the person of such child, to whomsoever such article may belong; or if any person shall, with any such intent as aforesaid, receive or harbour any such child, knowing the same to have been, by force or fraud, led, taken, decoyed, enticed away or detained as hereinbefore mentioned; every such offender, and every person counselling, aiding or abetting such offender, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned at hard labour in the Provincial Penitentiary for any term not less than seven years, or to be imprisoned in any other prison or place of confinement, for any term not exceeding two years: Provided always, that no person who shall have claimed to be the father of an illegitimate child, or to have any right to the possession of such child, shall be liable to be prosecuted by virtue hereof, on account of his getting possession of such child, or taking such child out of the possession of the mother, or any other person having the lawful charge thereof.

Child stealing.

Not to extend to fathers taking their illegitimate children.

XXII. And be it enacted, that if any person, being married, shall marry any other person during the life of the former husband or wife, whether the second marriage shall have taken place in this Province or elsewhere, every such offender, and every person counselling, aiding, or abetting such offender, shall be guilty of felony; and being convicted thereof, shall be liable to be imprisoned at hard labour in the Provincial

Bigamy.

Place of trial

Exceptions.

Provincial Penitentiary for any term not less than seven years, or to be imprisoned in any other prison or place of confinement for any term not exceeding two years ; and any such offence may be dealt with, enquired of, tried, determined, and punished in the District or County where the offender shall be apprehended or be in custody, as if the offence had been actually committed in that District or County : Provided always, that nothing herein contained shall extend to any second marriage contracted out of this Province by any other than a subject of Her Majesty, resident in this Province, and leaving the same with intent to commit the offence, or to any person marrying a second time, whose husband or wife shall have been continually absent from such person for the space of seven years then last past, and shall not have been known by such person to be living within that time ; or shall extend to any person, who, at the time of such second marriage, shall have been divorced from the bond of the first marriage ; or to any person, whose former marriage shall have been declared void by the sentence of any Court of competent jurisdiction.

Arresting a Clergyman during divine service.

XXIII. And be it enacted, that if any person shall arrest any Clergyman or Minister of the Gospel, upon any civil process, while he shall be performing divine service, or shall, with the knowledge of such person, be going to perform the same, or returning from the performance thereof, every such offender shall be guilty of a misdemeanor ; and being convicted thereof, shall suffer such punishment, by fine or imprisonment, or by both, as the Court shall award.

Punishment for assaults on Officers, &c. for their endeavours to save shipwrecked property.

XXIV. And be it enacted, that if any person shall assault and strike or wound any Magistrate, Officer, or other person whatsoever, lawfully authorized, on account of the exercise of his duty in or concerning the preservation of any vessel in distress, or of any vessel, goods, or effects wrecked, stranded, or cast on shore, or lying under water, every such offender, being convicted thereof, shall be liable to be imprisoned at hard labour in the Provincial Penitentiary for any term not less than seven years, or to be imprisoned in any other prison or place of confinement for any term not exceeding two years.

Assaults with intent to commit felony ; assaults on Peace Officers ; or to prevent the arrest of offenders ; or in pursuance of a conspiracy to raise wages ; punishable with hard labour.

XXV. And be it enacted, that where any person shall be charged with and convicted of any of the following offences as misdemeanors, that is to say, of any assault with intent to commit felony ; of any assault upon any Peace Officer or Revenue Officer in the due execution of his duty, or upon any person acting in aid of such officer ; of any assault upon any person with intent to resist or prevent the lawful apprehension or detainer of the party so assaulting, or of any other person, for any offence for which he or they may be liable by law to be apprehended or detained ; or of any assault committed in pursuance of any conspiracy to raise the rate of wages : in any such case, the Court may sentence the offender to be imprisoned for

for any term not exceeding two years, and may also (if it shall so think fit) fine the offender, and require him to find sureties for keeping the peace.

XXVI. And be it enacted, that if any person shall, unlawfully and with force, hinder any seaman from working at or exercising his lawful trade, business or occupation, or shall beat, wound, or use any other violence to him, with intent to deter or hinder him from working at or exercising the same; or if any person shall beat, wound, or use any other violence to any person, with intent to deter or hinder him from selling or buying any wheat or other grain, flour, meal or malt, in any market or other place, or shall beat, wound, or use any other violence to any person having the care or charge of any wheat or other grain, flour, meal, or malt, whilst on its way to or from any city, market-town, or other place, with intent to stop the conveyance of the same, every such offender may be convicted thereof before two Justices of the Peace, and imprisoned and kept to hard labour in the Common Gaol or House of Correction, for any term not exceeding three calendar months: Provided always, that no person, who shall be punished for any such offence, by virtue of this provision, shall be punished for the same offence by virtue of any other law whatsoever.

Assault on any Seaman, &c. to prevent him from working; assaults with intent; to obstruct the buying or selling of grain, or its free passage; punishable before two magistrates, with imprisonment not exceeding three months.

XXVII. And whereas it is expedient that a summary power of punishing persons for common assaults and batteries should be provided under the limitations hereinafter mentioned; Be it therefore enacted, that where any person shall unlawfully assault or beat any other person, it shall be lawful for any Justice of the Peace, upon complaint of the party aggrieved, praying him to proceed summarily under this Act to hear and determine such offence; and the offender, upon conviction thereof before him, shall forfeit and pay such fine as shall appear to him to be meet, not exceeding together with costs (if ordered) the sum of five pounds, which fine shall be paid to the Treasurer of the Municipal District, or place in which the offence shall have been committed, and make part of the funds of such District, or if the conviction be had in any place not within any Municipal District, then such fine shall be paid over to such Officer, and be applicable to such purposes as other fines and penalties by law are; and the evidence of any inhabitant of the Municipal District shall be admitted in proof of the offence, notwithstanding such application of the fine incurred thereby; and if such fine as shall be awarded by the said Justice, together with the costs (if ordered) shall not be paid, either immediately after the conviction, or within such period as the said Justice shall at the time of the conviction appoint, it shall be lawful for him to commit the offender to the Common Gaol or House of Correction, there to be imprisoned for any term not exceeding two calendar months, unless such fine and costs be sooner paid; but if the Justice, upon the hearing of any such case of assault or battery shall deem the offence not to be proved, or shall find the assault or battery to have been

Persons committing any common assault or battery may be compelled by a Magistrate to pay fine and costs not exceeding £5.

Application of the fine.

Commitment on non payment.

If the Magistrate dismisses the complaint, he shall make out a certificate to that effect.

been justified, or so trifling as not to merit any punishment, and shall accordingly dismiss the complaint, he shall forthwith make out a certificate under his hand, stating the fact of such dismissal, and shall deliver such certificate to the party against whom the complaint was 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 so found, to commit the party by whom such costs shall be so ordered to be paid, as aforesaid, to the Common Gaol of the District, County 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.

Such certificate or conviction shall be a bar to any other proceedings.

XXVIII. And be it enacted, that if any person against whom any such complaint shall have been preferred for any common assault or battery, 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 non-payment thereof, in every such case he shall be released from all further or other proceedings, civil or criminal, for the same cause.

Magistrate may discharge offender on his satisfying aggrieved party.

XXIX. And be it enacted, 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 such 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 said Justice.

Where felony intended Magistrate not to adjudicate, but refer the case to the Tribunals.

XXX. Provided always, and be it enacted, 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 any adjudication thereupon, and shall deal with the case in all respects in the same manner as he would have done before the passing of this Act: Provided also, that nothing herein contained shall authorize any Justice of the Peace to hear and determine any case of assault or battery, in which any question shall arise as to the title to any lands, tenements or hereditaments, or any interest therein or accruing therefrom, or as to any bankruptcy or insolvency, or any execution under the process of any Court of Justice.

XXXI. And be it enacted, that if any person shall wilfully disturb, interrupt,
or

or disquiet any assemblage of persons met for religious worship, by profane discourse, by rude, or indecent behaviour, or by making a noise, either within the place of worship, or so near it as to disturb the order, or 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 five pounds, as the said Justice shall think fit.

XXXII. And be it enacted, that in default of payment of any fine imposed under the authority of this Act, on a summary conviction before any Justice of the Peace, together with the costs attending the same, within the period specified for the payment thereof, at the time of conviction by the Justice before whom such conviction may have taken place, it shall and may be lawful for such Justice, 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 specified, 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.

Fines, how levied.

XXXIII. And be it enacted, that any person who shall think himself aggrieved by any summary conviction, or decision, under this Act as aforesaid, may appeal to the next Court of General, or 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 always, 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 against convictions to Quarter Sessions.

XXXIV. And be it enacted, that whenever an appeal shall be made from the decision

Appeals, triable by Jury.

decision of any Justice under this Act as aforesaid the Court of General or Quarter Sessions shall have power to empanel a Jury to try the matter on which such decision may have been made, and the Court, on the finding of such Jury, under oath, 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 not 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.

Punishment
of accessories.

XXXV. And be it enacted, that in the case of every felony punishable under this Act, every principal in the second degree, and every accessory before the fact, shall be punishable with death or otherwise, in the same manner as the principal in the first degree is by this Act punishable; and every accessory after the fact to any felony punishable under this Act, shall, on conviction, be liable to be imprisoned for any term not exceeding two years.

Offences pun-
ishable by im-
prisonment.

XXXVI. And be it enacted, that when any person shall be convicted of any offence punishable under this Act, for which imprisonment may be awarded, it shall be lawful for the Court to sentence the offender to be imprisoned, or to be imprisoned and kept to hard labour, in the Common Gaol or House of Correction, and also to direct that the offender shall be kept in solitary confinement for any portion or portions of such imprisonment, or of such imprisonment with hard labour, not exceeding one month at any one time, and not exceeding three months in any one year, as to the Court in its discretion shall seem meet.

Jury may ac-
quit of felony
and convict of
assault, in cer-
tain cases.

XXXVII. And be it enacted, that on the trial of any person for any of the offences hereinbefore mentioned, or for any felony whatever, where the crime charged shall include an assault against the person, it shall be lawful for the Jury to acquit of the felony, and to find a verdict of guilty of assault, against the person indicted, if the evidence shall warrant such finding; and when such verdict shall be found, the Court shall have power to imprison the person so found guilty of an assault, for any term not exceeding three years.

Not to affect
the laws rela-
ting to the For-
ces.

XXXVIII. Provided always, and be it enacted, that nothing herein contained shall alter or affect any of the laws relating to the Government of Her Majesty's Land or Naval Forces.

Persons im-
prisoned may
be pardoned.

XXXIX. And be it enacted, that it shall be lawful for the Queen's Majesty, and for the Governor, Lieutenant Governor or Person administering the Government
of

the Provinces of Upper and Lower Canada, and for the Government of Canada; and it is hereby enacted by the authority of the same, that for the construction and completion of the Public Works of this Province, there be granted to Her Majesty, Her Heirs and Successors the sum of one million, six hundred and fifty-nine thousand six hundred and eighty-two pounds, Sterling, which said sum shall be applied and expended under the charge and superintendence of the Board of Works of this Province, for the erection and completion of the following Public Works, and in the proportions and within the periods hereinafter mentioned; that is to say:

A certain sum granted for public works.

- For the Welland Canal, the sum of four hundred and fifty thousand pounds, Sterling; Welland Canal.
- For the Improvement of the Navigation of the Saint Lawrence, exclusive of Lake Saint Peter, six hundred and ninety-one thousand six hundred and eighty-two pounds, Sterling; Improvement of the St. Lawrence.
- For the Improvement of the Navigation of the Lake Saint Peter, fifty eight thousand five hundred pounds, Sterling; Lake St. Peter.
- For the Burlington Bay Canal, forty five thousand pounds, Sterling; Burlington Bay Canal.
- For improving the internal waters of the Newcastle District, the construction of Slides, Locks, and certain Roads leading thereto, fifty thousand pounds, Sterling; Waters of Newcastle District.
- For constructing or improving Harbours and Light Houses on Lakes Ontario and Erie, and Roads leading thereto, seventy-four thousand pounds, Sterling; Harbour and Light Houses on Lakes Ontario and Erie.
- For improving the River Richelieu, twenty-one thousand pounds, Sterling; River Richelieu.
- For improving the River Ottawa, and building Bridges and constructing Slides on the same, twenty-eight thousand pounds, Sterling; River Ottawa.
- For improving the Bay of Chaleurs Road between Percé Point and the Indian Mission, and a portion of the Métis or Kempt Road, fifteen thousand pounds Sterling; Bay of Chaleurs Road.
- For improving and completing the Gosford Road between Quebec and the Eastern Townships, through the block of land possessed by the Government, ten thousand pounds, Sterling; Gosford Road.

For

- Main Northern Road. For improving and completing the main northern Road from Lake Ontario at Toronto, to Lake Huron, continuing and perfecting the same from the termination of the portion already undertaken by the District of Barrie, establishing Toll Bars thereon, and improving sundry parts thence to Penetanguishine, and on the Cold Water *Portage*, thirty thousand pounds, Sterling ;
- Main Province Road, For improving the main Province Road from Quebec to Amherstburg and Port Sarnia, building certain Bridges on the same between Montreal and Quebec, and improving those portions of the line along which the River or Lakes are not now available for the transport of the Mails, that is to say :
- Cascades to Province line. To macadamize or otherwise improve that portion between the Cascades and the Province line, and to establish Toll bars thereon, fifteen thousand pounds, Sterling ;
- Brantford to London. To macadamize or otherwise complete that portion from the termination of the part already undertaken by the District of Brantford to London, and establish Tolls thereon, fifty-five thousand pounds, Sterling ;
- London to Port Sarnia. To drain, trunk, form, and otherwise improve the Road thence to Port Sarnia, fifteen thousand pounds, Sterling ;
- London to Chatham &c. To drain, trunk, form, and otherwise improve the Road from London to Chatham, Sandwich and Amherstburg, fifty-five thousand pounds, Sterling ;
- Bridges between Quebec and Montreal. For building Bridges over the large Rivers between Quebec and Montreal, thirty-four thousand pounds, Sterling ;
- L'Original to the St. Lawrence. For the completion of the Military Road, from the Ottawa near L'Original to the Saint Lawrence, fifteen hundred pounds, Sterling ;
- Hamilton to Port Dover. For the formation of a line of Road, from Hamilton to Port Dover, thirty thousand pounds, Sterling.

Powers heretofore vested in any Directors or Commissioners of any of the said Public Works transferred to the Board of Works.

II. And be it enacted, that from and after the passing of this Act, all Directors or Commissioners appointed by or under the authority of any of the Laws now in force, authorizing the construction or carrying on of any of the said works and improvements shall be superseded, and their respective offices shall cease and be determined to all intents and purposes whatsoever: and that all and every the powers and authorities conferred upon any such Directors or Commissioners in or by

by any such Law or Laws shall be transferred to and shall and may be used, exercised and enjoyed by, and under the direction of, the Board of Works, in as full and ample a manner to all intents and purposes, as the same might or lawfully could be used, exercised or enjoyed by such Directors or Commissioners or any number of them, respectively : Provided that nothing herein contained, shall diminish or affect the authority and powers of the Commissioners appointed by or under the authority of an Act of the Legislature of the late Province of Upper Canada, passed in the third year of the Reign of His late Majesty King William the Fourth, and intituled *An Act granting to Her Majesty a sum of Money, to be raised by Debenture, for the improvement of the River Saint Lawrence*, in so far as regards the settlement of the claims for compensation for damages, made under the said Act by any person whomsoever before the passing of this Act ; but such powers and authorities, and all the provisions of the said Act, shall, in so far as regards any such claim, be and remain in full force and effect, as if this Act had not been passed : and provided also, that nothing herein contained shall in anywise affect the rights or powers of the Stockholders of the Capital Stock of the Welland Canal Company, or any Directors by them elected according to Law.

Proviso—As to certain powers to settle claims for damages, given by Act of U. C. 3 Will. 4, c. 18.

III. Provided always, and be it enacted, that nothing herein contained shall be construed in anywise to annul, discharge, vacate or make void, any contract, agreement, debt, or liability lawfully made, entered into or incurred by or to such Directors or Commissioners ; but that every such contract, agreement, debt or liability shall be performed, fulfilled, paid and discharged to or by the said Board of Works in like manner and subject to the same conditions as it would have been to or by the said Directors or Commissioners if they had continued in office.

Rights and liabilities of the Commissioners and Directors transferred to the Board of Works.

IV. And be it enacted, that it shall be lawful for the Governor, Lieutenant Governor or person administering the Government of this Province, from time to time, and as occasion shall require, to raise by Loan the said sum of one million six hundred and fifty-nine thousand six hundred and eighty-two pounds, Sterling, for the construction and completion of the several Public Works hereinbefore enumerated.

A Loan may be raised by the Governor to an amount equal to the total amount of the sums hereby granted.

V. And be it enacted, that it shall be lawful for the Governor, Lieutenant Governor, or person administering the Government of this Province, to cause or direct any number of Debentures to be made out for such sum or sums of money, not exceeding in the whole the amount hereinbefore authorized to be raised, as any person or persons, body or bodies corporate or politic, shall agree to advance upon such Debentures, with interest payable half yearly at a rate not exceeding the rate of five pounds, for every hundred pounds, by the year, and which said Debentures shall be made payable at twenty years from the date thereof.

Debentures to be issued to the amount aforesaid.

VI.

Debentures issued under this Act to be chargeable on the Revenue of the Province.

VI. And be it enacted, that all such Debentures and interest thereon, and the charges incident thereto or attending the same, shall be and are hereby declared to be charged and chargeable upon and shall be borne and paid out of the consolidated Revenue Fund of this Province.

Counterfeiting Debentures &c. with intent to defraud, to be felony.

VII. And be it enacted, 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 remain uncanceled, or any stamp, indorsement, or writing thereon or therein, or shall tender in payment any such forged or counterfeited Debenture, or any Debenture with such counterfeited indorsement or writing thereon, or shall demand to have such counterfeit Debenture, or any Debenture with such counterfeited indorsement or writing thereupon or therein, exchanged for ready money by any person or persons who shall be obliged and 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 indorsement or writing thereupon or therein, to be forged or counterfeited, and with intent to defraud Her Majesty, Her Heirs or Successors, or the person 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 guilty of Felony, and shall suffer punishment accordingly.

Accounts to be rendered by the Receiver General.

VIII. And be it enacted, 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 may have been 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 period aforesaid, and of the expenses attending the issue of the same and of carrying this Act into effect.

Such interest to be payable by the Receiver General half yearly.

IX. And be it enacted, that the interest accruing upon the said Debentures shall and may be demandable at 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 indorsed 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 the thirty-first day of December in each and every year, issue Warrants to the said Receiver General, for the payment of the amount of interest that shall

shall have been advanced according to the receipts to be by him taken as aforesaid.

X. And be it enacted, 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 favor of the lawful holder thereof, and that such Debentures as shall from time to time be discharged and paid off, shall be cancelled and made void by the said Receiver General.

Debentures redeemable how to be paid off.

XI. And be it enacted, that at any time hereafter it shall and may be lawful for the Governor, Lieutenant Governor, or Person administering the Government of this Province, if he thinks proper so to do, to direct a notice to be inserted in the Gazette, requiring all holders of such of the said Debentures as shall be then redeemable to present the same for payment, and if (after 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 to the time which may elapse between the expiration of the said six months and their presentment for payment.

Debentures redeemable may be called in and further interest stopped on those not presented accordingly.

XII. And be it enacted, that there shall be annually laid before both Houses of the Legislature of this Province, accounts in detail of the expenditure made in the prosecution of the several Public Works hereinbefore mentioned, and also of the rates and tolls received on account of each of said works, respectively.

Accounts of monies expended and tolls collected on such works to be laid before Parliament.

XIII. And be it enacted, that the due application of the Monies herein granted shall be accounted for to Her Majesty, Her Heirs, and Successors, through the Lords Commissioners of the Treasury, in such manner and form as Her Majesty, Her Heirs or Successors shall be graciously pleased to direct.

Accounting clause.

C A P. XXIX.

An Act for levying a certain rate or duty on Bank Notes, issued and in Circulation in this Province.

[18th September, 1841.]

MOST GRACIOUS SOVEREIGN,

WHEREAS it is expedient to impose a rate or duty to be paid to Your Majesty for the Public Improvements of this Province, on Bank Notes issued and in

Preamble.

in circulation 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 of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, that each and every Bank incorporated, chartered or recognized by the Legislature of this Province, or by the Legislature of either of the late Provinces of Upper or Lower Canada, and each and every Company, Person or Party lawfully acting as Bankers, or as a Banker within this Province, shall, on the fifteenth day of May, and the fifteenth day of November, in each year, deliver to the Receiver General a statement shewing the total amount in nominal value, of the Notes or Bills issued by such Bank, Company, Person or Party, payable to bearer or on demand, or transferable by delivery, and in circulation at the end of each calendar month for which no statement shall have been previously delivered; and that such statement shall be certified as correct by the signature of the Cashier or other proper Officer of the Bank to which it shall relate, and also by the President, or person acting as the President of the same, or by the party or one of the parties acting as a Banker, or as Bankers, or his or their Chief Clerk, or authorized Agent; and the person or persons, so certifying any statement, shall make and sign a declaration in writing before a Justice of the Peace, that he or they have had the means of knowing that such statement is correct, and that it is so to the best of his or their knowledge and belief.

Certain statements to be made periodically to the Receiver General by Banks and Bankers.

How attested.

Wilful false statement, liable to the penalty of perjury.

II. And be it enacted, that any wilful false allegation in any such statement shall be a misdemeanor, for which the person making the same shall be liable to the punishment to which persons guilty of wilful and corrupt perjury are by Law liable, in the place in which such false statement shall have been made.

A duty imposed on Bank Notes in circulation.

III. And be it enacted, that at the time any such statement shall be delivered to the Receiver General, as aforesaid, there shall be paid to him by the Bank, Banker or Bankers making the same, a duty at the rate of one per cent per annum on the average amount of the Notes and Bills therein mentioned as in circulation during the time for which such statement shall be made.

Penalty for refusal or neglect to deliver statement.

IV. And be it enacted, that for any refusal or neglect to deliver any statement required by this Act, at the time herein appointed, the Bank or party so refusing or neglecting shall forfeit to Her Majesty the sum of one thousand pounds, currency, for the public uses of the Province; and such forfeiture, as well as any sum due to Her Majesty under the provisions of this Act, may be recovered with costs in

in any way in which debts due to the Crown can be recovered in that part of the Province in which such forfeiture shall have been incurred, or such sum shall have become due.

V. And be it enacted, that all such forfeitures or sums recovered as aforesaid, shall be paid to the Receiver General, and shall, as shall all other monies paid to him under the authority of this Act, form part of the consolidated Revenue Fund of this Province; and the due application of all such monies shall be accounted for to Her Majesty, Her Heirs and Successors through the Lords Commissioners of Her Majesty's Treasury for the time being in such manner and form as Her Majesty, Her Heirs and Successors shall direct.

Forfeitures and duties how applied and accounted for.

C A P. XXX.

An Act to amend a certain Ordinance therein mentioned, relative to Winter Roads, in that part of the Province formerly called Lower Canada.

[18th September, 1841.]

WHEREAS it is expedient to repeal certain provisions of the Ordinance hereinafter mentioned of the Legislature of the late Province of Lower Canada, relative to Winter Roads; 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 Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that from and after the passing of this Act, so much of the Ordinance of the Legislature of the late Province of Lower Canada, passed in the fourth year of Her Majesty's Reign, and intituled *An Ordinance to amend the Laws relative to Winter Roads*, as requires each Overseer of Roads to order any Public Road under his control, to be opened and beaten to a width of at least twelve feet within twenty four hours after the cessation of each fall of snow or snow drift by which the beaten track on such Road shall be covered to a depth exceeding eight inches with loose and unbeaten snow, or imposes a penalty on any person disobeying such order, shall be, and so much of the said Ordinance is hereby repealed.

Preamble.

Part of the Ordinance 4 Vict. cap. 33 repealed.

CAP.

C A P. XXXI.

An Act to impose a duty upon Distilleries in that part of the Province heretofore called Lower Canada.

[18th September, 1841.]

MOST GRACIOUS SOVEREIGN,

Preamble.

WHEREAS certain duties are payable in that part of this Province called Upper Canada, by persons having and using Stills for Distilling Spirituous Liquors for sale, and it is expedient that similar duties should be payable within that part of this Province called Lower Canada, to aid in carrying on the Public Improvements of the Province; 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 of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada* and it is hereby, enacted, by the authority of the same, that from and after the first day of January next, there shall be raised, levied, collected, and paid yearly, and every year, unto Her Majesty, Her Heirs and Successors, by and from all persons having or using a Still or Stills, for the purpose of distilling spirituous liquors for sale, within that part of this Province called Lower Canada, a sum not exceeding one shilling and six pence, currency, per gallon for each gallon which such Still or Stills, or other vessels used for the purpose of distilling, as aforesaid, and hereinafter more particularly described, shall, or may, be capable of containing.

Duty on Stills.

District Inspector.

II. And be it enacted, that it shall be lawful for the Governor, or the Person administering the Government, by an instrument under his hand, to appoint a District Inspector in and for each of the Districts of Quebec, Montreal, Three Rivers, Saint Francis and Gaspé, and from time to time, to remove any such Inspector, and appoint another in his stead.

License.

III. And be it enacted, that every person keeping or using a Still, shall obtain a Licence from the District Inspector, which Licence shall continue and be in force, until the thirty first day of December of the year on which the same is granted, and not afterwards, and shall be renewed annually.

Form of requisition for a Licence.

IV. And be it enacted, that each person requiring a Licence to use a Still or Stills, shall make a requisition to the District Inspector in the following form, and stating

stating the entire capacity of the Still, or of the Stills, for which it is required, and the exact location of the same:—

“ I, _____, do hereby require a Licence in favor of
for a Distillery, situate in (*describe the exact situation of the Distillery, and of every vessel within the Still House of the said Distillery, and the dimensions of Stills required to be Licenced*) the District of _____; and I hereby declare, that the entire capacity of every Beer Still, Faint Still, Doubler, or other Vessel containing, or intended to contain, Beer or Wash for running the Low Wines, or in any way acting as a Still in the said Distillery, without any allowance or deduction on account of allowance for steam room, or on any other account whatever, is _____ gallons, and that no other Vessel whatever, except those included in the said measurement, is used, or intended to be used, as a Still, or in any way to answer the purpose of a Still, or of part of a Still, in the said Distillery.
“ Witness my hand this _____ day of _____ one thousand eight hundred _____

_____ signature of the proprietor or
owner of the Distillery, or his Clerk or Agent, cognizant
of all the facts stated in the requisition.

“ To

“ District Inspector for _____ ”

V. And be it enacted, that from and after the said first day of January next, 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 is supposed to be kept, within his District, whether the same be licenced or unlicenced, and to make all and every necessary search or searches therein, or in any part thereof, and to measure and guage such Still or Stills, and to make all and every necessary inquiry and examination upon or about the premises, either for the purpose of ascertaining the correctness of the requisition sent in to such District Inspector, or of ascertaining whether any Still or Stills, for which no licence has been taken out, may be in operation upon the premises.

Inspector
may enter Dis-
tilleries bet-
ween sunrise &
sunset.

VI. And be it enacted, that any person or persons refusing to permit the District Inspector, or those acting under him, to enter into any Distillery, Still-House or other place containing, or reasonably supposed to contain any Still, between sunrise or sunset, as aforesaid, or obstructing, preventing or hinderiug such Inspector, or those acting under him, in his or their lawful entry or search, as aforesaid, shall, for each offence, incur a penalty not exceeding ten pounds, currency, to be recovered in a summary manner before any Justice of the Peace having Jurisdiction in the place where the offence is committed on the oath of one credible witness, other than the informer, and to be levied, with costs, by distress and sale

Penalty on
persons obs-
tructing or
hinderiug In-
spector.

sale of the goods and chattels of the offender, under the warrant of such Justice, if not forthwith paid; and one moiety of such penalty shall belong to Her Majesty, and the other to the informer or prosecutor.

That vessels shall be liable to Duty.

VII. And be it enacted, that the said duty of one shilling and sixpence, currency, per gallon, shall be paid and calculated upon the entire capacity of every Beer Still, Faint Still, Doubler or other Vessels of any kind or description whatever, in which the Beer or Wash is heated or prepared, or which may in anywise act as a Still, or be used as attached to, or connected by pipes or otherwise, with, or be assistant or auxiliary to the vessels ordinarily denominated the Beer Still, and every vessel of any kind or denomination whatever, and by whatever name it may be known, into which the Beer or Wash is put, or into which the steam therefrom is carried or forced, or any vessel by which the process of distillation is carried on, so as to increase the quantity of Spirit produced from the use of the Vessel into which the Beer or Wash is actually put, excepting only any Worm or Vessel intended expressly for the condensation of such steam, and which is immersed in any cistern or vessel of cold water for the purpose of effecting such condensation, and also excepting from the operation of this Law, any Still or Stills kept and used for the sole purpose of rectifying the high wines or spirits of the first extraction from the Beer or Wash; and further that no allowance shall, in calculating the contents of any Still, be made for steam room, or working of the steam, or for any other cause whatever; and that every Tub or Vessel placed on the top of, or connected with, any Still or vessel containing Beer or Wash, serving for the purpose of a cap, or receiver of the steam, shall be considered as part of the Still in calculating the duty payable on the same.

Inspector may gauge Still.

VIII. And be it enacted, that from and after the said first day of January next, each District Inspector, and those acting under him, shall, and may, measure and gauge any Still or Vessel within his District for the use of which a duty is hereby imposed, in such manner as he, or they, shall deem most advisable for the purpose of testing the accuracy of the requisition made by, or on behalf of the owner as aforesaid.

Penalty on false statement by owner of Still, respecting its capacity.

IX. And be it enacted, that for any wilful false statement made in any such requisition as to the contents of any Still or Stills therein mentioned, the owner or proprietor thereof, shall forfeit to Her Majesty the sum of fifty pounds, currency, to be recovered in any manner in which a debt to the Crown of a similar amount may be recovered in Lower Canada; and in such case, as well as in any case, where the capacity of any Still or Stills shall have been mistated by error, the owner or proprietor shall, as soon as such mistatement shall be discovered, pay to the Inspector such sum, as with the sum paid on obtaining the Licence, will
make

make up the sum which ought to have been paid, as the duty on such Still or Stills ; and such sum if not forthwith paid, may be recovered in the same manner as the forfeiture last mentioned.

X. And be it enacted, that any person who shall use, or work, any Still or Stills without having first obtained a Licence for the same, shall, for each offence, incur a penalty not exceeding the sum of twenty pounds, currency, to be recovered before any two, or more, Justices of the Peace having jurisdiction in the District in which the offence shall have been committed, and to be levied and applied in the manner provided in the sixth Section of this Act ; and the person so convicted shall be incapable of obtaining a Licence under this Act, during the year next after such offence.

Penalty on using a Still without a Licence.

XI. And be it enacted, that whenever any District Inspector shall, in pursuance of this Act, require to measure or gauge any wooden vessel on which a duty is chargeable under this Act, he, or those employed by him, may bore one or more holes in such wooden vessel, so that no such hole shall exceed two inches in diameter.

Inspector's right to bore holes.

XII. And be it enacted, that any person who shall refuse or neglect to appear before any Justice or Justices to give evidence, when summoned, on any complaint made by the District Inspector, or those acting under him, for any breach, or evasion, of the provisions of this Act, shall for every such refusal, or neglect, incur a penalty not exceeding fifty pounds, currency, to be recovered, levied, and applied in the manner provided in the said sixth Section of this Act.

Penalty on persons refusing to obey summons.

XIII. And be it enacted, that the duties imposed by this Act, shall be paid to the Inspector of the District in which the same shall become due, at the time the Licence shall be taken out, and shall by him be paid over to the Receiver General within three months after they shall have been so received.

Duties, when payable.

XIV. And be it enacted, that all fines, penalties, and forfeitures recovered under the authority of this Act, or so much thereof as shall belong to Her Majesty, shall be paid over to the Receiver General, and shall, as shall also all duties to him paid under the authority of the same, form part of the consolidated Revenue Fund of this Province, and the due application of all such Monies shall be accounted for to Her Majesty, Her Heirs, and Successors, through the Lords Commissioners of the Treasury for the time being, in such manner and form as Her Majesty, Her Heirs, and Successors shall direct.

Penalties and forfeitures under this act to form part of the Consolidated Fund.

XV. And be it enacted, that each District Inspector appointed under the authority

Inspector to
give security.

thority of this Act, shall enter into a Recognizance to Her Majesty, Her Heirs, and Successors, jointly and severally, with two good and sufficient sureties, and conditioned for the faithful performance of the duties of his office, and the due payment to the Receiver General of all monies which shall be payable to that Officer by such District Inspector ; and such Recognizance shall be in the penal sum of five hundred pounds, currency, if such Inspector be appointed for the District of Quebec, or of Montreal, and in the penal sum of two hundred pounds, currency, if such Inspector be appointed for any other District.

Inspector's
allowance.

XVI. And be it enacted, that each District Inspector may, out of the duties by him received, retain a sum equal to five per cent on the amount by him collected.

C A P. XXXII.

An Act to encourage the establishment of, and regulate Savings Banks in this Province.

[18th September, 1841.]

Preamble.

WHEREAS certain Provident Institutions or Banks for Savings have been or may be established in this Province, for the safe custody and increase of small Savings belonging to the industrious classes of Her Majesty's Subjects, and it is expedient to give protection to such Institutions and the funds thereby established, and to afford encouragement to others to form like Institutions ; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada* ; and it is hereby enacted by the authority of the same, that if any number of persons, who have formed or shall form any Society in any part of this Province, for the purpose of establishing and maintaining any Institution in the nature of a Bank, to receive deposits of money for the benefit of the persons depositing the same, and to accumulate the produce of so much thereof as shall not be required by the depositors, to be paid in the nature of compound interest, and to return the whole or any part of such deposit, and the produce thereof, to the depositors, deducting only out of such produce so much as shall be required to be so retained for the purpose of paying and discharging the necessary expenses attending the management of such Institution, according to such rules, orders and regulations as shall have been, or shall be established for that purpose, but deriving no benefit whatsoever from any such deposit

Any number
of persons
forming any
Society for the
purpose of instituting a
Bank for Savings,
desirous
of having the
benefit of this
Act, shall
cause the rules,
&c. established
for the mana-

deposite or the produce thereof, shall be desirous of having the benefit of the provisions of this Act, such persons shall cause the rules, orders and regulations established or to be established for the management of such Institution to be entered, deposited and filed in manner hereinafter directed, and thereupon shall be deemed to be entitled to, and shall have the benefit of the provisions contained in this Act.

gement of the Institution to be entered, deposited and filed in manner directed by this Act.

II. Provided always, and be it enacted, that no such Institution, as aforesaid, shall have the benefit of this Act, unless the rules, orders, and regulations for the management thereof, shall be entered in a book or books to be kept by an officer of such Institution, to be appointed for that purpose, and shall be open at all reasonable times for the inspection of the persons making depositories in the funds of such Institution; nor unless such rules, orders, and regulations shall be fairly transcribed on parchment, and such transcript shall be deposited with the Clerk of the Peace for the District wherein such Institution shall be established; and such transcript shall be filed by such Clerk of the Peace, with the rolls of the Session of the Peace in his custody, without any fee or reward to be paid in respect thereof: but nothing herein contained shall extend to prevent any alteration in, or amendment of any such rules, orders, or regulations so entered and deposited and filed as aforesaid, or the repealing or annulling the same or any of them, in the whole or in part, or making any new rules, orders or regulations for the management of any such Institution, in such manner as by the rules, orders and regulations of such Institution shall from time to time be provided; but such new rules, orders, or regulations, or such alterations in, or amendments of former rules, orders, or regulations, or any order annulling or repealing any former rules, orders or regulations, in the whole or in part, shall not be in force until the same, respectively, shall be entered in such book or books, as aforesaid, and a transcript or transcripts thereof shall be deposited with such Clerk of the Peace, as aforesaid, who shall file the same without fee or reward, as aforesaid.

Such Institution not to have the benefit of this Act unless the rules, Sec. for the management thereof be entered in a book to be open for the inspection of depositories, nor unless such rules be transcribed on parchment and deposited with the Clerk of the Peace for the District.

III. Provided also, and be it enacted, that no such Institution, as aforesaid, shall have the benefit of this Act, unless it shall be expressly provided by the rules, orders and regulations for the management thereof, that no person or persons being Treasurer, Trustee or Manager of such Institution, or having any control in the management thereof, shall enter upon the duty of his office, unless he has taken an oath before any one Justice of the Peace, who is hereby authorized and required to administer the same, to the faithful discharge thereof, nor shall derive any benefit from any deposite made in such Institution, but that the persons depositing money therein shall have the sole benefit of such depositories and the produce thereof, according to such rules, orders and regulations, as shall have been or shall be established for that purpose as aforesaid, save only and except such salaries

No Institution to have the benefit of this Act unless it is provided by the rules, that no Treasurer Sec., shall have any benefit from any deposit, and has been sworn.

salaries and allowances or other necessary expenses as shall, according to such rules, orders and regulations be provided for the charges of managing such Institution, and for the remuneration to officers employed in the management thereof, exclusive of the Director or Directors, Trustee or Trustees, or other persons having direction in the management of such Institution, who shall not directly or indirectly have any salary, allowance, profit or benefit whatsoever therefrom, beyond their actual expenses for the purposes of such Institution.

Rules to be binding on the several members and officers of the Institution, and of the several depositors and their representatives and to be received in evidence in all Courts of record.

IV. And be it enacted, that all rules, orders and regulations from time to time made and in force for the management of any such Institution, as aforesaid, and duly entered in such book or books as aforesaid, and deposited with such Clerk of the Peace as aforesaid, shall be binding on the several Members and Officers of such Institution, and the several depositors therein, all of whom shall be deemed and taken to have full notice thereof by such entry and deposit, as aforesaid, and the entry of such rules, orders and regulations in such book or books, as aforesaid, or the transcript thereof, deposited with such Clerk of the Peace, as aforesaid, or a true copy of such transcript examined with the original, and certified as a true copy, shall be received as evidence of such rules, orders and regulations, respectively, in all cases, and no *certiorari* shall be brought or allowed to remove any such rules, orders or regulations into any of Her Majesty's Courts of record; and every copy of any such transcript deposited with any Clerk of the Peace, as aforesaid, shall be made without fee or reward, except the actual expense of making such copy.

Treasurer may, if required be bound with sureties for the faithful execution of his trust.

V. And be it enacted, that if any Treasurer or Treasurers, or other officer or officers, or other person whatever, who shall be intrusted with the receipt or custody of any sum or sums of money subscribed or deposited for the purposes of such Institution, or any Interest or Dividend from time to time accruing thereby, shall be required by the rules or regulations of such Institution to become bound with sureties for the just and faithful execution of such office or trust, in such sum or sums of money as shall be required by the rules, orders and regulations of such Institution, such security shall and may be given by bond or bonds to the Clerk of the Peace for the District, where such Institution shall be established for the time being, without fee or reward; and in case of forfeiture it shall be lawful for the persons authorized for that purpose by the rules, regulations and orders of such Institution, to sue upon such bond or bonds in the name of such Clerk of the Peace for the time being, and to carry on such suit at the costs and charges, and for the use of the said Institution, fully indemnifying and saving harmless such Clerk of the Peace from all costs and charges in respect to such suit.

VI. And be it enacted, that all monies, goods, chattels and effects whatever, and

and all securities for money or other obligatory instrument, and evidences or muniments, and all other effects whatever, and rights and claims belonging to or had by such Institution, shall be vested in the Trustee or Trustees of such Institution for the time being, for the use and benefit of such Institution and the respective depositors therein, according to their respective claims and interests, and after the death or removal of any Trustee or Trustees, then in his or their Successor or Successors, for the same estate and interest, as the former Trustee or Trustees had therein, and subject to the same trusts, without any assignment or conveyance whatever, except the transfer of stocks and securities; and also shall, for all purposes of action or suit, as well criminal as civil, in law or equity, in anywise touching or concerning the same, be deemed and taken to be, and shall in every proceeding (where necessary) be stated to be the property of the person or persons appointed to the office of Trustee or Trustees of such Institution for the time being, in his, her or their proper name or names, without further description; and such person or persons shall and they are hereby, respectively, authorized to bring or defend, or cause to be brought or defended, any action, suit or prosecution, criminal as well as civil, in Law or equity, touching or concerning the property, right or claim aforesaid, of or belonging to or had by such Institution, and such person or persons so appointed, shall and may in all cases concerning the property, right or claim aforesaid, of such Institution, sue and be sued, plead and be impleaded, in his, her or their proper name or names, as Trustee or Trustees of such Institution without other description; and no such suit, action or prosecution shall be discontinued or abated by the death of such person or persons, or his or their removal from the office of Trustee or Trustees, as aforesaid; but the same shall and may be proceeded in by the succeeding Trustee or Trustees in the proper name or names of the person or persons commencing the same, any Law, usage or custom to the contrary notwithstanding: and such succeeding Trustee or Trustees shall pay or receive like costs as if the action or suit had been commenced in his or their name or names, for the benefit of, or to be reimbursed from, the funds of such Institution.

All monies &c. and rights belonging to the Institution vested in the Trustees of each Institution for the time being for the benefit of the Institution and the respective depositors, &c.

VII. And be it enacted, that all and every person and persons who shall have received, or may hereafter receive, any part of the monies, effects or funds of, or belonging to, such Institution, or shall in any manner have been, or shall be intrusted with the disposition, management or custody thereof, or of any securities relating to the same, his, her or their heirs, executors, administrators, curators and assigns, or other legal representatives, respectively, shall, upon demand made in pursuance of any order of the committee of such Institution, or of any other delegated authority, as aforesaid, or at any general meeting of the Managers thereof, give in his, her or their account or accounts to such committee or other authority, as aforesaid, or to such general meeting of the Managers of such institution, or to such

All persons having received monies belonging to the Institution to account for the same.

such other person or persons who shall be nominated to receive the same, to be examined and allowed or disallowed by the said Committee or Managers, respectively; and shall on the like demand pay over all the monies remaining in his or their hands, and assign and transfer or deliver all securities, effects, books, papers, or funds taken or standing in his or their name or names, as aforesaid, or being in his or their hands or custody, to such person or persons as the said Committee or Managers of such Institution shall appoint; and in case of any neglect or refusal to deliver such account, or to pay over such monies, or to assign, transfer or deliver such securities, effects, books, papers or funds in manner aforesaid, it shall be lawful to and for the Trustee or Trustees of such Institution, for the time being, to exhibit a petition to the Justices of the Superior Court, having Civil Jurisdiction in the District wherein such Institution shall be established, who shall and may proceed thereupon in a summary way, and make such order therein, upon hearing all parties concerned, as to such Court in their discretion shall seem just, which order shall be final and conclusive; and all assignments, sales and transfer made in pursuance of such order, shall be good and effectual in Law, to all intents and purposes whatsoever.

Property in Savings Banks to descend to heirs, executors or assigns.

VIII. And be it enacted, that all property, rights, titles, privileges and immunities which shall arise or accrue to any person or persons under this Act, shall pass and descend to the heirs, executors, administrators, or assigns of such person or persons, or to the curator of the estate or other legal representative of such person or persons, according to the Law of the part of the Province, relating to real or personal estate in which any such Savings Bank shall or may be established.

Trustees may invest monies in any incorporated Bank, but not with a private Banker or on personal security.

IX. And be it enacted, that it shall be lawful for the Trustees to invest any monies not exceeding three quarters of the whole sum deposited in such Institution, at any one time, which shall come into their hands by virtue of this Act, in any Debentures issued under the authority of any Act of the Provincial Parliament of either of the late Provinces of Upper or Lower Canada, or of this Province or in any Bank Chartered by any act of the Legislature of either of the late Provinces of Upper or Lower Canada or other public security in this Province, therein to avail for the purposes of this Act; but it shall not be lawful for the said Trustees to invest any such monies upon personal security; such sum or sums of money only excepted as shall from time to time remain in the hands of the Treasurer or Treasurers, to meet the necessary expenses and exigencies of the Institution, which may be vested in such personal securities; and should it appear upon due examination at the general, or annual meeting of the Trustees duly called for the inspection of the Accounts of

of any such Savings Bank that after payment of, or after due provision is made for the liquidation of all debts or deposits, and all interest due to, or arising thereupon, to depositors or others, there will be any surplus profit, or interests, it may be appropriated, and paid over to any charitable Institution in this Province by Law established or incorporated: Provided that the vote to make such appropriation be carried in the affirmative by not less than three fourths of the Trustees present at the meeting.

X. And be it enacted, that where provision shall be made by one or more of the general rules, orders or regulations of any such Institution, and filed as hereinbefore required, for a reference by arbitration of any matter in dispute between any such Institution, or any person or persons acting under them, and any individual depositor therein, or any executor, administrator, next of kin, or creditor of any deceased depositor, or any person claiming to be such executor, administrator next of kin, or creditor, then and in every such case the matter so in dispute shall be referred to such arbitrator or arbitrators as shall have been named according to the general rules, orders or regulations of such Institution; and whatever award, order, or determination shall be made according to the true purport and meaning of the rules, orders and regulations of such Institution, shall be binding and conclusive on all parties, and shall be final to all intents and purposes, without any appeal.

XI. And be it enacted, that whenever a transcript of the rules, orders and regulations for the management of any Institution requiring the benefit of this Act, shall have been, or shall be deposited with the Clerk of the Peace for the District wherein such Institution shall be established, pursuant to the directions of this Act, such transcript shall be signed by two Trustees of such Institution, and shall, by such Clerk of the Peace, be laid before the Justices of the Peace for such District, at the General or Quarter Sessions next after the time when such transcript shall have been so deposited; and it shall be lawful for such Justices then and there present, after due examination thereof, to reject and disapprove of such part or parts thereof, as shall be repugnant to the true intent and meaning of this Act; and to allow and confirm the said transcript, or such part or parts thereof, as shall be conformable to the true intent and meaning of this Act: Provided always, that such Justices, shall signify such rejection or disapproval of any one or more of the rules, orders and regulations contained in such transcript, by the words "rejected," or "disapproved," written opposite such rule or rules, order or orders, regulation or regulations, and signed by the Chairman of such Sessions; and such rule or rules, order or orders, regulation or regulations, as shall be so rejected or disapproved of, shall not be in force from the time of such rejection or disapproval; any thing in this Act, or in any such rules, orders, and regulations to the contrary

Where no provision is made by any general rule, &c. matters in dispute may be submitted to Arbitrators and the award shall be final.

Whenever a transcript of the rules, &c. shall be deposited with the Clerk of the Peace for the District where such Institution is established, such Transcript shall be signed by two Trustees of such Institution.

Proviso.

trary notwithstanding : Provided always, that the Clerk of the Peace do, within the space of ten days next after such rejection or disapproval, give notice thereof in writing to the two Trustees of such Institution by whom the transcript of such rules, orders and regulations shall have been signed, as aforesaid.

No depositor to have more than £500 at the same time on deposit.

XII. And be it enacted, that the said Trustees shall not receive on deposit, for the use and benefit of depositors, any larger sum than five hundred pounds, at the same time, of any one depositor other than a religious or charitable Corporation.

Trustees to lay a detailed account of all monies deposited, the number of the depositors and the securities in which the monies are invested, &c. before the Legislature.

XIII. And be it enacted, that within the first fifteen days of each Session of the Legislature, the said Trustees shall lay before the three Branches thereof, a detailed account of the number of depositors, the total amount of deposits ; the amount invested in Bank Stock, specifying the names of such Banks ; the amount deposited with Banks on interest ; the amount secured by Bank Stock, specifying the name of such Banks, the amount vested in public security, or loaned on the pledge of such public security ; specifying the nature of such public security the amount of cash in hand ; the total accrued interest for the year, and the annual amount of the expenses of the Institution ; all of which shall be sworn to by the Treasurer ; and the Trustees or a majority of them shall make oath, that the said return is correct according to the best of their knowledge and belief.

Amount.

Duration of Act.

XIV. And be it enacted, that this Act shall continue and remain in force during ten years, from and after the passing thereof, and from thence until the end of the then next ensuing Session of the Legislature, and no longer.

Public Act.

XV. And be it enacted, that this Act shall be deemed a Public Act, and shall be judicially taken notice of as such, by all Judges, Justices, and other persons whomsoever, without the same being specially pleaded.

CAP. XXXIII.

An Act to facilitate the negotiation of a Loan in England, and for other purposes therein mentioned.

[18th September, 1841.]

MOST GRACIOUS SOVEREIGN,

Preamble.

WE Your Majesty's Most dutiful and loyal Subjects the Legislative Assembly of the Province of Canada in Parliament assembled, having taken into our serious

serious consideration the present state of the Public Debt of this Province, and the Message of Your Majesty's Governor General of this Province, transmitting a Despatch from Your Majesty's Principal Secretary of State for the Colonies, bearing date the third day of May, in the year of our Lord one thousand eight hundred and forty one, and containing among other things the following passage :—

“ The Queen's Government coincide in your views of the expediency of making such an arrangement as may employ the credit of this Country for the benefit of the Finances of Canada, and have given their consideration to the plan proposed in your Despatches. They are of opinion that such an arrangement, if it can be carried into effect with the consent of the Creditors, would be, in every way, desirable; but they feel that the objections to a Bill compelling parties to receive payment of their money in breach of agreement entered into with them by competent authority, are insuperable.”

Despatch of the Secretary of State for the Colonies, dated 3rd May, 1841, in part recited.

“ Her Majesty's Government are ready to give any assistance in conformity with your proposal, which does not appear to them inconsistent with good faith. They are ready to propose to Parliament to guarantee a Loan which may be required for Public Works, (under the restrictions suggested by you,) for the repayment of such part of the Debt as may be now redeemable, or may be held by Creditors who shall declare themselves willing to accept reasonable terms,” —and being desirous of lessening the charge of the said Debt as well as of making provisions for the continuance and completion of Public Works commenced in this Province, by means of a Loan at a reduced rate of interest, under the guarantee proposed in the said Despatch, humbly beseech Your Majesty that it may be enacted; And be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada and for the Government of Canada*; and it is hereby enacted by the authority of the same, that after the charges made on the consolidated Revenue Fund of this Province, under and by virtue of the said Act of the Parliament of Great Britain and Ireland, the said consolidated Fund shall be charged and chargeable with the payment of the interest and principal of any new Debentures, Loan, or Stock not exceeding the sum of one million five hundred thousand pounds, sterling, money of Great Britain, which shall be raised or created on behalf of this Province, by virtue of this Act or of any Act or Acts of the Parliament of Great Britain and Ireland, to be passed for the raising and creating any such Loan or Stock, or for the purpose of guaranteeing the payment of the same and interest thereon by this Province.

The Consolidated Revenue Fund of the Province to be charged with any sum not exceeding £1,500,000 sterling, raised by Loan for the purposes aforesaid.

The Govern-
nor may issue
Debentures for
such Loan if
necessary.

II. And be it enacted, that in case it shall be necessary to effect such Loan, it shall and may be lawful for the Governor of this Province to authorize Debentures to the amount of one million five hundred thousand pounds of sterling money, to be issued in such form and payable at such period, and for such sums, and at such rate of interest as shall be most convenient and as shall be in accordance with the terms in which such new Loan may be guaranteed as aforesaid.

Certain provi-
sions of the Act
of Upper Can-
ada 7 Geo. 4,
cap. 29, rela-
tive to the De-
bentures there-
in mentioned
extended to
Debentures to
be issued under
this Act.

III. And be it enacted, that all and every the provisions of a certain Act of the Parliament of Upper Canada, passed in the seventh year of the Reign of His late Majesty King George the Fourth, and intituled *An Act to authorize the Govern- ment to borrow a certain sum of Money upon Debentures to be loaned to the Welland Canal Company*, which relate to the Debentures authorized by that Act passing current with certain public accountants,—the suspension of interest in certain cases,—the submitting to the Legislature accounts of such Debentures and the interest paid thereon, and the expenses attending the same,—and the paying off and cancelling the said Debentures,—and also the provisions contained in the seventh section of the said Act, declaring and making the forging any such Debenture or any stamp writing or endorsement thereon or therein,—and the tendering in payment any such forged Debenture, or any Debenture with such counterfeit stamp, endorsement or writing thereupon or therein,—and the demanding to have such counterfeit Debenture, or any Deben- ture with such counterfeit stamp, 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 such Debenture or the stamp, endorsement or writing thereupon or therein to be forged or counterfeited, and with intent to defraud as in the said Act is mentioned.—Felony, and subjecting the person or persons guilty thereof, to suffer as in cases of Felony, shall be and are hereby enacted and declared to be in force with regard and in respect to all and every Debenture or Debentures to be issued in pursuance of this Act.

The Governor
may appoint a
person or per-
sons to nego-
tiate such Loan
on the part of
this Province.

Expenses.

Powers.

IV. And be it enacted, that it shall be lawful for the Governor of this Province to nominate and appoint such person or persons, as he shall think the most fit for the purpose of arranging and negotiating the mode and terms in and upon which such new Loan or Stock may be most advantageously raised or created, and to advance and pay to the person or persons so employed such sums of money as shall be reasonable and necessary to defray the expenses attending his or their employment; and that such person or persons (subject to instructions to be from time to time given to him or them by the Governor of this Province), shall have full power and authority to negotiate on behalf of this Province, in such form and manner, as shall be rendered necessary by any such Act or Acts to be passed by the

the Parliament of Great Britain and Ireland, or as shall be directed and approved by Her Majesty's Principal Secretary of State for the Colonies for the time being.

V. And be it enacted, that it shall and may be lawful for the Governor of this Province, out of the monies to be raised by any such new Stock or Loan, to direct and order the payment in full of all and every the Public Debentures of the late Provinces of Upper and Lower Canada, or of either of them, which are now due or which may hereafter be lawfully called in for the payment thereof, or which shall become due and payable, together with all interest due or to become due thereupon.

Governor may pay off;

VI. And be it enacted, that it shall and may be lawful for the Governor of this Province, to authorize and direct the redemption of any Debenture or Debentures of either of the said late Provinces, out of the monies so to be raised, as aforesaid, at such rates and upon such terms and conditions as shall and may be agreed upon with the holder or holders thereof: Provided always, that in no case shall any greater sum than is expressed in any such Debenture, together with the interest due and unpaid, be paid for the redemption of the same.

Or redeem Debentures with proceeds of Loan.

VII. And be it enacted, that all Executors, Administrators, Guardians, Trustees, Tutors, Curators, and all Curators or Committees of the Estates of Idiots and Lunatics, or absentees who shall as such have the custody or control of or over any such Debentures in this Province, may agree for the redemption thereof and receive the sums of money to be respectively paid therefor, and shall hold and be accountable for such sums as they shall respectively receive for any such Debenture upon, with, under, and subject to the same uses, trusts, powers, conditions and purposes as such Debentures were subject or liable to, when in their possession, custody or controul.

Executors &c. may agree to such redemption.

VIII. And be it enacted, that the residue of the monies so to be raised as aforesaid, after redemption of such Debentures, shall be paid to and remain in the hands of the Receiver General of this Province, subject to such disposal and appropriation as the Legislature may from time to time, by any Act or Acts direct and appoint.

Residue of loan to be appropriated as Legislature shall direct.

IX. And be it enacted, that all monies to be raised by such Loan or Stock, as aforesaid, shall be accounted for to Her Majesty, Her Heirs and Successors, 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.

Proceeds of Loan to be accounted for.

C A P. XXXIV.

An Act to grant a certain sum of Money as an aid to the Victoria College.

[18th September, 1841.]

MOST GRACIOUS SOVEREIGN,

Preamble. WHEREAS it is expedient to grant a certain sum of money, as an aid to the Victoria College, may it therefore please Your Majesty that it may be enacted, and be it therefore enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, that it shall be lawful for the Governor, Lieutenant Governor or Person administering the Government, by warrant under his hand to authorize the Receiver General to pay out of the Consolidated Revenue Fund of this Province, a sum not exceeding five hundred pounds, currency, to the Trustees of the Victoria College, as an aid towards the support of that Institution.

£500 granted as an aid to Victoria College.

Accounting Clause. II. And be it enacted, that the due application of the monies hereby appropriated, shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lord Commissioners of Her Majesty's Treasury, for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct; and that an account of the expenditure of such monies shall be laid before the Provincial Legislature within fifteen days after the opening of the then next Session thereof.

C A P. XXXV.

An Act to amend the Ordinances of the Legislature of the late Province of Lower Canada providing for the improvement of the Roads in the neighbourhood of the City of Montreal.

[18th September, 1841.]

Preamble. WHEREAS it is expedient to amend the Ordinances of the Legislature of the late Province of Lower Canada, providing for the improvement of the Roads

in the neighbourhood of the City of Montreal ; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-write the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that from and after the passing of this Act, the eighth, tenth and eleventh sections of the Ordinance of the Legislature of the said late Province of Lower Canada, passed in the third year of Her Majesty's Reign, and intituled *An Ordinance for the improvement of the Roads in the neighbourhood of, and leading to the City of Montreal, and to raise a fund for that purpose*, shall be, and the same are hereby repealed.

Repeals the 8th, 10th, and 11th Sections of the Ordinance of Lower Canada, 3 Victoria, Chapter 31.

II. And be it further enacted, that the nine several Roads in the seventh section of the said Ordinance, and the two several Roads in the first section of the Ordinance of the Legislature of the said late Province of Lower Canada, passed in the fourth year of Her Majesty's Reign, and intituled *An Ordinance to amend and extend the provisions of an Ordinance passed in the third year of Her Majesty's Reign, intituled An Ordinance to provide for the improvement of the Roads in the neighbourhood of, and leading to the City of Montreal, and to raise a fund for that purpose*, shall, in regard to the tolls to be levied and collected thereon, be held and considered as forming one continuous Road ; any thing in the said two Ordinances, or either of them, to the contrary notwithstanding: Provided always, that for the purpose of more easily levying and collecting the tolls hereinafter established, it shall and may be lawful for the Trustees appointed under the Ordinance first mentioned, at any time, with the consent of the Governor of this Province, to declare by public advertisement, any particular part or parts of the said continuous road, to be a distinct and separate Road, or distinct and separate Roads ; and afterwards, with the like consent, and by like public advertisement, to repeal or alter any such declaration.

The Roads mentioned in the said Ordinance and in the Ordinance of fourth Victoria, Chapter 7, shall be considered as one continuous Road.

But the Trustees may declare any one of them or any part of the continuous Roads to be a separate Road.

And may revoke such declaration.

III. And be it enacted, that in lieu of the rates of toll authorized to be levied under the sections of the Ordinance first above mentioned, which are repealed by the first section of this Act, at the several Turnpike Gates or Toll Bars, erected or to be erected on the said continuous Road, at the several entrances leading into or out of the said City of Montreal, the said Trustees may demand, levy, exact and receive, from all and every person and persons passing upon or using any part of the said Road, for any distance not exceeding the length of the Upper Lachine Road from the limits or boundary of the said City of Montreal, to the other extremity of the said Road, and so in proportion for any greater length or distance

The rates of Tolls shewn in Schedule to this Act, shall be the highest rates to be taken by the Trustees, for a distance not exceeding the length of the Upper Lachine Road.

distance upon the said continuous Road, or upon such part or parts thereof as may be declared with the consent aforesaid, to be a distinct and separate Road, or distinct and separate Roads, the several rates of toll set forth in the Schedules A. and B, annexed to this Act, which rates shall be the highest rates of toll to be taken by the said Trustees.

Trustees may make regulations with regard to the Tolls to be taken on the said Road or any part thereof; and may modify the same from time to time.

At each gate a list of Tolls to be taken thereat, shall be posted up.

The Tolls in the Schedules shall not be exceeded.

Trustees may alter the rates on one part of the road without altering those on other parts.

Names by which the Trustees shall be called for the purposes of the said Ordinances and of this Act.

IV. And be it enacted, that the said Trustees may, and they are hereby authorized and empowered to make and establish regulations under which the tolls hereby established shall be levied and collected on the said Road or on any part thereof, and with the consent of the Governor of this Province, may from time to time alter, change and modify the said tolls, and the said regulations; and the said Trustees may and shall prevent the passing through any Turnpike-gate or Toll-bar, of any person, vehicle, animal or thing liable to the payment of toll, until such toll shall be paid: Provided always, that the said Trustees shall affix in a conspicuous place at each Turnpike-gate or Toll-bar whereat any toll is payable, a table whereon shall be legibly printed the name of the Gate or Bar at which the same shall be affixed, a list of the tolls to be taken thereat, and the regulations under which the same are to be levied; and that nothing herein contained shall authorize the said Trustees at any time, to establish, demand, levy, exact or receive any tolls exceeding the rates hereby established, as shewn in Schedule previously referred to: Provided always, that it shall be lawful for the said Trustees to lower the tolls on any part of the said Road or with regard to any class of persons, animals, or vehicles, and to augment the same, (so as not to exceed the rates shown in the said Schedule) without their being bound at the same time to lower or augment the tolls on the other part or parts of the said Road, or with regard to other classes of persons, animals or vehicles.

V. And be it enacted, that for all and every the purposes of the two several Ordinances before mentioned, and of this Act, the said Trustees shall be designated and known by the name of "*The Trustees of the Montreal Turnpike Roads*;" and by that name shall and may have continuous succession, and sue and be sued, answer and be answered unto, in all Courts of Justice and other places; and service of any summons at their office, or usual place of business, in the City of Montreal, in any action against them, or to which they may be a party, shall be sufficient to compel them to appear and answer accordingly.

Public Act.

VI. And be it further enacted, that this Act shall be taken and held to be a public Act, and shall be judicially taken notice of by all Judges, Justices and others, without being specially pleaded.

SCHEDULE

SCHEDULE A.

Of the highest Tolls to be levied and paid at the several Turnpike Gates or Toll Bars, on the Road or Roads leading into or out of the City of Montreal, for passing and re-passing within the hours of 12 P. M. of one day, and 12 P. M. of the next succeeding day, with the same Horse or Horses, or Beast or Beasts of draught, and the same Carriage or Vehicle.

		Breadth of tire of Wheels.			
		Under 2½ Inches,	2½ and under 3,	3 inches & above.	
		s. d.	s. d.	s. d.	
1.	For every Coach or other four wheel close covered private Carriage, or half covered and open, drawn by two Horses or other Beasts.....	d.			
	Every additional Horse or Beast.....	3			
2.	For every four wheel private Carriage not covered, drawn by two Horses or Beasts.....	"	1 6	1 0	"
	Every additional Horse.....	3	"	"	"
3.	For every Gig, Calash, Denmet, Spring Cart or other private two wheel Carriage, drawn by one Horse or Beast.....	"	0 9	0 6	"
	Every additional Horse.....	3	"	"	"
4.	For every Waggon, Wain, Cart, or other Carriage for loads, and not carrying goods for hire, with four wheels, and drawn by two Horses or Beasts....	"	1 0	0 8	0 6
	Every additional Horse.....	4	"	"	"
5.	For every such Cart or other two wheel Carriage for loads, and not for hire, drawn by one Horse or Beast.....	"	0 9	0 6	0 3
6.	For every Sleigh, Wain, Drag, Berlin or other Winter Vehicle, drawn by one or two Horses or Beasts.	4	"	"	"
	Every additional Horse.....	2	"	"	"
7.	For every Horse, Mare, Gelding or Mule, with a rider.....	3	"	"	"

S For

	Breadth of tire of Wheels.			
	Under 2½ Inches.	2½ and under 3.	3 inches & above.	
	d.	s. d.	s. d.	s. d.
8. For every Horse, Mare, Gelding, Ass, Mule, Ox, Cow and head of other neat Cattle not drawing...	2	"	"	"
9. For every Score of Sheep, Lambs, Hogs or Swine... Under and not exceeding half a Score.....	5 2½	"	"	"

SCHEDULE B.

Of the highest Tolls to be levied and paid at the several Turnpike Gates or Toll Bars on the Road or Roads leading into or out of the City of Montreal, for every time of passing if loaded ; Passing empty, half rate ; repassing empty or going to return loaded, free.

	Breadth of tire of Wheels.			
	Under 2½ Inches.	2½ and under 3.	3 inches & above.	
	d.	s. d.	s. d.	s. d.
1. For every Stage Coach, Diligence, Van, Caravan, Stage Waggon or other Stage Carriage for the con- veyance of passengers, with four wheels, and drawn by one or two Horses or Beasts of draught..... Every additional Horse.....	" 6	2 3	1 6	"
2. For every Gig, Calash, Denmet, Spring Cart, or other Carriage for passengers, with two wheels, and drawn by one Horse or other Beast of draught. Every additional Horse.....	" 2	0 9 "	0 6 "	" "
3. For every Waggon, Train, Cart or other Carriage for passengers or goods, and carrying for hire, or conveying Stones, with four wheels, and drawn by two Horses or other Beasts of draught.....	"	0 9	0 6	0 4
4. For every Cart or other Carriage for do. do. or conveying Stones, with two wheels, and drawn by one or two Horses or other Beasts of draught.....	"	0 6	0 4	0 2

CAP.

C A P . XXXVI.

An Act to Regulate the Fisheries in the District of Gaspé.

[18th September, 1841.]

WHEREAS the Fisheries in the Inferior District of Gaspé are of great importance to the Trade 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 of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, in the Session held in the third and fourth years of Her Majesty's Reign, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted, by the authority of the same, that all and every Her Majesty's subjects shall peaceably have, use and enjoy the freedom of taking bait, and of fishing in any river, creek, harbor, or road, with liberty to go on shore on any part within the Inferior District of Gaspé, between Cape Chat, on the South side of the River Saint Lawrence, and the first rapid of the River Ristigouche within the said District, and on the Island of Bonaventure, opposite Percé, for the purpose of salting, curing and drying fish there, to cut wood for making and repairing stages, flakes, hurdles, cook-rooms and other purposes necessary for preparing their fish for exportation, or that may be useful to their fishing trade, without hindrance, interruption, denial, or molestation from any person or persons, whomsoever: Provided such river, creek, harbour, or road, or the land upon which such wood may be cut doth not lie within the bounds of any private property by grant from Her Majesty, or Her Royal Predecessors, or other title proceeding from such grant by Her Majesty, or Her Royal predecessors or by grant made prior to the year one thousand seven hundred and sixty, or held under and by virtue of any location certificate, or title derived therefrom, or under and by virtue of any title derived under any Act of the Legislature of the late Province of Lower Canada or of this Province.

Preamble.

Right to fish
& land on the
shores of Gas-
pé.

II. And be it further enacted by the authority aforesaid, that the Master or Commander of any Vessel fitted out from the United Kingdom of Great Britain and Ireland, or the Dominions thereunto belonging, as well as all other subjects of Her Majesty, may take possession of so much of the unoccupied beach within the aforesaid Inferior District of Gaspé, as may be necessary for curing his fish, and preparing it for exportation, and to retain and enjoy the same so long as he shall not leave it unoccupied for the space of twelve calendar months, in which case it shall be lawful for any other person or persons to take possession thereof in part or the whole, for the same purposes and on the same condition: Provided that

Occupation
of the Beach.

Proviso.

that such beach be not private property by grant from Her Majesty, or Her Royal Predecessors, or other title proceeding therefrom; or by grant prior to the year one thousand seven hundred and sixty, or held under and by virtue of any location certificate, or title derived therefrom; or in virtue of any title derived under any Act of the Legislature of the late Province of Lower Canada, or of this Province: Provided also, that such new occupier shall, when thereunto required by the preceding possessor, or his lawful attorney, the demand being made within one year after the possession taken, pay him for such parts of the flakes and stages, as such new occupier shall take possession of; And provided further, that the said preceding possessor, not having been paid, as aforesaid, may remove any building or other improvement erected or made by him on the unoccupied beach, as aforesaid, so that such removal be not made during, and before, the close of the fishing season in which the new occupier shall have taken possession.;

Proviso.

Persons fishing to do no injury:

III. And be it further enacted by the authority aforesaid, that no ballast, or any thing else injurious or hurtful to any of the rivers, harbours, or roads within the said Inferior District of Gaspé, shall be thrown out of any vessel, or discharged into any stream, basin, or road in the said Inferior District, but that the same shall be carried on shore and deposited where no public or private injury may be sustained thereby, nor shall any person or persons throw any fish, guts, offals, or gurry overboard within the distance of six leagues from the shore and Islands of the Inferior District of Gaspé, aforesaid; nor on any fishing bank, under a penalty not exceeding twenty pounds, current money of this Province.

And not to obstruct other fishing.

IV. And be it further enacted by the authority aforesaid, that no person or persons shall cast anchor near the shore, or do any thing within the aforesaid limits so as wilfully to annoy or obstruct the hauling of seines, or to obstruct or prevent the setting of nets, nor shall any nets be wilfully set or placed so as to prevent or obstruct the hauling of seines under a penalty not exceeding five pounds, current money of this Province, for every such offence, exclusive of such damages as may be recovered at law by the proprietor or proprietors of the seines or nets which may be thereby injured or destroyed: Provided always, that no such nets or seines, as aforesaid, shall be set or used so as to incommode or obstruct the navigation or anchorage in any harbour, roadstead, cove, or place necessary for the common purposes of navigation.

V. And be it further enacted by the authority aforesaid, that all pickets, building timber, or other timber of any description whatsoever, placed or used in the several rivers in the Inferior District of Gaspé, or in the sea along the beach in any part of the said Inferior District, whether for the use of fisheries or for the purpose of building, repairing or launching any vessel or vessels, barge or boats, or for

for any other purpose whatsoever, shall be removed and carried by the person or persons who shall have so placed them, or caused the same to be so placed, to some part of the beach above high water mark, within the space of eight days from the day on which such person or persons shall have ceased to use said pickets, building timber, or other timber, of whatever description, under a penalty not exceeding five pounds, currency, of this Province, for every offence against this Section.

VI. And be it further enacted by the authority aforesaid, that it shall not be lawful under any pretext whatsoever, during the Fishing season in the said Inferior District of Gaspé, that is to say, between the first day of May and the first day of November, inclusively, to seize or attach any boat or boats, tackle, nets, rigging, or implements of Fishing of any kind whatsoever, or any provisions whatever belonging to any fisherman in the said Inferior District, and being necessary for his subsistence, or to enable him to follow his customary occupation in Fishing for the cod, mackerel, herring, salmon, whale, seal fisheries, or any other kind of fish; and every person herein offending shall be liable to a penalty of not more than ten pounds, currency, nor less than two pounds ten shillings, currency, to be recovered by the person who shall sue for the same, without prejudice to such damages as the party injured may lawfully demand and prove.

Fishing implements not seizable during fishing season.

VII. And be it further enacted by the authority aforesaid, that any person hired to assist in any Fishery who shall leave the service of his employer without just cause before the end of the term for which he shall have been so hired, or any person who shall hire or attempt to hire any person already hired, as aforesaid, knowing him to be so hired, before the term of his engagement shall have expired may, on complaint and legal proof thereof, made by such employer, before one Justice of the Peace, at a Special Session, be condemned to pay a fine not exceeding ten pounds, currency, and in default of payment may be imprisoned in the Common Gaol of the said Inferior District of Gaspé, for a term not exceeding one month.

Persons hired to assist quitting before the end of their engagement.

VIII. And be it further enacted by the authority aforesaid, that every person so hired to assist in any Fishing shall, for the payment of his wages or salary, have a privilege in preference to every other creditor on the produce of the Fishery belonging to the merchant, or other person who shall have so hired him, and that all proceedings had under or in execution of this clause shall be had before the Provincial Court of the Inferior District of Gaspé, or any other Court of competent Jurisdiction.

Wages or salary constitute a privileged creditor.

IX. And be it further enacted by the authority aforesaid, that it shall be lawful for

Grand Jury to make rules and regulations for the Fisheries.

for the several Grand Juries for the said Inferior District of Gaspé at their General Sessions of the Peace, upon the recommendation and with the concurrence of the Justices of the Peace attending the Session, or a majority of them, to make, for the temporary and local regulation of the Fisheries in the said Inferior District, such further rules and regulations as to them shall appear most expedient for the general welfare and advantage of the said Fisheries, not being contrary to the intent and meaning of this Act.

Such Rules, &c., to be sanctioned by the Provincial Court, notified in Gazette, &c.

X. Provided always, and be it further enacted by the authority aforesaid, that no rule or regulation that may be so, as aforesaid, made, shall have force or effect until the same shall have been approved and sanctioned by the Provincial Court in and for the Inferior District of Gaspé, or of the fourth division of the Court of Common Pleas, whenever the said Court shall be in operation, duly notified in the Quebec Gazette, and by an advertisement in the English and French languages, publicly posted up by the Clerk of the Peace in and for the said Inferior District, whose duty it shall be to attend to the same and see, or cause, such advertisement to be duly posted up as hereby directed, with the least possible delay at the Church doors of each and every Church, Chapel, or other place of Divine Service, in the said Inferior District of Gaspé, or at the most public places of each and every settlement in the said Inferior District where the Fisheries are carried on, in case there should be no such Church, Chapel or other place of Divine Service, as aforesaid: And provided also, that no fine to be imposed by such rules and regulations shall in any case exceed the sum of five pounds, currency, and that no rule or regulation that may at any time be made under and in virtue of this Act shall have force and effect after the expiration of this Act; and a copy of the rules and regulations that may, as aforesaid, be made and confirmed under and in virtue of this Act, shall, at the ensuing Session of the Legislature, be laid before the three Branches of the same, in the English and French languages, by the Prothonotaries of the aforesaid Provincial Court, or of the fourth division of the Court of Common Pleas, aforesaid, within fifteen days after the opening of the Session.

Main channels and water courses to be always open & unobstructed.

XI. And whereas it is necessary for the preservation of the salmon fisheries, that the main channels or water courses of the several rivers in the said Inferior District of Gaspé, should at all times remain open and unobstructed; Be it therefore further enacted by the authority aforesaid, that all channels, or main water courses of the several rivers in the said District shall at all times remain free and open, nor shall any bar-nets or swing nets, or other obstructions of any kind, for the purpose of catching salmon, be placed in any such channel or main water course, neither by fixture nor by drifting, and that any person herein offending shall for every such offence incur a penalty not exceeding five pounds, and the forfeiture of the net or nets which shall have been placed in contravention to this Act,

Act, in any such channel or main water course, or with which he shall have been found drifting, as aforesaid ; and that it shall be lawful for any Justice of the Peace of the said Inferior District to convict, upon view, any person or persons so found offending contrary to the meaning and intent of this clause.

XII. And be it further enacted by the authority aforesaid, that six months after the passing of this Act no pickled mackerel, cod, or pickled or smoked herring, shall be shipped for exportation, nor exported from the said Inferior District to any place out of the said Province, but in barrels containing twenty eight gallons, each, or in half-barrels containing fourteen gallons each, wine measure.

Pickled fish to be exported in barrels of a certain size.

XIII. And be it further enacted by the authority aforesaid, that the fines, penalties and forfeitures by this Act imposed, that may be incurred in the said Inferior District of Gaspé, with regard to which no other provision is hereby made, exceeding in amount the sum of five pounds, current money, aforesaid, shall be recoverable by suit before the Provincial Court, in and for the said Inferior District, or before the said fourth division of the Court of Common Pleas, or before the Court of General Sessions of the Peace in and for the said Inferior District, at the ensuing term of either of the said Courts, which may be held nearest to the place where the offence may have been committed, and not afterwards ; or before any three Justices of the Peace for the said District.

Fines, &c., how recoverable.

XIV. And be it further enacted by the authority aforesaid, that such fines, penalties, and forfeitures imposed by this Act, or that may hereafter be imposed in virtue of and under the authority of the same, and that may be incurred in the said Inferior District of Gaspé, and with regard to which no other provision is hereby made, not exceeding five pounds, current money, aforesaid, may be recoverable by suit in a summary manner before at least two Justices of the Peace of the said Inferior District, at any time within three months next after the commission of the offence, and not afterwards.

Fines, &c., recoverable only within 3 months.

XV. And be it further enacted by the authority aforesaid, that the testimony on oath of two credible witnesses shall be sufficient to convict any person offending against this Act, and that the aforesaid Provincial Court, or the fourth division of the Court of Common Pleas, aforesaid, and the Court of General Sessions of the Peace and Justices of the Peace shall, respectively, have power to issue Subpœnas, and compel the attendance of witnesses, whenever the same may be necessary ; who are hereby required and commanded to obey such subpœnas under the pains and penalties of the Law in case of disobedience ; and the subpœnas which it shall be necessary to issue to compel the attendance of witnesses may be in the form prescribed in the Appendix of this Act, letter (A.)

Testimony of two credible witnesses on oath sufficient to procure a conviction under this Act.

Fines leviable
by distress.

XVI. And be it further enacted by the authority aforesaid, that the fines, penalties, and forfeitures by this Act imposed, or that may hereafter be imposed, in virtue of and under the authority of the same, and that may be incurred in the said Inferior District of Gaspé, shall, in case of non-payment, be levied by distress and sale of the goods and effects of the offender, in virtue of a warrant in the form prescribed in the Appendix to this Act letter (B.) under the hand of the Provincial Judge for the said Inferior District, or of the presiding Judge of the fourth division of the Court of Common Pleas, aforesaid, or of the Justices of the Peace, or of the senior Justice of the Court of General Sessions of the Peace, before whom or which the conviction may have taken place, directed to any Constable or Peace Officer, and the overplus of money raised, after deducting the penalty and costs, shall be returned to the offender.

Offender may
be imprisoned
for non-pay-
ment of fine.

XVII. And be it further enacted by the authority aforesaid, that in all cases not otherwise provided for, if the offender convicted shall not have sufficient goods or effects whereon to levy the penalty and costs, he shall, if the penalty in which he may have been condemned, exceed ten pounds, currency, be liable to be, and may be, committed to prison for a term not exceeding thirty days, and in cases where the penalty shall not exceed that sum for a term not exceeding fifteen days.

Forms of
proceedings.

XVIII. And be it further enacted by the authority aforesaid, that the information or plaint, and the summons pursuant to the same, which may at any time be made to, and issued by any Justice or Justices of the Peace against any person offending against this Act in the said Inferior District of Gaspé, shall be in the form prescribed in the Appendix to this Act, letters (C. and D.) and when the offence committed may be above the jurisdiction of two Justices of the Peace, as by this Act provided, and cognizable in the aforesaid Provincial Court, Court of Common Pleas, or Court of General Session of the Peace, such summons shall be according to the course and practice of the said Courts, respectively.

Interval al-
lowed between
service and re-
turn of sum-
mons.

XIX. And be it further enacted by the authority aforesaid, that between the service and return of every such summons, as aforesaid, there shall at least be three intermediate days for the first five leagues, and one additional day for every five leagues there may be between the place of residence of the Justice or Justices of the Peace, or place where the Court may be held, and the usual residence or domicile of the defendant.

In the case
of non-resi-
dents summons
may be made
immediately re-
turnable.

XX. Provided always, and be it further enacted by the authority aforesaid, that in case where the defendant may not be a resident in the said Inferior District, and circumstances may render it expedient to enforce, without delay, the penalties by this Act imposed, it shall be lawful for any Justice or Justices of the Peace before whom the plaint or information may have been lodged to issue a summons,
returnabl e

returnable before him or them immediately after service thereof, or within such reasonable time as he shall, by the said summons, appoint; and, if on the return of such summons, or at the time thereby appointed, the defendant shall not appear to answer thereto, the Justice or Justices of the Peace, who may have issued such summons, on receiving satisfactory proof of the service thereof upon the defendant, shall proceed, in a summary manner, to receive evidence of and concerning the offence alleged against the defendant, and if such evidence be sufficient to warrant a conviction, such Justice or Justices of the Peace shall forthwith, after entry of the conviction on a register to be by him or the senior of them kept for the purpose, be authorized and empowered to enforce the same according to the provisions of this Act.

XXI. Provided always, and be it further enacted by the authority aforesaid that in cases circumstanced as last above mentioned, exceeding the jurisdiction of two Justices of the Peace, the Provincial Judge of the said Inferior District, or the Judge of the said fourth division of the Court of Common Pleas, shall be authorized and he is hereby required and empowered to proceed, as last above mentioned and directed, to take cognizance of, hear, try, and determine, in a summary manner, such offences against this Act as are by the same made cognizable by him, and upon conviction, as aforesaid, the penalties by this Act imposed to enforce and levy according to the provisions thereof.

Provincial
Judge in cer-
tain cases to
try offences.

XXII. And be it further enacted by the authority aforesaid, that every conviction that may take place in the said Inferior District of Gaspé, under and in virtue of this Act, shall be drawn up in the form prescribed in the Schedule to this Act, letter (E.)

Form of con-
viction.

XXIII. And be it further enacted by the authority aforesaid, that for each and every summons, including the information or plaint that may at any time issue in virtue of this Act, no greater sum than one shilling and sixpence, current money, aforesaid, shall be demanded, charged, or paid, and for each and every subpoena that may issue to compel the attendance of any necessary witness, no greater sum than one shilling, current money, aforesaid, including the copy that may be served upon such witness, shall be demanded, charged or paid; and for each and every conviction, including the entry of the same on the register as aforesaid, no greater sum than one shilling and three pence, current money, aforesaid, shall be demanded, charged or paid; and for a warrant of distress no greater sum than two shillings, current money, aforesaid, shall be demanded, charged or paid; nor shall any Justice of the Peace, Clerk or Prothonotary of the said Provincial Court, Court of Common Pleas, or Court of General Sessions of the Peace, claim, exact or receive, under any cause or pretext whatever, any greater recompense fee, with respect

Fees payable
for Summons,
Subpoena, &c.

respect to any such summons, subpœna or copy of subpœna, conviction and entry thereof, as aforesaid, or warrant of distress, or for any service, or extra service in relation with the same, than is hereby above allowed and specially authorized.

Fees to Officers of the Court.

XXIV. And be it further enacted by the authority aforesaid, that for the service made by any Constable or Peace Officer in and about any prosecution, under or in virtue of this Act, no greater recompense or remuneration shall be allowed than is herein specified, that is to say, for the service and certificate thereof of every summons one shilling, current money, aforesaid; for the service and certificate thereof of every copy of a subpœna, six pence, current money, aforesaid; for levying any penalty not exceeding five pounds, currency, pursuant to a warrant of distress, two shillings and sixpence, current money, aforesaid; and for any penalty exceeding five pounds, currency, a sum to be specified in the warrant proportionate to the labour, time, and trouble of such Constable or Peace Officer, as the Justices of the Peace, or Provincial Judge, or Judge of the Court of Common Pleas may deem a suitable recompense, not exceeding in the whole seven shillings and six pence, currency; and these allowances shall be exclusive of mileage at the rate of one shilling, currency, for each and every league which such Constable or Peace Officer must, in the due execution of such warrant of distress, or of any other duty to be by him performed under this Act, necessarily and unavoidably travel from his home or domicile (distances in returning from the place of service, seizure or sale not counted) and which mileage shall be in lieu of all travelling expenses.

Limitation of process against offenders.

XXV. And be it further enacted by the authority aforesaid, that all fines, penalties and forfeitures incurred by reason of any thing done against this Act, shall be sued for within six months next after the commission of the offence, and not afterwards.

Duration of Act to 1st May, 1844.

XXVI. And be it further enacted by the authority aforesaid, that this Act shall be and remain in force until the first day of May, one thousand eight hundred and forty four, and from thence until the end of the then ensuing Session of the Legislature, and no longer.

APPENDIX A.

Province of Canada, }
Inferior District of Gaspé. } Victoria, by the Grace of God, of the United Kingdom
of Great Britain and Ireland, Queen, Defender of
the Faith, etc.

To

Greeting :

We

We command you and each of you, that all excuses being laid aside, you and each of you be in your proper persons before A. B. Esquire, our Justice (or) one of our Justices of the Peace for the Inferior District of Gaspé, at on the _____ day of _____ instant, (or next, as the case may be,) by _____ o'clock, in the forenoon of the same day, to testify all and singular, what you or any of you know concerning a certain cause or plaint, there to be tried and determined by and before our aforesaid Justice (or Justices) at the suit of _____ against _____ for an alleged disobedience to an Act of the Legislature of this Province passed in the _____ year of our Reign, intituled, *An Act to regulate the Fisheries in the District of Gaspé*, and this you nor any of you are in no wise to omit under penalty upon each of you of currency.

Form of Subpoena.

Witness our aforesaid Justice (or Justices) of the Peace, at this _____ day of _____ 18_____
(Signature of the Justice or Justices of the Peace.)

B.

Province of Canada, } Victoria, by the Grace of God, of the United Kingdom
Inferior District of Gaspé. } of Great Britain and Ireland, Queen, Defender of
the Faith, etc.

To _____ and to all and every the Constables and Peace Officers, in and for the Inferior District of Gaspé.

Form of Distress Warrant.

Greeting :

We command you, that you cause forthwith by distress and sale of the goods, chattels and moveable effects of _____ to be levied according to Law the sum of _____ with _____ costs being the penalty in which he the said _____ hath been convicted before me (or us) (or this Court) on the _____ day of _____ one thousand eight hundred and _____ by reason of disobedience of a certain Act of the Legislature of this Province passed in the _____ year of our Reign, intituled, *An Act to regulate the Fisheries in the District of Gaspé*; and which said penalty and costs remain unpaid.

Witness F. G. (and H. J.) Esquire, (or Esquires,) one (or two) of our Justices of the Peace for the said Inferior District, at _____ this _____ day of _____ one thousand eight hundred and _____ and of our Reign

(Signature of the Justice or Justices of the Peace.)

C.

C.

Province of Canada, }
Inferior District of Gaspé. }

Form of In-
formation of
Plaint.

The information and complaint of C. D. of the _____ in the County
and Inferior District of Gaspé who, as well for our Sovereign Lady, the Queen, as
for himself in this behalf prosecutes, made before _____ of Her Ma-
jesty's Justices of the Peace, for the Inferior District of Gaspé, (wherein the offence
hereinafter mentioned was committed) the _____ day of

_____ in the year of our Lord one thousand eight hundred and
who, as well for our Sovereign Lady, the Queen, as for
the said Justice (or Justices) to under-
himself, giveth
stand and be informed.

That at _____ on the _____ day
in the year

(Here state the particular act which constitutes the offence complained of and
the day upon which the same was committed, in order that the defendant may be
fully and precisely acquainted of the charge against him, as to time, place and
circumstances) against the form of the Statute in such case made and provided,
whereby and by force of the said Statute the said A. B. hath incurred a penalty
of _____ (if the offender be liable to be imprisoned state it so.)

Wherefore the said C. D. as well for our said Lady the Queen, as for himself,
prayeth the adjudication of the said Justice in the premises, and the said A. B. may
be adjudged to forfeit the said penalty (and to be imprisoned, etc. if the offender
be liable to imprisonment) and that he the said C. D. may have one half of the
said forfeiture according to the form of the Statute, aforesaid, and the said A. B.
may be summoned to make his defence hereto before the said Justice or Justices
with costs.

Dated at _____ this _____ day of _____ 184

D.

Province of Canada, }
Inferior District of Gaspé. }

Form of
Summons.

To A. B. of _____ in the Inferior District of Gaspé.
F. G. (and H. J. if two be required) one (or two) of Her Majesty's Justices of the
Peace in and for the said Inferior District of Gaspé, hereby gives you notice
that C. D. of _____ in the said inferior District of Gaspé hath
exhibited

exhibited an information against you for a penalty of which hath been incurred by you for having heretofore to wit :

(Here state the offence as to time, place, and circumstances as mentioned in the preceding form of the information) against the form of the Statute in such case made and provided.

You are hereby required personally to be and appear before at the house of on the day of one thousand eight hundred and at of the clock of the forenoon to answer and make defence to the said information, so exhibited against you, but if you neglect so to do shall proceed as if you were personally present.

Given under hand at in the said Inferior District of Gaspé, on the day of in the year of our Lord one thousand eight hundred and

Dated at this day of 184

(Signature of the Justice or Justices.)

E.

Province of Canada, } Inferior District of Gaspé. }

Be it remembered that on this day of in the year of our Lord one thousand eight hundred and A. B. is convicted before me (or us) one (or two) of Her Majesty's Justices of the Peace for the Inferior District of Gaspé (or before this Court as the case may be,) for (here set forth the offence) and I do (or we do or this Court doth) accordingly adjudge him in virtue of an Act passed by the Legislature of this Province in the year of Her Majesty's Reign, intituled An Act to regulate the Fisheries in the District of Gaspé, to pay and forfeit by reason of the offence aforesaid, whereof he the said A. B. stands convicted, the sum of (and if the offence be punished by imprisonment) and that he the said A. B. be committed to the Common Gaol for and during

Form of conviction.

Given under my hand and seal (or our hands and seals or under the order of this Court) the day and year aforesaid.

(Signature as the case may be.)

CAP.

K k

C A P . XXXVII.

An Act to Incorporate the Upper Canada Academy under the name and style of "Victoria College."

[27th August, 1841.]

Preamble.

WHEREAS His late Majesty, King William the Fourth, was graciously pleased to issue his Letters Patent, bearing date the twelfth day of October, in the seventh year of His Reign, in the words following:

"UPPER CANADA.

Charter of
"the Upper
"Canada Aca-
"demy" re-
cited.

"William the Fourth by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, &c. &c. &c.

"To all to whom these Presents shall come,

GREETING:

Petition of
divers Mem-
bers of the
Wesleyan
Church.

"WHEREAS divers of our Loving Subjects of the Wesleyan Methodist Church, in our Province of Upper Canada, represented to Us that with the aid of private and voluntary contribution, they have erected certain Buildings in the vicinity of the Town of Cobourg, in the Newcastle District of our said Province of Upper Canada, adapted for the purposes of an Academy of Learning, with the intention of founding there an Academy for the general education of Youth, in the various branches of Literature and Science on Christian principles, and that they have been advised that the said undertaking would be more successfully and effectually prosecuted, if it were protected by Our Royal Sanction, by means of a Royal Charter of Incorporation, they have most humbly supplicated Us to grant Our Royal Charter of Incorporation, for the purposes aforesaid, under such regulations and restrictions as to Us might seem right and expedient.

Prayer.

"Now know Ye that We, being desirous to maintain sound and useful learning in connexion with Christian Principles, and highly approving the design of promoting the same in Our said Province of Upper Canada, by means of the founding an Academy of Learning, in Our said Province, have by virtue of Our Royal Prerogative and of Our especial Grace, certain Knowledge, and mere Motion, granted, constituted and declared, and by these Presents for Us, Our Heirs and Successors, do grant, constitute, and declare that the Academy intended to be so founded, shall be called '*The Upper Canada Academy*,' and that for the purpose of establishing and maintaining the same, there shall be nine Trustees, three

The Acade-
my Incorpora-
ted.

Name.

“ three of whom shall go out of Office annually in rotation, and whose places shall
 “ be supplied in manner hereinafter mentioned, and that Our Trusty and Well-
 “ beloved Subjects, The Reverend William Case, The Reverend John Beatty,
 “ Wesleyan Ministers of the City of Toronto, Home District, in Our said Province;
 “ Ebenezer Perry, Merchant; George Benjamin Spencer, Gentleman; John
 “ M’Carthy, Merchant of Cobourg, aforesaid; James Rogers Armstrong, of the
 “ City of Toronto, Home District, Merchant; John Counter, of Kingston,
 “ Midland District in Our said Province, Baker; Billa Flint, Jr., of Belleville,
 “ in the Midland District of Our said Province, Merchant; and the Reverend
 “ William Ryerson, of Hamilton, in the Gore District of Our said Province,
 “ shall be and are hereby appointed and declared to be the first nine Trustees
 “ of the said Academy, and shall be and are hereby constituted one Body
 “ Politic and Corporate, by the name of ‘ *The Trustees of the Upper Canada*
 “ *Academy*,’ and shall by the same name and for the purposes aforesaid, have
 “ perpetual succession, to be kept up in manner hereinafter directed, and shall
 “ have a Common Seal with power to break, alter and renew the same at their
 “ discretion, and shall by the same name, sue and be sued, implead and be im-
 “ pleaded, answer and be answered unto, in any and every Court of Us, Our Heirs
 “ and Successors in any and every part of Our Dominions.

First Trust-
tees appointed.

Name by
which the Cor-
poration may
exercise their
corporate pow-
ers.

“ *And We do hereby will and ordain, that by the same name, they and their Suc-*
 “ *cessors shall be able and capable in Law to take, purchase and hold to them*
 “ *and their Successors, any goods, chattels and personal property whatsoever,*
 “ *and shall also be able and capable in Law, to take, purchase and hold to them*
 “ *and their Successors, not only all such Lands, Buildings, Hereditaments, and*
 “ *Possessions, as may be from time to time, exclusively used and occupied for the*
 “ *immediate purposes of the said Academy; but also any other Lands, Buildings,*
 “ *Hereditaments and Possessions whatsoever, situate within our Dominions of*
 “ *North America, not exceeding the annual value of Two Thousand Pounds,*
 “ *Sterling Money, such annual value, to be calculated, and ascertained at the time*
 “ *of taking, purchasing and acquiring the same, and that they and their successors*
 “ *shall be able and capable in Law, to grant, demise, alien or otherwise dispose*
 “ *of all or any of the property, real or personal, belonging to the said Academy,*
 “ *also to do all other matters and things incidental or appertaining to a Body Cor-*
 “ *porate, and they and their Successors shall have the custody of the Common Seal*
 “ *of the said Academy, with power to use the same for the affairs and concerns*
 “ *thereof. And that the Trustees shall have power to accept on behalf of the*
 “ *said Academy, gifts and endowments for promoting particular objects of Educa-*
 “ *tion, Science and Literature, or otherwise in aid of the general purposes of the*
 “ *said Academy, on such terms and conditions as may be agreed on for the purpose*
 “ *between the Trustees and the persons bestowing any such gift or endow-*
 “ *ment.*

Corporate
powers grant-
ed.

Trustees may
accept gifts and
endowments.

And

Literature
and Science, to
be taught on
Christian prin-
ciples.

“ *And We do hereby will* and ordain, that the various branches of Literature and Science shall be taught on Christian principles in the said Academy, under the superintendence of a ‘Principal,’ or other ‘Head’ Professors and Tutors, or such other Masters or Instructors as shall from time to time be appointed in the manner hereinafter mentioned.

Five Visitors
to be appointed
annually.

“ *And We do hereby will* and ordain, that there shall be five Visitors of the said Academy, with authority to do all those things which pertain to Visitors, as often as to them shall seem meet, and who shall go out of Office annually.

First Visitors
appointed.

“ *And We will and ordain*, that our Trusty and Well-beloved Subjects, Charles Biggar, Esquire, Justice of the Peace, Murray, Newcastle District; Joseph A. Keeler, Esquire, Justice of the Peace, Colborne, Newcastle District; the Reverend John Ryerson, Wesleyan Minister, Hallowell, District of Prince Edward; the Reverend Joseph Stinson, Wesleyan Minister, Kingston, Midland District; and Alexander Davidson, Esquire, Port Hope, Newcastle District, shall be the first Visitors of the said Academy, and their Successors shall be elected in manner hereinafter mentioned.

Treasurer and
Secretary to be
appointed.

“ *We further will and ordain*, that there shall be a Treasurer and Secretary of the said Academy, who shall and may be chosen and displaced by the Trustees, as they shall think fit, at a meeting of the Trustees, at which not less than five of the Trustees shall be present. *That a Meeting* of the Trustees, only, shall be called a “ *Trustee Meeting*,” of which five shall be a quorum; and a meeting of Visitors alone, shall be called a “ *Visitors Meeting*,” of which three shall be a quorum.

Trustees meet-
ing.

“ That the Trustees and Visitors together shall be called the “ *Board*” of the said Academy, and a meeting of the Trustees and Visitors, shall be called a “ *Board Meeting*,” of which eight shall be a quorum, and in all such meetings, a Chairman shall be appointed by the Members then present, from amongst themselves, and all questions which it shall be competent for any such meeting to decide, shall be decided by the majority of the Members, being a quorum of such meeting then present, and the Chairman of every such meeting, shall have a vote, and in case of an equality of votes, shall have a second or casting vote. *That the Board*, for the time being, shall have full power from time to time to appoint and as they shall see occasion, to remove the “ *Principal*,” or other “ *Head*,” the Professors, Tutors and Masters, and all Officers, Agents and Servants of the said Academy. And the said Board shall have full power, from time to time, to make and to alter, or vary any By-laws and regulations touching and concerning the time and place of the holding ordinary Trustee Meetings, Visitors Meetings, and Board Meetings, and for the good ordering and government of the said Academy, the performance of Divine Service therein, the Studies, Lectures and Exercises

Visitors’
meeting.

Trustees and
Visitors to form
the “ *Board*”
of the Corpo-
ration.

Powers of the
Board.

Board may
make By-
Laws.

“ *That the Board*, for the time being, shall have full power from time to time to appoint and as they shall see occasion, to remove the “ *Principal*,” or other “ *Head*,” the Professors, Tutors and Masters, and all Officers, Agents and Servants of the said Academy. And the said Board shall have full power, from time to time, to make and to alter, or vary any By-laws and regulations touching and concerning the time and place of the holding ordinary Trustee Meetings, Visitors Meetings, and Board Meetings, and for the good ordering and government of the said Academy, the performance of Divine Service therein, the Studies, Lectures and Exercises

“ Exercises of the Students, and all matters respecting the same ; the residence,
 “ duties, salary, provision and emoluments of the “ Principal,” or other “ Head”
 “ of the said Academy; the number, residence, duties, salaries, provision and emo-
 “ luments of the Professors, Tutors, Masters, Officers, Agents and Servants of the
 “ said Academy, respectively, and all other matters and things which to them may
 “ seem good, fit and useful for the well ordering, governing and advancement of
 “ the said Academy ; and all such By-laws when reduced into writing, and after
 “ the Common Seal of the Academy hath been affixed thereto, shall be binding
 “ upon all persons, Members thereof: *Provided*, that no such By-law shall be re-
 “ pugnant to the Laws and Statutes of Great Britain and Ireland, or of Our said
 “ Province of Upper Canada, or to this Our Charter : *Provided also*, that no re-
 “ ligious test or qualification shall be required of or appointed for any person on
 “ his admission as a Student or Scholar into the said Academy ; *That* any three
 “ Trustees shall, by notice in writing to the other Trustees, be competent to call an
 “ extraordinary Trustee Meeting, and any two of the Visitors shall be competent
 “ in like manner to call an extraordinary Visitors’ Meeting, and any five Members
 “ of the Board shall be competent in like manner to call an extraordinary Board
 “ Meeting at any time and place they may see fit, on any occasion which in their
 “ judgment may render it expedient for them so to do ; *That* the Trustees, Visi-
 “ tors and Board shall, respectively, cause Records and Minutes of all the pro-
 “ ceedings, acts and resolutions of all and every of their Meetings, ordinary and
 “ extraordinary, to be entered and kept in Books provided for that purpose,
 “ and which Records and Minutes shall, before the breaking up or adjourn-
 “ ment of any such meeting, be read aloud by the Chairman in the presence
 “ of such meeting, and shall be signed by him, and being so signed, shall, until
 “ the contrary be shown, be deemed and taken to be the Record and Minutes
 “ of such meeting, and that the same meeting was duly convened and held.
 “ And the said Trustees shall keep a Book or Books of Accounts of Finan-
 “ cial Affairs of the said Academy, all which Books of Records, Minutes and
 “ Accounts shall be produced to and audited yearly at the Annual Meeting
 “ as hereinafter mentioned ; *That* for making provision for filling up vacan-
 “ cies in the places of Trustees dying, resigning or going out of Office in manner
 “ hereinafter mentioned, and for appointing Visitors to the said Academy, there
 “ shall be holden in each year an Annual Meeting of the Ministers of the said
 “ Wesleyan Methodist Church in Upper Canada, and the first Annual Meeting
 “ of the said Ministers shall be holden at the City of Toronto, or the Town of
 “ Cobourg in our said Province, on the second Wednesday in the month of June,
 “ one thousand eight hundred and thirty seven, and every subsequent Annual
 “ Meeting shall be holden at a place, and on some day in the month of June, to be
 “ fixed and appointed at the said first and every subsequent Annual Meeting,
 “ for the then next annual meeting, and if no such day shall be fixed and appointed,
 “ as aforesaid, the said Annual Meeting shall be holden on the second Wednes-
 “ day

‘By-Laws not
 to be repug-
 nant to the
 Laws of the
 Land.

No religious
 test to be re-
 quired of Stu-
 dents.

Extraordi-
 nary meeting of
 Trustees, how
 called.

Minutes or
 proceedings to
 be kept.

And Account's
 of the Financial
 Affairs of the
 Corporation.

Vacancies in
 the Office of
 Trustees how
 filled.

Who shall be deemed a Wesleyan Minister of the Charter.

Three Trustees to retire annually from office.

Trustees going out, to act until the meeting is adjourned.

Three Trustees to be elected at each annual meeting.

Vacancies by casualty, how filled up.

Visitors to be appointed at annual Meetings.

“ day in the month of June, and if no place shall be fixed and appointed,
 “ as aforesaid, shall be holden at the City of Toronto, aforesaid. *Provided*
 “ *always*, that every person who shall at the time of any such Annual Meeting,
 “ be duly authorised to solemnize the ceremony of Matrimony in our said
 “ Province, by virtue of an Act of the Provincial Parliament of our said
 “ Province, made and passed in the first year of Our Reign, and assented
 “ to by Us, entitled *An Act to make valid certain Marriages heretofore*
 “ *contracted, and to provide for the future solemnization of matrimony in this Pro-*
 “ *vince*, and who shall have duly obtained a certificate for that purpose as a Wes-
 “ leyan Methodist Minister, according to the provisions of the said Act, and no
 “ other person whomsoever, shall be deemed and taken to be Wesleyan Methodist
 “ Minister within the true intent and meaning of these presents. *That* on the
 “ day on which the Annual Meeting in the years one thousand eight hundred
 “ and thirty seven, one thousand eight hundred and thirty eight, and one thou-
 “ sand eight hundred and thirty nine, shall be holden, three of the said Trustees
 “ appointed by this Our Charter, to be determined by Ballot, shall go out of Office,
 “ and on the day on which every Annual Meeting shall be held after the year one
 “ thousand eight hundred and thirty nine, three of the Trustees, who shall then
 “ have been longest in Office, shall go out of Office, calculating the period for
 “ which each of the Trustees for the time being shall have been in Office, from the
 “ day of his last Election, in case of his having been elected more than once; *But*
 “ the Trustees who on the day on which any Annual Meeting shall be held are
 “ to go out of Office by Ballot or rotation, as aforesaid, shall not be considered out
 “ of Office, until after such meeting shall have been broken up or adjourned.
 “ *That* on the day on which the Annual Meeting in the year one thousand eight
 “ hundred and thirty seven shall be holden, and on the day on which every suc-
 “ ceeding Annual Meeting shall be holden, three Trustees shall be elected in the
 “ places of three, who are to go out by Ballot or Rotation as hereinbefore is men-
 “ tioned, but every Trustee going out of Office, whether by Ballot or Rotation,
 “ shall be considered immediately re-eligible; *That* in case there shall be casual
 “ vacancy among the Trustees arising from death or any cause except that of
 “ going out by Ballot or Rotation, as before mentioned, the Annual Meeting next
 “ after or during which any such casual vacancy shall occur, shall also elect a
 “ Trustee or Trustees, as the case may be, to fill every such casual vacancy, and
 “ any person who shall be elected a Trustee in consequence of, and to fill up
 “ such casual vacancy, shall be a substitute for the person whose place he may
 “ supply, and shall continue in Office only for the same period as the person whose
 “ place he may supply would have continued if such person had continued in
 “ Office until the time when he must necessarily have gone out by ballot or rotation,
 “ as before mentioned. *That* the said Annual Meeting to be holden in the year
 “ one thousand eight hundred and thirty seven, shall appoint five Visitors
 “ of the said Academy in the place of the five Visitors appointed by this Our
 Charter

" Charter, and every subsequent Annual Meeting shall appoint five Visitors in the
 " places of the five who were in Office during the preceding year, but any Visitor
 " going out of Office, shall be re-eligible to be immediately re-appointed to the
 " Office of Visitor: *Provided* that no person shall at the same time be both a
 " Trustee and Visitor of the said Academy; *That*, at the Annual Meeting in the
 " year one thousand eight hundred and thirty seven, and at the like Meeting in
 " every succeeding year, the Trustees and Visitors shall report their proceedings
 " during the preceding year, in the execution of their Office and of the then
 " existing state of the Academy, and shall cause the accounts to be balanced up
 " to the thirty first day of December in every year, or up to such other period as
 " any Annual Meeting may from time to time appoint, and shall in every year
 " produce, and lay all such accounts and proceedings before the said Annual Meet-
 " ing, all which accounts and proceedings shall be examined in every year before
 " the Annual Meeting, and so far as such account and proceedings shall be found
 " to be correct and shall not be found contrary and repugnant to this Our Char-
 " ter, nor to any such Law, as aforesaid, the same shall be allowed and signed by
 " the President and Secretary of the said Annual Meeting, and being so allowed
 " and signed, shall, unless, and until the same be shown to be incorrect, be bind-
 " ing and conclusive on all the Members of the said Corporation, and all persons
 " claiming under them. *That* the said Annual Meeting shall at any such Meeting
 " elect a Secretary and a President from among themselves, who shall continue
 " in Office, unless sooner displaced by the said Annual Meeting, until a Secretary
 " and President shall be in like manner elected at the then next subsequent An-
 " nual Meeting, and such Secretary and President shall each have a vote, as other
 " Members of the Meeting, and in case of an even division, the President shall have
 " and give an additional or casting vote; *That* no act in the premises shall be
 " done at any such Annual Meeting, unless there be forty Members thereof or
 " upwards present at the doing thereof, and the act of a majority of the Members
 " present shall be the act of the Meeting; *That* the Election and appointment of
 " all Trustees and Visitors of the said Academy by the said Annual Meeting, and
 " all other their acts in the premises, shall be recorded in a book by the Secretary
 " for the time being, and after being read aloud in the Meeting by the Secretary
 " for the time being, shall be signed by him and by the President for the time
 " being, and being so signed shall, so far as the same be not repugnant to this Our
 " Charter or to any such Law as aforesaid, be binding, on the said Ministers, and
 " on all the Members of the said Corporation, and all persons claiming under them.
 " *That* in case the said Act of Our said Province hereinbefore mentioned, shall
 " be hereafter at any time, or from time to time, altered or repealed in whole or in
 " part, and any other provision or enactment shall at any time or time hereafter
 " be added to the said Act or substituted for the same or any part thereof so re-
 " pealed, and by which added or substituted enactment, the Ministers of the said
 " Wesleyan

No person
to be at once
Trustee and
Visitor.

Trustees and
Visitors to
make an an-
nual report and
balance the ac-
counts of the
Corporation.

Secretary and
President to be
elected.

Quorum at
annual Meet-
ings to be forty.

Election of
Trustees, and
Visitors and
other Acts done
at annual
Meetings how
recorded.

Provisions of
their Charter
to extend to
any Ministers
of the Wesley-
an Methodist
church hereaf-
ter authorized
to solemnize
Matrimony.

“ Wesleyan Methodist Church, in Our said Province, shall be authorised to solemnize Matrimony, this Our Charter, shall for all and every the intents, purposes and privileges of this Our Charter, be held to have reference to, and shall have reference to every such added or substituted enactment as fully and effectually as the same now has to the said Act hereinbefore mentioned.

Charter to be valid notwithstanding any defect of form.

“ *And lastly, We do hereby* for Us, Our Heirs and Successors, grant and declare, that these Our Letters Patent, or the enrolment or exemption thereof, shall be in and by all things valid and effectual in the Law according to the true intent and meaning of the same, and shall be construed and adjudged in the most favorable and beneficial sense for the best advantage of the said Academy, as well in all Our Courts of every part of Our Dominions as elsewhere, notwithstanding any non-recital, mis-recital, uncertainty or imperfection in these Our Letters Patent.

Attest.

“ *In testimony* whereof, we have caused these Our Letters to be made Patent, and the Great Seal of Our said Province to be hereunto affixed. *Witness* our trusty and well beloved Sir Francis Bond Head, K. C. H. &c. &c., Lieutenant Governor of Our said Province, at Our City of Toronto, this twelfth day of October, in the year of Our Lord one thousand eight hundred and thirty six, and in the seventh year of Our Reign.

F. B. H.

By Command of His Excellency,

D. CAMERON, Secretary.

Petition of the Board of the said Academy recited.

And whereas, by the Petition of the said Board, it appears that the said Academy has been in continuous operation during the last five years, and that its success and usefulness would be greatly increased if it were incorporated with the style and privileges of a College: and whereas the said Board have prayed for the incorporation of the said Academy under the name and style of “Victoria College” at Cobourg, with such privileges as were intended to be conferred upon a College about to be established at Kingston, in connexion with the Church of Scotland, by an Act of the Legislature of the late Province of Upper Canada, intituled *An Act to establish a College by the name and style of the University at Kingston*; Be it therefore enacted by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted

Name of the

enacted by the authority of the same, that for and notwithstanding any thing in the said Charter contained, the said Academy shall hereafter be called and known as "Victoria College" at Cobourg: and that all the provisions of the said Charter hereinbefore recited, shall be in full force and apply to every thing which appertains to the Constitution, government, management, proceedings and interest of the said College, as they have heretofore applied to the said Academy.

Corporation to be hereafter "Victoria College."

Provisions of the said Charter to apply to the said College.

II. And be it enacted, that the Annual Meeting or Conference of the Ministers of the Wesleyan Methodist Church, mentioned and provided for in the hereinbefore recited Charter, for the filling up of vacancies in the Board of Trustees and Visitors, and for other purposes, shall be held each year at any time and place the said Meeting or Conference, may from time to time appoint.

Annual conference of the Wesleyan Methodist church when to be held.

III. And be it enacted, that the Principal and Professors in the said College together with the Members of the Board, (a majority of whom shall form a quorum) shall constitute "the College Senate," which may be assembled as occasion may require by the Principal, by giving one month's notice in the *Official Gazette* of this Province; and which whenever there shall be a Principal and four Professors employed in said College, shall have power and authority to confer the degrees of Bachelor, Master and Doctor in the several Arts and Faculties.

A "College senate," constituted.

Senate when consisting of five Members may confer degrees.

IV. And be it enacted, that the President of the Executive Council, the Speakers of the Legislative Council and Legislative Assembly, and the Attorney and Solicitor General for Canada West, shall be *ex officio*, Visitors of the College, and as such Members of the Senate and Board.

Ex-officio Visitors appointed.

V. And be it enacted, that the words "Canada West" in this Act, shall be understood to mean all that part of the Province which formerly constituted the Province of Upper Canada.

Interpretation clause.

C A P. XXXVIII.

An Act to repeal certain Ordinances therein mentioned and to establish a Board of Works in this Province.

[17th August, 1841.]

WHEREAS it is expedient to repeal two certain Ordinances hereinafter mentioned and to establish a Board of Works in and for 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 of the Legislative Assembly

Preamble

The Ordinance of Lower Canada, 2^d Vict. cap. 61, repealed.

And the Ordinance of Lower Canada, 1st Vict. cap. 38, repealed.

Contracts, &c. entered into by the Board of Works for Lower Canada, and rights acquired under the Ordinance repealed, to remain valid, and the Board of Works constituted under this Act to be with regard to such contracts, rights &c. substituted for the Board of Works for Lower Canada.

A Board of Works to be established for the Province.

To have such powers as are expressly given it and no others.

A Secretary to be appointed by the Governor.

Members and Secretary to hold their offices during pleasure.

of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that a certain Ordinance of the Legislature of the late Province of Lower Canada, passed in the second year of Her Majesty's Reign, and intituled *An Ordinance to establish a Board of Works in this Province*, and a certain other Ordinance of the said Legislature, passed in the fourth year of Her Majesty's Reign, and intituled *An Ordinance to amend and render permanent the Ordinance establishing a Board of Works in this Province*, shall be and the said Ordinances are hereby repealed.

II. Provided always, and be it enacted, that all contracts and agreements made and entered into by the Board of Works heretofore established and subsisting under the authority of the said Ordinances, and all rights, titles, interests or obligations, by the said Board of Works, or by any person or party whatsoever, acquired, held or contracted under the authority of the said Ordinances, or either of them, and all matters and things done or performed by the said Board of Works, or by any person or party under the said authority, shall subsist and continue to be good and valid, and in full force and effect to all intents and purposes, as if this Act had not been passed; and the Board of Works to be established under the authority of this Act, shall, with regard to all such contracts, agreements, rights, titles, interests, obligations, matters and things, be substituted for the Board of Works established under the authority of the Ordinances aforesaid.

III. And be it enacted, that there shall be in and for this Province, a Board of Works for the superintendance, management and control of public works therein; which said Board of Works shall consist of such and so many persons not exceeding five in number, as the Governor, Lieutenant Governor, or person administering the Government of this Province, shall from time to time appoint to be members of the said Board, one of whom shall be appointed to be Chairman; and the said Board, shall have such powers, authority, and capacities as are provided by this Act, or may hereafter be provided by any Act of the Legislature of this Province, and no others.

IV. And be it enacted, that a fit and proper person shall be appointed in the manner aforesaid, to be Secretary of the said Board, and that the Governor, Lieutenant Governor, or person administering the Government, may remove the members of the said Board, or the said Secretary, or any of them, and appoint others in their stead, or reinstate those so removed, when and so often as he shall deem it expedient.

V. And be it enacted, that the Chairman and the Secretary of the said Board shall, respectively, receive a yearly salary, and their actual disbursements and travelling expenses, when away from their usual place of residence on the business of the Board, and shall devote their whole time to the business of their respective offices, and shall not exercise any other profession or calling while they shall respectively hold the said offices; and the members of the Board, other than the Chairman, shall receive their actual disbursements and travelling expenses when away from their several places of residence on the business of the Board.

Chairman and Secretary to be allowed a yearly Salary.

Other Members to be allowed their actual disbursements only.

VI. And be it enacted, that the Chairman and members of the said Board for the time being, shall be a body politic and corporate, by the name of "The Board of Works," and may by that name sue and be sued, and may have a common seal, and alter it at pleasure, and may hold real property, and shall, generally have all the powers and capacities which bodies politic and corporate have by Law.

Board of Works to be a body corporate, and to have the usual powers of corporate bodies.

VII. And be it enacted, that the office of the said Board shall be at such place as the Governor, Lieutenant Governor, or person administering the Government, shall appoint for that purpose, and shall be the legal office of the Corporation; and the Board shall meet thereat, or at such other place as the Governor, Lieutenant Governor, or person administering the Government shall appoint, at such times as he may direct, and at any time to which it may have adjourned at any previous meeting.

Office and meeting of the Board where to be kept and held.

VIII. And be it enacted, that the Chairman for the time being, shall be the legal organ of the Corporation, and all writings and documents signed by him and sealed with the seal of the Corporation, and no others, shall be held to be acts, of the Corporation.

What shall be deemed acts of the Corporation.

IX. And be it enacted, that it shall be the duty of the said Board to examine and report upon all matters which may be referred to it by the Governor, Lieutenant Governor, or person administering the Government, connected with the objects for the promotion of which it is constituted, as aforesaid, and to obtain all such evidence and information, plans, estimates, drawings, or specifications, and to cause such surveys, visits, and examinations to be made, and generally to do all such things as may be necessary to enable it to make such report in the manner best adapted to advance the public good: Provided always, that no expense shall be incurred or authorized by the Board, with regard to any matter so referred, unless with the sanction and approval of the Governor, Lieutenant Governor or person administering the Government.

Duties of the Board.

Expenses not to be incurred by the Board without the approval of the Governor.

X. And be it enacted, that the said Board may suggest to the Governor, Lieutenant Governor, or person administering the Government of this Province, any

Board may suggest improvements relating to any

tive to public works; but shall incur no expense touching the same without the Governor's approval.

Matters which shall be referred to the Board.

Board may make regulations with regard to public Works.

Proviso.

What Public Monies shall be expended under the control and Superintendence of the Board.

Such monies not to be expended until after the Board shall have reported on the mode of expenditure and this report shall be approved by the Governor.

No Public Work to be

any public works or improvements therein, which it may appear to the Board, could be undertaken with advantage to the Province; but shall incur no expense relative to the object of such suggestion, unless with the sanction and approval of the Governor, Lieutenant Governor, or person administering the Government as aforesaid.

XI. And be it further enacted, that all applications for any grant of public money, for any of the objects for the superintendence of which the said Board is constituted, as aforesaid, which the Governor, Lieutenant Governor or person administering the Government, shall think may be undertaken with advantage to the public, or any matter connected with such object which he may himself suggest, shall be referred to the said Board, which shall report thereon in the manner and under the provisions aforesaid.

XII. And be it enacted, that the said Board shall in like manner report on any reference which may be made to it, with regard to the tolls and duties to be collected on or for the use of any public works; and may make such regulations for the use of any public work of any kind, vested in the Board, or under its control, as shall not be inconsistent with the Law, or with the purposes of such work; but such regulations shall impose no fine, unless the power of imposing such fine shall be given to the Board by some Law relating to such work.

XIII. And be it enacted, that no sum of public money, now appropriated or to be hereafter appropriated for any public work, of the nature of those for the superintendence of which the said Board is constituted, as aforesaid, and the expenditure of which is not by Law directed to be made, under the control of, or by any certain person or persons, or officer, or body corporate, shall be expended, except under the control and superintendence of the said Board.

XIV. Provided always, and be it enacted, that no part of any sum so appropriated, shall be expended or advanced until the said Board shall have reported to the Governor, Lieutenant Governor, or person administering the Government, in detail, the mode in which it is proposed to expend the same, nor until such report shall have been approved by him; nor shall any contract be entered into by the said Board for the performance of any work, except good and sufficient security, to the satisfaction of the Board, and of the Governor, Lieutenant Governor, or person administering the Government, be given for the performance of the contract, within a time to be specified in the contract.

XV. And be it enacted, that no contract shall be entered into, or any money expended on any work, for which any public money shall have been or shall be appropriated

appropriated, unless it shall appear that the work can be completed, according to the intention of the Legislature, for the sum appropriated for it ; excepting always such preliminary expenses as shall be necessary to ascertain whether it can or cannot be so completed.

commenced unless it can be completed for the sum appropriated for it.

XVI. And be it enacted, that the said Board shall (with the approval of the Governor, Lieutenant Governor, or person administering the Government, as aforesaid) employ for the accomplishment of the objects for which it is constituted, such and so many Engineers, Surveyors, Architects, Clerks, Draughtsmen, Superintendents, and other persons as may be necessary, and allow, and pay them a fair and adequate compensation, not exceeding the usual allowances, salary, or pay allowed to such persons, respectively, by other persons.

The Board, with the approval of the Governor, may employ and pay Engineers, Surveyors, &c.

XVII. And be it enacted, that all public works which are not or shall not hereafter be specially vested in other persons, bodies or officers, shall be and are hereby vested in the said Board of Works, and placed under its superintendence, management and control, excepting always, that the tolls, revenue, or income derived from any public work, shall be or continue to be received, and accounted for, by the persons appointed or to be appointed for that purpose, but the amount of such tolls and the expenses of collecting them, and all such other information as the Board may require from time to time, shall be reported and furnished to it by such persons on the requisition of the Secretary or Chairman.

All Public Works not specially vested in other persons shall be vested in the Board.

XVIII. And be it enacted, that it shall be lawful for the said Board of Works, their Engineers, Agents, Servants and Workmen to enter into and upon any and all lands and grounds to whomsoever belonging, and to survey and take levels of the same or of any part thereof, for any or all of the purposes and objects for which the said Board is so constituted, as aforesaid, and in and for the execution of the said purposes, and for the attainment of the said objects or any of them, to set out and ascertain such parts of any such lands and grounds, as the said Board shall deem necessary or proper ; making compensation for all damages which shall be sustained by the owner or occupier of such land or ground ; such compensation being ascertained by arbitration in the manner hereinafter provided, in case the said Board and the party to whom compensation is to be made shall not agree as to the amount thereof.

The Board, or their Engineers &c. may enter upon property for the purpose of taking measurements, &c.

Making compensation for any damage they may occasion.

XIX. And be it enacted, that the said Board shall have power to acquire and hold all such land and real property of any description as may be necessary or useful for the performance of any work directed, or to be hereafter directed by the Legislature, and may for that purpose contract and agree with all persons, bodies corporate, guardians, tutors, curators and trustees, whatsoever, not only for and on behalf

Board to have power to take and hold real property for Public Works.

Certain parties otherwise unable to convey property may convey to the Board.

behalf of themselves, their heirs, successors and assigns, but also for and on behalf of those whom they shall represent, whether infants, (*Minor Children*) absentees, lunatics, idiots, femmes covert, or other persons otherwise incapable of contracting, who are or shall be possessed of or interested in such property, and all such contracts and agreements, and all conveyances or other instruments made in pursuance thereof, shall be valid and effectual in Law, to all intents and purposes whatsoever.

When the Board and the party interested cannot agree on the compensation for the property or damages, such compensation may be ascertained by arbitration.

But the Board may enter on such property after making a reasonable tender.

Mode of appointing arbitrators.

Award to be made within a certain time.

Board must tender the sum awarded.

Costs of arbitration.

Awards made in Canada west how liable to be set aside.

And if made Canada east.

XX. And be it enacted, that whenever the owner, or person so representing, as aforesaid, the owner of any such land or real property, shall refuse to agree for the sale and conveyance thereof, it shall be lawful for the said Board of Works to make a legal Tender to him or her of the probable and reasonable value of such land or real property, with a notification that the said Board of Works will submit the settlement of the value thereof to arbitration; and upon such tender and notification having been so made, it shall be lawful for the said Board of Works to enter upon and take possession of the land and real property to which such tender shall relate: Provided always, that the said Boards of Works, shall, within three days after so taking possession, name an Arbitrator, and the owner, or person representing the owner of the land or real property so taken possession of shall, within three days from such nomination also name an Arbitrator, and the two Arbitrators so named shall before proceeding name a third Arbitrator; and the said three Arbitrators shall inquire of, and they or any two of them shall award and adjudge upon the value of such lands and real property, and shall signify their award and judgment to the parties interested, within a period not exceeding ten days next after the appointment of the said third Arbitrator; and the said Board of Works shall upon the signification of any such award and judgment, forthwith tender to the owner, or person representing the owner of such land or real property, the sum so demanded and adjudged; and if the same exceed the sum originally tendered, the Board of Works shall pay the costs of Arbitration, but if not the costs shall be paid by the person so refusing the tender made by the said Board, as aforesaid.

XXI. And be it enacted, that any award made under this Act, concerning land or real property situate in that part of this Province, formerly called Upper Canada, shall be subject to be set aside on application to the Court of Queen's Bench, in the same manner and on the same grounds, as in ordinary cases of submission to arbitration by the parties; in which case a reference may be again had to arbitrators as hereinbefore provided: and any award made under this Act, concerning land or real property situate in that part of the Province formerly called Lower Canada, shall be liable to be set aside at the instance of any party interested by the judgment of any Court of competent jurisdiction, in that part of the

the said Province, if the Court shall be of opinion that injustice has been done by the award to the party complaining, and the value to be paid by the Board for such land or real property shall in such case, be finally determined by the judgment of such Court: Provided always, that no such award shall be set aside in any case unless the application to the Court shall be made within one year from the date of such award.

Limitation of time within which any award shall be liable to be set aside.

XXII. And be it enacted, that if the said Board shall neglect in any way to comply with any of the requirements of this Act, touching the appointment of an arbitrator, or if no award shall be made within the period hereinbefore prescribed for making the same, then the party to whom the compensation is due, shall have an action against the Board for the amount of such compensation, which shall then be ascertained, as to Law may appertain, saving the right of the Board to plead any tender made of the amount of such compensation: Provided always, that nothing herein contained shall prevent the parties from agreeing to the extension of the period for making any such award, and such period shall in any such case be extended accordingly for all the purposes of this Act.

Party interested to have an action for the compensation if the Board neglect to appoint an arbitrator or award be made within the time limited.

Proviso.

XXIII. And be it enacted, that the Arbitrators so appointed, as aforesaid, shall have power to examine any person upon oath, touching the value of the property, or the amount of any compensation which they shall be required to ascertain, and they or any one of them may administer such oath; and the said Arbitrators shall themselves be sworn to the due performance of their duties before some Judge or Justice of the Peace, before they shall proceed to perform such duties.

Arbitrators may examine witnesses on oath, and must themselves be sworn.

XXIV. And be it enacted, that it shall be the duty of the Secretary of the said Board, (with such assistance as may be found necessary) to keep a separate account of the monies appropriated for and expended on each Public Work; to have charge of and keep all plans, contracts, estimates and documents, models or other things relative to any such Work; to keep regular accounts with each contractor, or other person employed by the Board; to see that all contracts made with the Board are properly drawn and prepared; to draw out all certificates upon which any warrant is to issue, as hereinafter mentioned; to prepare all reports to be submitted to the Board for its adoption, and to receive and answer, according to the instructions he may receive from the Board, all letters to or from Members of the Board, or other persons on the business thereof; to notify the Members of all Meetings of the Board, which may be called at any time, other than that to which the Board shall have adjourned at its then last Meeting; to keep minutes of its proceedings at all Meetings; and to proceed to any place at which any Public Work may be undertaken, if directed to do so by the Board; to have the general superintendence of all other matters which he may be instructed to superintend by

Duties of the Secretary of Board.

Accounts.

Plans, etc.

Contractors.

Reports.

Correspondence.

Travelling.

General duties.

the

the Board; and generally to do all ministerial acts connected with the business of the Board, which it may direct him to do, or which may devolve upon him, by a fair construction of the meaning and intent of this Act, in all cases not expressly provided for: Provided always, that it shall be lawful for the Governor, Lieutenant Governor or Person administering the Government, to require any person or persons, whomsoever, having in their possession any instruments, plans, papers, books, drawings, models, estimates or documents, relative to any Public Work, and belonging to the Province, to deliver the same to the Chairman of the said Board; and also from time to time to place in his charge and keeping, for the uses of the Board, any instruments, books, drawings, models or documents, relative to the objects for which the said Board is constituted, which may be the property of the Province, and required for the better attainment of the objects of the Board.

Proviso.

Plans, Documents, Instruments, etc., relative to public works to be delivered to the Board.

Board may require the attendance of persons whom it may be requisite to examine touching any Public work.

Penalty on persons refusing so to attend.

Board may require accounts to be sworn to; any Member may administer the oath.

False swearing to be perjury.

Warrants for money appropriated for public Works under the Board not to issue except on certificate of the Chairman.

Certain sum may be advanced to the Secretary to meet

XXV. And be it enacted, that the said Board shall have power to send for, and examine on oath all such persons as it shall deem necessary to examine, touching any matter referred to the Board, as aforesaid, and to cause such persons to bring with them such papers, documents and things, as it may be necessary to examine with reference to such matter; and to pay such persons a reasonable compensation for their time and disbursements; and such persons shall be bound to attend at the summons of the said Board, after due notice, under penalty of such damages as may be awarded in favor of the said Board, as the loss the Public may have sustained by the non-attendance of such person, in an action to be brought by the Board in that behalf.

XXVI. And be it enacted, that the Board may require any account sent in by any Contractor, or any person in its employ to be attested on oath, which oath, as well as the oath to be taken by any witness, the Secretary or any Member of the Board may administer; and any false statement wilfully made under any such oath, or in any case where an oath is required or authorized by this Act, shall be perjury.

XXVII. And be it enacted, that no warrant shall be issued for any sum of the public money appropriated for any public work under the superintendence of the said Board, except on the certificate of the Chairman, sealed with the seal of the said Board, that such sum ought to be paid to the person or persons named in the certificate in whose favor a warrant may be issued accordingly.

XXVIII. Provided always, and be it enacted, that it shall be lawful for the Board, from time to time, to grant such certificates, in favour of their Secretary, for such sums as may be necessary to meet any disbursements allowed to him, or the Members of the Board when on duty, or which the Board may order to be made immediately

immediately by the Secretary, in any report approved by the Governor, Lieutenant Governor or Person administering the Government; but the sum which shall at any one time be in the hands of the said Secretary, shall in no case exceed five hundred pounds, currency.

the disbursements of the Board.

XXIX. And be it enacted that the said Secretary shall make up detailed accounts of the expenditure of all monies advanced or paid under certificates of the said Board, showing the sum appropriated for each public work, the sum so paid or advanced, and the balance, if any, remaining unexpended, and in whose hands; and each such account shall be accompanied by vouchers, corresponding with the numbering of the items of such account, and shall be made up to, and closed on, the first day of January, and the first day of July in each year; and shall be attested before some Judge of the Court of King's Bench or of the Court of Queen's Bench, or before some Justice of the Peace, and shall be transmitted to the Officer whose duty it shall be to receive it, within fifteen days after the said periods, respectively.

Accounts of monies expended under the Act, how to be rendered.

XXX. And be it enacted, that it shall be the duty of the Chairman of the said Board of Works, to transmit to the Executive Government of this Province, to be laid before the other two branches of the Legislature, within fifteen days after the opening of the Session, a detailed statement of the several public works carried on under the direction of the Board, and of the progress made in the said works since the previous Session of the Legislature, and of the amount of monies so far expended upon them, respectively, together with all such further information as the said Chairman may deem proper to be submitted for the information of the Provincial Parliament.

Chairman to report annually upon the state of the public works, for the information of the Legislature.

XXXI. And be it enacted, that nothing in this Act contained shall be taken or construed to authorize the expenditure of any greater or further sum of money in the payment of the yearly salary of the Chairman and Secretary, or in the payment of their travelling expenses, or in the payment of the actual disbursements and travelling expenses of the other members of the Board, than is at present provided for by an Act of the Imperial Parliament of Great Britain and Ireland, passed in the third and fourth years of the Reign of our Sovereign Lady Queen Victoria, intitled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada.*

Salaries of Chairman and Secretary &c. and other expenses not to exceed the appropriation under Imp. Act 3 and 4 Vict.

XXXII. And be it enacted, that any member of the Legislative Assembly of this Province, accepting the office of Chairman or of Secretary of the said Board of Works, shall thereby vacate his seat as such member, and shall be incapable of sitting

Any Member of the Assembly becoming Chairman or

Secretary to vacate his seat but may be re-elected.

sitting or voting in the said Legislative Assembly, unless elected to the said Assembly subsequent to his acceptance of any such office, as aforesaid.

Due application of all such monies to be accounted for to Her Majesty.

XXXIII. And be it enacted, that the due application of all monies expended by, for, or under the superintendence of the said Board, shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of the Treasury, in such manner and form as Her Majesty, Her Heirs, and Successors shall direct.

This Act to be deemed a public act.

XXXIV. And be it enacted, that this Act shall be deemed and taken to be a public Act, and as such shall be judicially taken notice of by all Judges and other persons and in all Courts without being specially pleaded.

C A P. XXXIX.

An Act to amend and enlarge an Act of the Legislature of the late Province of Upper Canada, intituled "An Act to ascertain and provide for the payment of all just claims arising from the late Rebellion and Invasions of this Province."

[17th August, 1841.]

Preamble.

WHEREAS by the fifth Section of an Act passed in the last Session of the Legislature of the Province of Upper Canada, intituled *An Act to ascertain and provide for the payment of all just claims arising from the late Rebellion and Invasions of this Province*, it is enacted, (among other things) that the Commissioners to be appointed by that Act should sit, from time to time, at two places only, and for a period not exceeding six days at each sitting, in each District; and it is by the tenth Section of the said Act provided that in no case, shall any Commissioner be allowed for more than fourteen days occupation in any one District; And whereas it is expedient to extend the Provisions of the said Act, so far as to enlarge the period for the said Commissioners holding their sittings; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada and for the Government of Canada*, and it is hereby enacted by the authority of the same, that it shall be lawful for the said Commissioners to sit twenty-eight days in each District, but at two places only in each District; and that

neither

A certain Act in part recited.

The period during which the Commissioners under the said Act may sit, and the number of days for which they may receive compensation, extended.

neither of such sittings shall exceed fourteen days, for the purposes of the said in part recited Act : Provided always that in no case shall any Commissioner be allowed for more than thirty one days occupation in any one District.

Proviso.

II. And be it enacted, that the powers vested in, and duties required of the said Commissioners, under the said Act, shall extend and be construed to extend, to inquire into all losses sustained by Her Majesty's subjects and other residents within that part of this Province, to which the said Act extends, from the first breaking out of the said Rebellion to the passing of the said Act, and the several claims and demands which have accrued to any such persons by such losses, in respect of any loss, destruction, or damage of property occasioned by violence on the part of persons in Her Majesty's service, or by violence on the part of persons acting or assuming to act on behalf of Her Majesty, in the suppression of the said Rebellion, or for the prevention of further disturbances, and all claims arising under or in respect of the occupation of any houses or other premises by Her Majesty's Naval or Military forces, either Imperial or Provincial.

The powers of the Commissioners extended to other claims for losses and demands not before provided for.

CAP. XL.

An Act to amend an Act of the Legislature of Lower Canada, relative to the establishment of Mutual Fire Insurance Companies.

[27th August, 1841.]

WHEREAS the inhabitants of the several Counties hereinafter mentioned have petitioned that a certain Act of the Legislature of the late Province of Lower Canada, passed in the fourth year of the reign of His late Majesty King William the Fourth, and intituled *An Act to authorize the establishment of Mutual Fire Insurance Companies*, may be amended in the manner hereinafter mentioned, and it is expedient that the prayer of their petition be granted ; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council, and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that it shall be lawful for the Mutual Fire Insurance Company for the County of Montreal, if they shall deem it expedient, to admit as a member of the said Company, the owner of any property situate within the Counties of the Lake

Preamble.

Act of L. C. 4 Will. 4 cap. 33.

The Mutual Fire Insurance Company for the County of Montreal may insure property in any of the Counties of the Lake of the Two Mountains, Terre-

bonne, Berthier, Richelieu, Verchères, St. Hyacinthe, Rouville, Beauharnois, and Huntingdon, and that for the Counties of Sherbrooke and Stanstead may insure property in the Counties of Shefford and Drummond.

And the persons so insured shall be members of the Companies.

Lake of the Two Mountains, Terrebonne, Berthier, Richelieu, Verchères, St. Hyacinthe, Rouville, Beauharnois, and Huntingdon, or any of them, and it shall be lawful for the Mutual Fire Insurance Company for the Counties of Sherbrooke and Stanstead, if they shall deem it expedient to admit as a member of the said Company, the owner of any property situate within either of the Counties of Shefford and Drummond, and to insure any property of such person so situate, as aforesaid, which might without this Act be so insured if situate within the County of Montreal, or within either of the said Counties of Sherbrooke or Stanstead; and that each person so admitted as a member of either of the said Companies shall have the same rights, and be subject to the same liabilities, as the other members of either of the said Companies, any thing in the said Act hereby amended, or in a certain other Act of the said Legislature, passed in the sixth year of His said late Majesty's Reign, and intituled *An Act to continue for a limited time, and to amend a certain Act therein mentioned relative to the establishment of Mutual Fire Insurance Companies*, to the contrary in anywise notwithstanding.

CAP. XLII.

An Act to enable persons authorized to practise Physic or Surgery in Upper or Lower Canada, to practise in the Province of Canada.

[18th September, 1841.]

Enacted.

Persons duly authorized to practise Physic or Surgery in one portion of this Province may practise in any part thereof.

Subject to the Laws of the place in which they so practise.

WHEREAS it is expedient that persons authorized to practise Physic or Surgery in one portion of this Province, should be authorized to practise in the other portion thereof; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-write the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, that any person who is or shall be duly licensed or authorized to practise as a Physician, or as a Surgeon, or as both, either in that part of the Province called Upper Canada, or in that part of the Province called Lower Canada, under the Laws in force in the said portions of this Province, respectively, shall be and is hereby authorized to practise in any part of this Province, for the purpose or purposes for which he might without this Act have practised in one of the aforesaid portions of this Province; but subject to the Laws to which other Practitioners are or shall be subject in the portion of this Province in which he shall practise.

CAP.

C A P . XLII.

An Act to repeal certain parts of an Act therein mentioned, and to provide for taking a periodical Census of the Inhabitants of this Province, and for obtaining the other statistical information therein mentioned.

[18th September, 1841.]

WHEREAS it is expedient to make more effectual provision for taking a periodical Census and Enumeration of the Inhabitants of this Province, and for obtaining other statistical information hereinafter mentioned; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-write the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, that so much of an Act of the Legislature of that part of this Province, formerly called Upper Canada, passed in the fifth year of the Reign of His late Majesty, King William the Fourth, and 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*, as is contained in the nineteenth, twentieth and twenty-first Sections of the said Act, and so much of any Act or Law in force in this Province, or any part thereof as may be inconsistent with or repugnant to the provisions of this Act, or may assign any of the duties hereinafter assigned to certain officers or persons, to any other Officers or persons, shall be and the same is hereby repealed.

Preamble.

19th, 20th and 21st. sections of the Act of Upper Canada, 5 Will. 4 cap. 8. and other laws inconsistent with this Act repealed.

II. And be it enacted, that a Census of the Inhabitants of this Province, shall be taken and the other statistical information hereinafter mentioned, obtained in the year of our Lord, one thousand eight hundred and forty two, and in every fifth year thereafter.

A Census of the Province to be taken in the year 1842 and in every fifth year thereafter.

III. And be it enacted, that the Secretary of the Province, shall cause to be printed

The Secretary of the Province to cause copies of this Act and of the Schedule to be transmitted to the Warden of each Municipal District and the Mayor or Chief Magistrate of each City or Town Corporate in the Province, at certain times.

The Wardens Mayors and Chief Magistrates to distribute such Returns and copies among the Assessors, in the Districts, Cities or Corporate Towns.

The Assessors may demand certain information within the locality for which they Act.

Penalty on persons of lawful age, refusing such information or giving it falsely.

Penalty how recovered and applied.

The Assessors shall enter the information so obtained on two of the Returns aforesaid, and transmit the same to the Warden, Mayor, or Chief Magistrate.

printed uniform blank Returns in conformity with the Schedule hereunto annexed and the provisions hereinafter contained, together with copies of this Act in the English and French languages, and shall on or before the second Monday of January in the said year one thousand eight hundred and forty two, and on or before the said day and month in every fifth year thereafter, transmit to the Warden of each Municipal District within the Province, three times as many of such blank Returns and Abstracts, and Copies of this Act, as there shall be Townships and Parishes within such District wherein there shall be separate Assessors, and to the Mayor or Chief Magistrate of each City or Town Corporate within this Province, three times as many of the said Returns and Copies as there shall be Wards having separate Assessors in such City or Town Corporate.

IV. And be it enacted, that it shall be the duty of each of the said Wardens and of the Mayor or Chief Magistrates of the said Cities and Towns Corporate, respectively, to distribute such blank Returns and Copies on or before the first day of February in each and every year in which a Census shall be taken, amongst the Assessors for the said Townships or Parishes in the said Municipal Districts, or for the said Wards, respectively.

V. And be it enacted, that it shall be lawful for such Assessors, and it shall be their duty within their respective Townships, Parishes or Wards, to demand and receive at every dwelling house, or from the head of every family residing therein, or from any member of such family more than twenty one years of age, an enumeration of the persons composing such family, and of all and every the particular matters and things specified in the Schedule hereunto annexed; and any person being the head of a family or a member thereof above the age of twenty one years, who shall refuse to give to any Assessor the information so demanded by him, or shall wilfully give false information to such Assessor, concerning the same, shall forfeit and pay a penalty of fifty shillings, currency, to be sued for and recovered with costs in any Court of competent civil jurisdiction, by the Clerk of the District Council for the District within which such person is resident, for the benefit of the District Fund, or by the City or Town Clerk, for the benefit of the funds of the Corporation, as the case may be.

VI. And be it enacted, that the said Assessors, respectively, shall enter in two of the printed forms of Returns received by them, the particulars of the enumeration so made, and of the statistical information so obtained, in the manner and form specified in the Schedule to this Act annexed, and shall return to the Warden or Mayor, as the case may be, two of the printed forms aforesaid, filled up with the said enumeration and the statistical information so obtained, as aforesaid, and sworn to before one of Her Majesty's Justices of the Peace for the District, City or Town

Town Corporate in which such Census shall be taken; and one of the said Returns shall be transmitted to the Governor of this Province by the Warden, Mayor or Chief Magistrate, and the other shall be retained among the Public records of the District, City or Town Corporate.

Who shall transmit one to the Governor and retain the other among the records of the Place.

VII. And be it enacted, that certified copies of all such returns of Census, shall be laid before both Houses of the Provincial Parliament, at the next Session after the Census shall be taken.

Copies of the Returns, to be laid before the Legislature.

VIII. And be it enacted, that any Assessor who shall be convicted upon Indictment of having wilfully neglected to make any Return by this Act required, or of having made a negligently false Return, shall be liable to pay a fine to Her Majesty not exceeding twenty five pounds of lawful money of this Province, and shall be further liable to imprisonment in the Common Gaol or Prison of the District, City or Town Corporate in which the same Census ought to be taken, or in which the same shall be so falsely taken, for a space of time not exceeding three Calendar Months; and that any Assessor or Assessors, who shall wilfully make a false Return of such Census, upon oath, as aforesaid, shall, upon conviction thereof, be liable to all the pains and penalties of wilful and corrupt perjury.

Penalty on Assessors neglecting to make the required returns or through negligence making them erroneously.

Any Assessor wilfully making a false return under oath, to be guilty of perjury.

IX. And be it enacted, that the Assessors, aforesaid, shall be respectively entitled to receive, for taking such Census, out of the Public Funds of each District, City or Town Corporate in which such Census shall be taken, a sum of money equal in amount to one fourth of the sum which such Assessor or Assessors shall be entitled to receive for making the Assessment for the same year in which the Census aforesaid, shall be taken.

Each Assessor to receive for making such Returns one fourth of the sum he shall receive in the same year for making the assessment.

X. And be it enacted, that the words "Parishes" and "Townships" whenever they occur in this Act, shall, for the purposes thereof, be held to mean and include reputed Parishes and Townships, and Unions of Parishes and Townships and of reputed Parishes and Townships, in and for which Assessors have been and may hereafter be chosen or appointed in the manner and for the purposes prescribed by Law.

Interpretation of certain words.

XI. And be it enacted, that whenever there shall be more than one Assessor in and for the same place, the Warden, Mayor or Chief Magistrate thereof, may assign to each of the Assessors, the Locality within which he shall obtain the information by this Act required, and each Assessor shall act accordingly as if he had been appointed for such locality, exclusively, and shall be paid such proportion of the allowance aforesaid, as the Warden, Mayor or Chief Magistrate may direct.

When there is more than one Assessor in any place, each shall have a certain locality assigned to him for the purposes of this Act.

SCHEDULE

SCHEDULE.

Returns of the enumeration of the Inhabitants of _____ with the other statistical information to be obtained in such _____, by an Act intitled, "An Act to repeal certain parts of an Act therein mentioned, and to provide for taking a Periodical Census of the Inhabitants of this Province, and for obtaining other statistical information therein mentioned."

Total,	Houses inhabited.	Houses with their local situations in any Range, Concession, Street, &c.
	Houses Vacant.	
	Houses Building	
	Name of the head of each family.	
	Proprietor of Real Property.	
	New Proprietor of Real Property.	
	Tenant entitled to Vote at any Election in City, Town, &c.	
	Trade or Profession.	
	Total number of inmates in each family, Male and Female, not resident.	
	Number of persons belonging to the family, Male or Female, now temporarily absent.	
	Number of natives of England belonging to each family.	
	do. of Ireland, do. do.	
	do. of Scotland, do. do.	
	do. of Canada, do. do. of French origin	
	do. of Canada, do. do. of British origin.	
	do. of the Continent of Europe, or otherwise specifying the same separately.	
	do. of the United States of America.	
	Number of years each person has been in the Province, when not Natives thereof.	
	Number of Aliens not naturalized.	
	Male.	Number of persons in the family, five years of age and under.
	Female.	
	Male.	Number of persons in the family above five and under fourteen years of age.
	Female.	
	Married.	14 and under 18.
	Single.	
	Married.	18 and not 21.
	Single.	
	Married.	21 and not 30.
	Single.	
	Married.	30 and not 60.
	Single.	
	Married.	60 and upwards.
	Single.	
	Married.	14 and not 45.
	Single.	
	Married.	45 and upwards.
	Single.	
	Males.	Number of Deaf and Dumb persons in each family and the occupation for which they show the greatest aptitude.
	Females.	
	Males.	Number of Blind persons in each family.
	Females.	

Total,	Males.	Number of Idiots in each family.	
	Females.		
	Males.	Number of Lunatic persons in each family.	
	Females.		
	Number of persons in each family belonging to the Church of England.		
	Number of persons in each family belonging to the Church of Scotland.		
	Number of persons in each family belonging to the Church of Rome.		
	Number of British Wesleyan Methodists in each family.		
	Number of Canadian Wesleyan Methodists in each family.		
	Number of Episcopal Methodists in each family.		
	Number of other Methodists in each family.		
	Number of Presbyterians not in connexion with the Church of Scotland in each family.		
	Number of Congregationalists or Independents in each family.		
	Number of Baptists and Anabaptists in each family.		
	Number of Lutherans in each family.		
	Number of Quakers in each family.		
	Number of Moravians and Tunkers in each family.		
	Number of the Dutch Reformed Church in each family.		
	Number of Jews in each family.		
	Number of persons of all other Religious Denominations not herein enumerated in each family.		
	Number of Male colored persons in each family.		
	Number of Female colored persons in each family.		
	Number of Male Farm Servants employed in each family.		
	Number of other Male Servants in private families.		
	Number of other Female Servants in private families.		
	Number of persons engaged in Trade or Commerce.		
	Number of persons in each family subsisting on alms or paupers.		
	Number of acres or arpents of land occupied by each family.		
	Number of acres or arpents of improved land occupied by each family.		
	Wheat.	Produce raised by each family during the last year and estimated in Winchester bushels.	
	Barley.		
	Rye.		
	Oats.		
	Pease.		
	Indian Corn.		
	Buck Wheat.		
	Potatoes.	Live stock owned by each family.	
	Number of Hives of Bees kept by each family last season.		
	Number of pounds of Maple Sugar made by each family last season.		
	Neat Cattle.		
	Horses.		
	Sheep.		
	Hogs.		

Return of the enumeration of the _____ with the other statistical information, &c.—Continued.

SCHEDULE.

Return of the enumeration of the _____ with the other statistical information, &c.—Continued.

SCHEDULE.

Total,	Number of yards of Fulled Cloth manufactured in the domestic way in the same family.	
	Number of yards of Linen, Cotton or other thin Cloth manufactured in the domestic way in the same family.	
	Number of yards of Flannel or other Woollen Cloth, not fulled, manufactured in the domestic way in the same family.	
	Number of pounds of Wool procured during the last year in each family.	
	Under what tenure such land is held by each family.	
	Rate of Seigniorial Rent paid for land held à titre de cens.	
	Average money rent of farm farmed by each family.	
	Proportion of produce allowed to the Proprietor for land held on lease or cultivated on shares by each family.	
	Number of Colleges, Academies and Convents in each Parish, Township, extra-parochial place, Ward or division of Town, &c.	
	Number of Elementary Schools in every such place.	
	Male.	Number of Scholars at each such College, Academy, Convent or Elementary School.
	Female.	
	Number of Taverns or Houses of Public Entertainment in every such place.	
	Number of Stores where Spirituous Liquors are sold in every such place.	
	Number of Grist Mills in every such place.	
	Number of pairs of Mill-Stones used in each Mill.	
	Number of Oatmeal Mills in every such place.	
	Number of Barley Mills in every such place.	
	Number of Saw Mills in every such place.	
	Number of Oil Mills in every such place.	
	Number of Fulling Mills in every such place.	
	Number of Carding Mills in every such place.	
	Number of Thrashing Mills in every such place.	
	Number of Paper Mills in every such place.	
	Number of Iron Works in every such place.	
	Number of Trip Hammers in every such place.	
	Number of Nail Factories in every such place.	
	The weight of Nails so manufactured in such place.	
	Number of Distilleries in every such place.	
	Number of Breweries in every such place.	
	Number of Tanneries in every such place.	
	Number of Pot and Pearl Ash Manufactories in each such place.	
	Number of Manufactories of any other sort in every such place containing any Machinery moved by Wind, Water, Steam or Animal power, specifying the purposes to which such Machinery is applied, and by what power it is moved.	
	Average price of Wheat in every such place since last harvest.	
	Average price of Agricultural Labor per day throughout the year.	

I, A. B., do swear that the above Return is true and correct to the best of my knowledge and belief, that I have not willfully made any false Statement therein, and that I have used my best diligence and endeavour to obtain a true information on all matters to which it relates, — So HELP ME GOD.

(Signature)

A. B. Assessor for the _____ of _____

Sworn before me, one of Her Majesty's Justices of the Peace, for the _____ of _____, at _____ day of _____, 18—.

(Signature)

C. D., J. P.

C A P. XLIII.

An Act to repeal a certain Act therein mentioned, and to exempt the Members of Companies of Firemen, lawfully established, from serving as Jurors, and in the Militia, except in certain cases.

[18th September, 1841.]

WHEREAS it is expedient to repeal an Act passed by the Parliament of the late Province of Upper Canada, in the seventh year of the Reign of His late Majesty King George the Fourth, and intituled *An Act to make further and more effectual provision for the prevention of accidents by fire, in the several Police Towns in this Province*, in order to extend the provisions of the same to the whole Province of Canada; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, that the aforesaid Act shall be, and is hereby repealed.

Preamble.

A certain Act of U. C. repealed.

II. And be it enacted, that whenever any Company or Companies shall have been regularly enrolled in any City, Town, or Place in which the formation of Companies of Firemen is by Law authorised and regulated, it shall and may be lawful for the Corporate Authorities, or Board of Police, in such City or Town, or if there be no such Authorities or Board, for the Justices of the Peace, of the District in which such Town may be situate, in General Quarter Sessions assembled, or the majority of them, being satisfied of the efficiency of such persons and accepting their enrolment, to direct the Clerk of the Peace for the District, to grant to each member of such Company a certificate that he is enrolled on the same, which certificate shall exempt the individual named therein, during the period of his enrolment, and his continuance in actual duty as such Fireman, from Militia duty in time of peace, from serving as a Jurymen or a Constable, and from all Parish and Town offices; any Law, custom or usage, to the contrary notwithstanding.

The Corporate Authorities, &c., in any City or Town, in which a Fire Company may be lawfully established may cause the Members of such Company to be exempted from serving as Jurors, and from certain other offices.

III. Provided always, and be it enacted, that it shall be lawful for the Corporate Authorities or Board of Police, in any City or Town, or if there be no such Authorities or Board, for the Justices of the Peace, for the District, or the majority of

Proviso:—such exemption may be taken away in

case of misconduct on the part of any member of any such Company.

The said Authorities may cause such Companies, to be formed, or defer such formation, as they deem most expedient.

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 any individual of such Company shall be convicted of 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 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 next preceding section of this Act mentioned : Provided always, nevertheless, that it shall be in the discretion of the Corporate Authorities or Boards of Police, or of the Justices of the Peace for the District, as aforesaid, respectively, to consent to the formation, as aforesaid, of any Fire Company, in any such City, Town or Place, as aforesaid, or to defer the same until circumstances may, in their opinion, render it expedient that such Company should be formed ; and that they may also, in their discretion, from time to time, discontinue or renew any such Company or Companies.

C A P. XLIV.

An Act to appropriate a sum of money to defray certain expenses relative to the Provincial Steam Dredge of Upper Canada, and for other purposes relative to the said Steam Dredge.

[18th September, 1841.]

MOST GRACIOUS SOVEREIGN,

Preamb.:

WHEREAS it is expedient to appropriate a certain sum of money to defray certain expences relative to the Provincial Steam Dredge of the late Province of Upper Canada ; May it therefore please Your Majesty that it may be enacted, and be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada* ; and it is hereby enacted by the authority of the same, that it shall be lawful for the Governor, Lieutenant Governor, or person administering the Government, by warrant under his hand to authorise the Receiver General to pay out of the consolidated Revenue Fund of the Province, a sum not exceeding four hundred and forty-seven pounds

pounds, four shillings and two pence, currency, to David Thorburn, Esquire, acting Commissioner for the management of the said Steam Dredge, to enable him to pay the following sums due on account of expenses connected with the said Steam Dredge; that is to say: to Messieurs Lyon and Howard, one hundred and twenty five pounds, currency; to Jacob Randal, twenty nine pounds, nine shillings and three pence, currency; to Joseph Aniseth Shleenon, thirteen pounds, fifteen shillings and nine pence, currency; to David Thorburn, one hundred and twelve pounds, fifteen shillings and seven pence, currency; to Francis Hall, fifteen pounds; to the Port Hope Harbour Company, for raising the said Steam Dredge from under water, thirty nine pounds, four shillings and seven pence, currency; and to the said acting Commissioner for his services, to the time of the passing of this Act, one hundred and twelve pounds, currency.

£447 4 2
granted to pay
certain expen-
ces relating to
the Steam
Dredge.

II. And be it enacted, that the due application of the monies hereby appropriated shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct; and that an account of the expenditure of the said monies shall be laid before the Provincial Legislature, within the first fifteen days of the then next Session thereof.

Accounting
Clause.

III. And whereas it is expedient that the said Provincial Steam Dredge should be under the control and management of the Board of Works; Be it therefore enacted that the said acting Commissioner for the management of the said Steam Dredge shall, within three months after the passing of this Act, deliver over to the said Board of Works, the said Steam Dredge and all the appurtenances thereof, which shall thenceforward be under the exclusive management and control of the said Board and the property whereof shall be vested in the said Board for the public uses of the Province, any Statute or Law to the contrary notwithstanding.

Steam Dredge
to be transfer-
red to the con-
trol of the
Board of Works

C A P. XLV.

An Act to provide for certain expenses of the Legislature of this Province, and of the late Provinces of Upper and Lower Canada.

[18th September, 1841.]

MOST GRACIOUS SOVEREIGN,

WHEREAS it is expedient to make provision for the payment during one year of the salaries of certain Officers of the Legislature, and of the retiring allowances

Preamble.

allowances of certain Officers of the Legislature of the late Province of Lower Canada, and of the late Province of Upper Canada, respectively, and for making a sessional allowance for the present Session to the members of the Legislative Assembly of this Province ; 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 of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada* ; and it is hereby enacted by the authority of the same, that it shall be lawful for the Governor, Lieutenant Governor, or person administering the Government, by warrants under his hand to authorise the Receiver General, to pay out of the consolidated Revenue Fund of this Province, the several sums hereinafter specified, for the following purposes ; that is to say : a sum not exceeding five hundred pounds, currency, to indemnify the Honorable the Speaker of the Legislative Council for the expenses incurred by him during the current year ; a sum not exceeding five hundred pounds, currency, to defray the salary of the Clerk of the Legislative Council, for one year ; a sum not exceeding seven hundred pounds, currency, to defray the salaries of the two Clerks Assistant of the Legislative Council for one year, at the rate of three hundred and fifty pounds each ; a sum not exceeding two hundred and fifty pounds, currency, to defray the salary of the Clerk of Committees of the Legislative Council, (to act also as Law Clerk and English translator,) for one year ; a sum not exceeding one hundred pounds, currency, to defray the salary of one Master in Chancery, for one year ; a sum not exceeding one hundred pounds, currency, to defray the salary of the Gentleman Usher of the Black Rod, for one year ; a sum not exceeding one hundred pounds, currency, to defray the salary of the Serjeant at Arms to the Legislative Council, for one year ; a sum not exceeding two hundred pounds, currency, to defray the salary of a Chaplain to the Legislative Council, (to act also as Librarian,) for one year ; a sum not exceeding sixty pounds, currency, to defray the salary of the Door-keeper to the Legislative Council, for one year ; a sum not exceeding one hundred pounds, currency, to defray the salary of the Head Messenger to the Legislative Council, for one year ; a sum not exceeding one hundred and thirty five pounds, currency, to defray the salary of three Messengers to the Legislative Council for their services during the present Session and for eight days after its close, at the rate of forty five pounds, each ; a sum not exceeding one thousand pounds, currency, to defray the salary of the Speaker of the Legislative Assembly, for one year, provided he holds no other office of profit or emolument under the Provincial Government ; a sum not exceeding five hundred pounds, currency, to defray the salary of the Clerk of the Legislative Assembly, for one year ; a sum not exceeding four hundred pounds, currency,

Certain sums granted for salaries or retiring allowances to officers of the Legislative Council and Assembly of Canada, and of the late Houses in Upper and Lower Canada.

currency, to defray the salary of the Assistant Clerk of the Legislative Assembly, for one year ; a sum not exceeding three hundred and fifty pounds, currency, to defray the salary of the English translator to the Legislative Assembly (to perform also the duties of Law Clerk), for one year ; a sum not exceeding two hundred and fifty pounds, currency, to defray the salary of the French translator to the Legislative Assembly, for one year ; a sum not exceeding one hundred pounds, currency, to defray the salary of the Serjeant at Arms to the Legislative Assembly, for one year ; a sum not exceeding one hundred and fifty pounds, currency, to defray the salary of the Clerk of the Crown in Chancery, for one year ; a sum not exceeding three hundred and ninety three pounds, six shillings and eight pence, currency, to defray the pension of William Smith, Esquire, late Clerk and Master in Chancery of the Legislative Council of the heretofore province of Lower Canada, for one year ; a sum not exceeding two hundred and sixty-six pounds, thirteen shillings and four pence, currency, to defray the pension of Charles DeLery, Esquire, late Assistant Clerk of the Legislative Council of the heretofore Province of Lower Canada, for one year ; a sum not exceeding one hundred and sixty-six pounds, thirteen shillings and four pence, currency, to defray the pension of Jacques Voyer, Esquire, late Clerk of Committees to the Legislative Council of the heretofore Province of Lower Canada, for one year ; a sum not exceeding sixty-six pounds, thirteen shillings and four pence, currency, to defray the pension of William Ginger, late Serjeant at Arms to the Legislative Council of the heretofore Province of Lower Canada, for one year ; a sum not exceeding twenty pounds, currency, to defray the pension of Louis Noreau, late Messenger and Officekeeper to the Legislative Council of the heretofore Province of Lower Canada, for one year ; a sum not exceeding sixty-six pounds, thirteen shillings and four pence, currency, to defray the pension of Louis B. Pinguet, late Clerk of Committees to the House of Assembly of the heretofore Province of Lower Canada, for one year ; a sum not exceeding one hundred and thirty-three pounds, six shillings and eight pence, currency, to defray the pension of David Jardine, late writing Clerk of the House of Assembly of the heretofore Province of Upper Canada, for one year ; a sum not exceeding one hundred and thirty three pounds, six shillings and eight pence, currency, to defray the pension of William Coates, late writing Clerk to the House of Assembly of the heretofore Province of Upper Canada, for one year ; a sum not exceeding one hundred pounds, currency, to defray the pension of Samuel Waller, late Clerk of Committees to the House of Assembly of the heretofore Province of Lower Canada, for one year ; a sum not exceeding one hundred and thirty-three pounds, six shillings and eight pence, currency, to defray the pension of Jasper Brewer, late Librarian to the House of Assembly of the heretofore Province of Lower Canada, for one year ; a sum not exceeding eighteen pounds, currency, to defray the pension of Æneas Bell, late Messenger to the House of Assembly of the heretofore Province of Upper Canada, for one year ; a sum not exceeding eighteen pounds,

pounds, currency, to defray the pension of François Rodrigue, late Messenger to the House of Assembly of the heretofore Province of Lower Canada, for one year; a sum not exceeding eighteen pounds, currency, to defray the pension of Louis Gagné, late one of the Messengers to the House of Assembly of the heretofore Province of Lower Canada, for one year; and a sum not exceeding six thousand eight hundred pounds, currency, to pay a sessional allowance to the Members of the Legislative Assembly of this Province, as an indemnity for their disbursements in attending the present Session, and to defray their travelling expences to and from the place at which the Legislature meets.

Accounting
Clause.

II. And be it enacted, that the due application of the monies hereby appropriated, shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lord Commissioners of Her Majesty's Treasury, for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct; and that a detailed account of the expenditure of all such monies shall be laid before the Provincial Legislature within fifteen days after the opening of the then next Session thereof.

C A P. XLVI.

An Act to make good certain sums advanced to defray contingent expences of the two Houses of the Legislature of the late Province of Upper Canada.

[18th September, 1841.]

MOST GRACIOUS SOVEREIGN,

Preamble.

WHEREAS in pursuance of an Address of Your Commons House of Assembly of that part of this Province formerly Upper Canada, during the last Session of the Legislature of Upper Canada, aforesaid, to His Excellency the Right Honorable Charles Poulett Thompson, one of Her Majesty's Most Honorable Privy Council, Governor General of British North America, and Captain General and Governor-in-Chief in and over the Provinces of Lower Canada and Upper Canada, Nova Scotia, New Brunswick and the Island of Prince Edward, and Vice Admiral of the same, the sum of six thousand eight hundred and one pound fourteen shillings and one penny three farthings, has been issued and advanced by Your Majesty, through Your Majesty's said Governor-in-Chief, to the Clerks and other Officers of the two Houses of Parliament, to enable them to pay the contingent expenses of their respective offices; May it therefore please Your Majesty, that it may be enacted, and be it enacted, by the Queen's Most Excellent Majesty by

by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, that out of the funds subject to the disposition of the Parliament of this Province, now remaining in the hands of the Receiver General, and unappropriated, there shall be issued and applied the sum of six thousand eight hundred and one pounds fourteen shillings and one penny three farthings; to make good the said sum so issued and advanced, as aforesaid.

£6801 14 1½
granted to re-
pay advances
made to the
Legislature of
U. C.

II. And be it enacted, that the due application of the said sum of money, pursuant to the directions of this Act, shall be accounted for to Her Majesty, Her Heirs and Successors, 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.

Accounting
clause.

C A P. XLVII.

An Act to amend a certain Ordinance of the Legislature of Lower Canada for making a Rail Road from Sherbrooke to the River Richelieu.

[17th August, 1841.]

WHEREAS the persons named in a certain Ordinance of the Legislature of the late Province of Lower Canada, passed in the fourth year of Her Majesty's Reign, and intituled *An Ordinance for making a Rail Road from Sherbrooke to a point upon either bank of the River Richelieu*, as the Petitioners at whose instance the said Ordinance was passed, have by their Petition to the Legislature of this Province prayed, that the said Ordinance may be amended in the manner hereinafter mentioned, and it is expedient to grant the prayer of their said Petition; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted by au-

Preamble.

Ordinance of
Lower Canada
4 Vict. cap 10,
cited.

The 53d sec-
tion of the said
Ordinance a-
mended.

The Stockholders may commence the Rail Road mentioned in the said Ordinance by any section, and continue the sections in the order they may think best.

thority of the same, that so much of the fifty-third clause of the said Ordinance as requires that the section of the Rail Road therein mentioned which is nearest to the Town of Sherbrooke, shall be that which shall be first commenced, and that the said Rail Road shall be thence continued uninterruptedly towards the River Richelieu, shall be and so much of the said clause is hereby repealed; and it shall be lawful for the Stockholders of the Corporation by the said Ordinance established, to commence the said Rail Road by making such section as they shall deem most advantageous, and to continue the same by making the several sections thereof in such order as they shall consider expedient; any thing in the said Ordinance to the contrary notwithstanding.

C A P . XLVIII.

An Act to authorize the Stock held by private parties in the Welland Canal to be purchased on behalf of the Province.

[18th September, 1841.]

Preamble.

WHEREAS it is desirable to place the Welland Canal under the exclusive control of the Government of this Province, and for that purpose to provide for the purchase from the private Stockholders in that work, of the Stock by them held, and which amounts to the sum of one hundred and seventeen thousand eight hundred pounds; Be it therefore enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that from and after the passing of this Act, it shall and may be lawful for Her Majesty's Receiver General, upon an order to that effect, from the Governor, Lieutenant Governor, or Person administering the Government of this Province, to issue such number of debentures as may be required, to the several Stockholders in the Welland Canal, for a sum equal to the amount of Stock held by him or them; and such debentures shall be made redeemable in twenty years from their date, and shall bear an interest of two per cent per annum, on the amount for which they may be issued for the first two years, three per cent for the third year, four per cent for the fourth year, five per cent for the fifth year, and six per cent for the sixth and following years; which interest, as well as the principal sum, shall be chargeable upon and payable out of the Public Revenue of this Province.

Debentures may be issued to private Stockholders in the Welland Canal, for a sum equal to the amount of Stock held by them respectively.

Debentures to be redeemable in 20 years, and to bear interest.

II. And be it enacted, that whenever the tolls collected on the said Canal shall annually amount to the sum of thirty thousand pounds, it shall be lawful for the Governor, Lieutenant Governor or Person administering the Government, to authorize and direct the Receiver General of the Province to issue other debentures to the original Stockholders, or their legal representatives, for such sums as will make up six per centum interest upon the amount of Stock by them subscribed and paid for, from the time the same shall have been actually paid in, which debentures shall be made payable in twenty years from the date thereof, and bear interest at the rate of six per centum, payable half yearly, out of the Public Revenues of the Province.

When the Tolls of the Canal amount to £30,000 annually other Debentures may be issued, so as to make up six per cent interest on such from the time it was first paid in

III. Provided always, and be it enacted, that nothing herein contained shall be construed to compel any Stockholder to accept debentures for the Stock by him held as aforesaid, or, in case of refusal to take the same, to deprive him from being paid from the tolls and revenues of the said Canal, according to the laws now existing, having relation to the said Canal.

No Stockholder shall be bound to Exchange his Stock for Debentures.

IV. And be it enacted, that so soon as the Stockholders owning two-thirds of the Stock in the said Canal, shall have signified their acceptance of debentures in lieu of Stock, as hereinafter provided, so much of the eighth section of an Act passed in the seventh year of the reign of His late Majesty King William the Fourth, intituled *An Act for the permanent completion of the Welland Canal, and for other purposes therein mentioned*, as authorizes the annual election of two directors by the private Stockholders of the said Welland Canal Company, or requires the election or appointment of more than three Directors for the management of the stock, property, affairs and concerns of the said Welland Canal Company, shall be and so much of the said section is hereby repealed; and a majority of the other three Directors shall be a quorum for the transaction of business: Provided always, that the Governor, Lieutenant Governor or Person administering the Government, shall have power and authority to appoint such three Directors, or any of them, annually, at his discretion.

No Directors to be elected by private Stockholders after those holding two thirds of the Stock shall have agreed to accept Debentures for the same.

Governor, &c. may appoint the three Directors or any of them annually.

C A P . XLIX.

An Act to extend the provisions of an Ordinance of the Legislature of the late Province of Lower Canada, intituled "An Ordinance for making a Rail Road from the City of Montreal to the Province line at or near Pointe à Beaudet."

[18th September, 1841.]

WHEREAS it is expedient to extend certain provisions of an Ordinance passed in the fifth Session of the Special Council, of the late Province of Lower

Preamble.

Period within which such Railroad shall be constructed extended to six years from the passing of this Act.

Book and Plan of Railroad may be prepared and deposited before 31st December. 1842.

Period mentioned in 4 vict: c. 41. sec. 53, extended.

Lower Canada, in the fourth year of the Reign of Queen Victoria, chapter forty-one, for making a Rail Road from the City of Montreal to the Province Line at or near Pointe à Beaudet and to amend the said Ordinance; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-write the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that from and after the passing of this Act, the period within which the Company of Proprietors shall be bound to construct and complete the said Rail Road, shall be extended to six years from the day of the passing of this Act instead of the period mentioned in the fifty-third section of the said Ordinance, and that the Book and Plan required by the said Ordinance, and which by the provisions of the said section were to be prepared and deposited of record, within eighteen months next after the passing of the said Ordinance hereinbefore recited, may be prepared and deposited, as aforesaid, at any time before the thirty-first day of December, one thousand eight hundred and forty-two; and further that the periods of "two years" and "six months" and "two years" limited in the Proviso of the said fifty-third section shall be extended each to three years and six months from the passing of this Act.

C A P . L .

An Act to grant certain sums therein mentioned to Her Majesty, towards defraying the expenditure of the Civil Government, for the year ending the thirty-first day of December, one thousand eight hundred and forty-one.

[18th September, 1841.]

MOST GRACIOUS SOVEREIGN,

Preamble.

WHEREAS by Message from His Excellency the Right Honorable Charles, Baron Sydenham, of Sydenham in the County of Kent, and Toronto in Canada, and Governor General of this Province, bearing date the twentieth day of July, one thousand eight hundred and forty-one, and laid before both Houses of the Legislature, it appears that the sums hereinafter mentioned are required for the several purposes hereinafter specified, and it is expedient to make provision accordingly; May it therefore please Your Majesty that it may be enacted, and

and be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-write the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that from and out of any unappropriated monies forming part of the consolidated Revenue Fund of this Province, there shall and may be paid and applied for the purposes hereinafter specified the following sums, that is to say :

To defray certain expenses not provided for by Law, of the Civil Government and of the administration of Justice in that part of this Province formerly Upper Canada, from the first day of January, one thousand eight and forty-one, to the ninth day of February, inclusive, in the same year, a sum not exceeding seven thousand two hundred and thirty-four pounds, nineteen shillings and three pence, currency :

£7234 19. 3,
granted to pay
certain expen-
ses in Upper
Canada before
the Union.

To defray certain expenses not provided for by Law, of the Civil Government, and of the public service of that part of the Province formerly Upper Canada, from the tenth day of February, one thousand eight hundred and forty one, to the thirty first day of December in the same year, both days inclusive, a sum not exceeding twenty-six thousand and eighty-two pounds, seven shillings and eight pence, currency :

£26082. 7. 8,
for expenses of
Upper Canada
since the
Union and for
1841.

To defray certain expenses not provided for by Law, of the Civil Government, and of the public service, of that part of the Province, formerly Lower Canada, from the first day of October, one thousand eight hundred and forty-one, to the thirty-first day of December in the same year, both days inclusive, a sum not exceeding seven thousand five hundred and ninety-three pounds, sterling, equal to eight thousand four hundred and thirty-six pounds, thirteen shillings and four pence, currency :

£8436. 13. 4,
for expenses in
Lower Canada
from 1st Oct.
to 31st Dec.
1841.

To repay to the Military Chest, certain expenses defrayed in forwarding Emigrants to their destination, after arriving in this Province, in the year of our Lord, one thousand eight hundred and forty, a sum not exceeding two thousand two hundred and eighty-nine pounds, four shillings and eight pence, sterling, equal to two thousand five hundred and forty-three pounds, eleven shillings and ten pence and two-ninths of a penny, currency :

£2543. 11 10,
to repay expen-
ses for convey-
ing emigrants
in 1840.

To

£3888. 17. 9.
for a like pur-
pose in 1841.

To defray the probable expenses to be incurred for the same service in the year one thousand eight hundred and forty-one, a sum not exceeding three thousand five hundred pounds, sterling, equal to three thousand eight hundred and eighty-eight pounds, seventeen shillings and nine pence and one-third of a penny, currency :

£1666. 13. 4,
for a Geolog-
ical survey.

And to defray the probable expense of causing a Geological Survey of the Province to be made, a sum not exceeding one thousand five hundred pounds, sterling, equal to one thousand six hundred and sixty-six pounds, thirteen shillings and four pence, currency.

Accounting
clause.

II. And be it enacted, that the due application of the monies hereby appropriated shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, Her Heirs, and Successors shall direct.

Account to
be submitted to
Parliament.

III. And be it enacted, that a detailed account of the monies expended under the authority of this Act, shall be laid before the Legislative Assembly of this Province, during the first fifteen days of the Session of the Provincial Parliament next after such expenditure.

C A P . L I .

An Act to appoint additional Commissioners to settle the affairs of the late pretended Bank of Upper Canada, at Kingston.

[18th September, 1841.]

Preamble.

WHEREAS by an Act of the Parliament of the late Province of Upper Canada, passed in the tenth year of the Reign of His late Majesty, King George the Fourth, and intituled *An Act to make more effectual provision for settling the affairs of the late pretended Bank of Upper Canada*, three Commissioners were appointed for the purposes of the said Act ; and it was among other things in effect enacted, that the concurrence of two of the said Commissioners should be necessary to the validity of any act performed by virtue of the powers vested in the said Commissioners, and whereas by reason of the death of some of the said Commissioners, the resignation of others and the omission to supply the vacancies thus occasioned, within the time prescribed by the said Act ; Thomas McNider, Esquire, is the only remaining Commissioner, and it hath therefore become necessary that two additional

tional Commissioners should be appointed for the purposes aforesaid ; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-write the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the said Thomas McNider, Esquire, James Nickalls, Esquire, and George Alexander Cumming, Esquire, shall be the Commissioners for settling the affairs of the pretended Bank mentioned in the said Act, and that the said Commissioners, or any two of them, shall and may validly exercise any and every of the powers heretofore vested in the Commissioners appointed by the said Act, either under the provisions thereof or by a certain other Act of the Parliament of the said Province, passed in the sixth year of the Reign of His late Majesty King William the Fourth, and intituled *An Act to authorize the Commissioners of the late pretended Bank of Kingston to dispose of certain real estate, and for other purposes therein mentioned*, and may validly do and perform any Act or thing which might have been validly done or performed by the Commissioners appointed by the Act first above cited, under that or the said other Act, and may validly complete any act or thing commenced and left incomplete, by the Commissioners under either of the said Acts.

Certain persons appointed Commissioners for settling the affairs of the pretended Bank of Upper Canada.

II. Provided always, and be it enacted, that the Commissioners hereby appointed shall not in consequence of this appointment be personally responsible for any act of the Commissioners appointed under the Act first above cited.

Commissioners not to be personally liable for Acts of former Commissioners.

III. And be it enacted, that the claim of the Clerk of the late Board of Directors for settling the affairs of the said Bank, shall be ascertained by the Commissioners hereby appointed, and the amount due to him for services performed, and monies expended, shall be payable out of the first available assets of the said Bank which shall come into the hands of the Commissioners hereby appointed, applicable to the payment of the debts of the said Bank.

Claims of a certain Clerk to be considered and settled.

IV. And be it enacted, that the Commissioners hereby appointed shall, within one year, make a full report to His Excellency the Governor General or person administering the Government, upon the affairs of the said Institution and the proceedings of all the Commissioners who have from time to time been engaged in settling the same, to be laid before both Houses of the Provincial Parliament.

Commissioners to report to the Governor.

CAP.

C A P. LII.

An Act to compel all Candidates, at any future Elections for Members of the Legislative Assembly, to make and subscribe detailed declarations of the property by them possessed, and under which they qualify.

[18th September, 1841.]

Preamble

Each Candidate at any future Election shall, if required, make a declaration on oath, stating certain particulars as to the property in respect of which he claims to be qualified to be elected.

WHEREAS it is expedient and necessary that all Candidates, at any future Elections of Members of the Legislative Assembly should make and subscribe a declaration in writing and under oath, of the property by them held, seized and possessed, and in virtue whereof they may be legally Elected as such Members; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, that at any future Election within this Province, of any Member to serve in the Legislative Assembly, each Candidate at such Election, before he shall be capable of being Elected, shall if required by any other Candidate, or by any Elector, or by the Returning Officer, make and subscribe, under oath or affirmation, (which oath or affirmation the said Returning Officer, is hereby authorised and required to administer) a declaration, specifying the lands and tenements of which he is duly seized at law, or in equity as of freehold for his own use and benefit, and held in free or common soccage, or of which he is duly seized and possessed for his own use and benefit, and held in *fief* or *rôture*, and upon which he claims to be qualified according to Law, to be elected as aforesaid.

Any wilful false statement in such declaration to be perjury.

II. And be it enacted, that if any person shall knowingly and wilfully make a false declaration respecting the situation, position, extent or boundaries of such lands and tenements, such person shall be deemed to be guilty of a misdemeanor, and being thereof legally convicted, shall suffer the like pains and penalties as by Law are incurred by persons guilty of wilful and corrupt perjury, in the place in which such false declaration shall have been made.

III. And whereas it may happen that any Candidate may from illness or other unavoidable cause, be prevented from attending at the Election, and the free choice of the Electors might be defeated, unless provision were made in that behalf; Be it therefore declared and enacted, that if any Candidate shall, on the day appointed for the Election, deliver or cause to be delivered to the Returning Officer a declaration

ration in the form prescribed by the twenty-eighth section of the said Act of the Parliament of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, signed by such Candidate and made before a Justice of the Peace in this Province, who shall receive and attest the same, and also a declaration in the form prescribed by this Act, signed by such Candidate, and made on oath or affirmation before any Justice of the Peace in this Province, who shall receive and attest the same, such Candidate shall be held to have complied with the requirements of the said Act, and of this Act as to the declaration of qualification required of him; and any false statement wilfully made in any such declaration, as aforesaid, shall be a misdemeanor, for which the person guilty thereof shall be liable to the punishment to which persons guilty of wilful and corrupt perjury are liable in the place where such declaration shall have been made: Provided always, that on any prosecution for such misdemeanor and for the purposes of this Act any such declaration shall be held to have been made on the day on which it shall be delivered to the Returning Officer by order of the Candidate, whatever be the date at which it was signed, received and attested, as aforesaid, and the possession of any such declaration shall be *prima facie* evidence of authority from the Candidate to deliver the same to the Returning Officer.

C A P. LIII.

An Act to repeal an Ordinance passed by the Governor and Council of Quebec in the seventeenth year of the Reign of His Majesty King George the Third, for preventing persons leaving the Province without a Pass.

[18th September, 1841.]

WHEREAS it is expedient to repeal the Ordinance hereinafter mentioned; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted, by the authority of the same, that the Ordinance made and passed by the Governor and Legislative Council of the Province of Quebec, in the seventeenth year of the Reign of His late Majesty King George the Third, and intituled *An Ordinance for preventing persons leaving the Province without a Pass*, shall be and the same is hereby repealed.

Preamble.

The Ordinance of L. C. 17, Geo. III, c. repealed.

C A P . LIV.

An Act to authorize the North American Colonial Association of Ireland to loan monies in the County of Beauharnois.

[18th September, 1841.]

Preamble.

The Association may lend money to the District Council for carrying on any public work.

And may take security for such loan.

The Council and the Association may do all things necessary for carrying into effect any By-Law passed under the provisions of this section.

No person connected with the association to be connected with the District Council in matters relating to the roads or other works of the association and

WHEREAS it is desirable to enable certain persons associated together under the name and style of the North American Colonial Association of Ireland, to loan to the District Council of the Municipal District of Beauharnois, certain sums of money for the purpose of aiding the said Council in making and maintaining Turnpike Roads, and other improvements in the said District; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted, by the authority of the same, that it shall be lawful for the said Association to advance from time to time, by way of loan, at any rate of interest not exceeding six pounds for every one hundred pounds, annually, such sums of money as may be agreed upon by and between the said Association and the said District Council, for making and maintaining any Turnpike Road, Railroad, Canal, or other public work in the said County; and to take and receive from the said District Council security for the payment of the money so advanced, upon the tolls, charges and rates to be collected and received upon and from such turnpike roads, railroads, canals, and other public works, and upon the general security of all other rates to be imposed and levied by the said District Council; and for perfecting such loans and security, the said Association and the said District Council, respectively, are hereby authorized to do all things, and enter into and execute any and all instruments necessary in law, in order to carry into effect any By-law passed by the said District Council, for any of the purposes mentioned in this section.

II. And be it enacted, that no member, partner, agent, officer or servant of the said Association, or any other person directly or indirectly interested in any such public work, as aforesaid, shall sit or vote as a warden or as a member of the said District Council, upon any matter connected with the provisions of this Act, either in reference to the making, completing, managing or maintaining of any such public work, or in reference to the loan of sums of money to the said District Council by the said Association, and no Treasurer, Secretary or other officer or servant

servant of the said District Council, for himself or as agent, or as otherwise, shall be interested directly or indirectly, in any such public work, or loan, as aforesaid, under a penalty against any person therein offending, of not less than one hundred pounds, currency, to be recovered by bill, plaint, or information, in any Court of competent jurisdiction, one moiety whereof shall be to Her Majesty, Her Heirs and Successors, and the other moiety thereof to the informer.

no officer of the Council shall have any interest in any such works.

III. And be it enacted, that this Act shall be deemed and taken to be a public Act and Law of this Province, and as such shall be judicially taken notice of by all Judges, Justices, and other persons whomsoever, without being specially pleaded.

This Act to be a public Act

C A P . L V .

An Act to provide for the payment of certain monies by the District Treasurers of the Districts in that part of this Province called Upper Canada to the Receiver General, and for other purposes.

[18th September, 1841.]

WHEREAS it is expedient that the certain monies, hereinafter mentioned, be paid into the hands of the Receiver General, and provisions be made for regulating the Session allowance to the Members of the Legislative Assembly 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 of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted, that the Treasurers of the several Districts of that part of this Province called Upper Canada, shall on or before the first day of January next pay over into the hands of the Receiver General of this Province all such monies as shall at any time have come or may hereafter come into their hands, under and by virtue of any law of the said late Province of Upper Canada, authorizing the levying and collecting of rates and assessments for the payment of compensation and wages to Members of the House of Assembly, and shall then remain unexpended in their hands, and to the payment of the said monies, the said Treasurers shall respectively be held liable and obliged in such manner and by such means, as they are by law held to pay any other public monies in their hands.

Preamble.

District Treasurers to pay over to Receiver General amount collected for the payment of wages to members of the Assembly.

II. And be it enacted, that each and every member of the Legislative Assembly

Members attending during the present session to receive £65. and travelling expenses.

bly, having attended in his place, and not having absented himself twenty days during the present Session without leave of the House, or without being prevented by sickness or other reasonable excuse, to the satisfaction of the Speaker, from attending, shall be entitled to obtain, at the close of the present Session, a certificate from the Speaker of his attendance during the same, and on such certificate to receive the sum of sixty five pounds, together with a sum equal to ten shillings for every twenty miles such member may have to travel from his place of residence to the Seat of Government, and in returning home; such distance being ascertained by the Speaker and stated in such certificate: Provided always, that any such member having been so absent, shall suffer a diminution of the said sum proportionate to the time during which he shall have been so absent.

Proviso.

Accounting Clause.

III. And be it enacted, that the due application of all monies paid into the hands of the Receiver General, under the authority of this Act, shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury, for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct.

C A P . LVI.

An Act to incorporate certain persons therein named, under the style and title of "The Sydenham Harbour Company."

[18th September, 1841.]

Preamble.

Petitioners for Incorporation.

WHEREAS the construction of a safe and commodious Harbour at the mouth of Annis's Creek, in the Home District, would manifestly tend to the improvement of that part of this Province, as well as be of great advantage to all persons in any way concerned in the navigation of Lake Ontario; And whereas, John B. Warren, E. Skae, P. M. Nicol, Joseph Wood, David Annis, Thomas Henery, Thomas Gibbs, Samuel Hall, Malcolm Wright, Hugh Munro, James D. Hoitt, Ethan Card, Robert Wilcockson, Elijah Haight, John McGregor, John Amsbury, Joseph Robson, and John McGill have petitioned to be by law incorporated for the purpose of effecting the construction of such Harbour, by means of a Joint Stock Company; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces*

Provinces of Upper and Lower Canada, and for the Government of Canada, and it is hereby enacted, by the authority of the same, that the said John B. Warren, E. Skae, P. M. Nichol, Joseph Wood, David Annis, Thomas Henery, Thomas Gibbs, Samuel Hall, Malcolm Wright, Hugh Munro, James D. Hoitt, Ethan Card, Robert Wilcockson, Elijah Haight, John McGregor, John Amsbury, Joseph Robson and John McGill, together with all such other persons as shall become stockholders in such Joint Stock or Capital, as is hereinafter mentioned, 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 "Sydenham Harbour Company," and that by this name they and their successors shall and may have continued succession, and by such name 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, or places whatsoever, in all manner of suits, actions, complaints, matters and causes, whatsoever, and that they and their successors may and shall have a Common Seal, and change and alter the same at their will and pleasure, and also that they and their successors, by the name of "The Sydenham Harbour Company," shall be in Law 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, or otherwise departing therewith, for the benefit and on account of the said Company, from time to time, as they shall deem necessary and expedient: Provided always, that nothing herein contained shall extend, or be construed to extend to allow the said Company to carry on the business of banking.

- Incorporated
by the name of
"Sydenham
Harbour
Company."

Proviso,
against Bank-
ing.

II. And be it enacted, that the said Company are hereby authorized and empowered, at their own costs and charges, to construct a Harbour at the mouth of Annis's Creek, on the Lots number Five, Six, Seven, Eight, Nine and Ten, of the Broken Front Concession of the Township of Whitby, in the Home District, aforesaid; which Harbour shall be accessible to, and fit, safe and commodious, for the reception of such description and burthen of vessels as commonly navigate the said Lake; and also to erect and build all such needful moles, piers, wharves, buildings, and erections whatsoever, as shall be useful and proper for the protection of the said Harbour, and for the accommodation and convenience of vessels entering, lying, loading, and unloading, within the same, and to alter and amend, repair, and enlarge the same as may be found expedient and necessary.

Annis's Creek
Harbour.

III. And be it enacted, that the Directors of the said Company shall be, and they are hereby empowered, to contract, compound, compromise, and agree with the owners and occupiers of any land through or upon which they may determine to cut and construct the said intended harbour, with all necessary and convenient roads, streets, and approaches thereto, to be constructed and made either for the absolute

Directors may
treat for land.

Arbitrators
to assess value
of property and
damages in
case of disa-
greement.

absolute purchase of so much of the said land as they shall require for the purposes of the said Company, or for the damages which he, she, or they shall or may be entitled to recover from the said Company, in consequence of the said intended harbour, roads, streets, and approaches thereto being cut and made and constructed in and upon his, her or their respective lands; and in case of any disagreement between the said Directors and the owner or owners, occupier or occupiers, as aforesaid, it shall and may be lawful from time to time as often as the said Directors shall think fit, for each owner, or occupier so disagreeing with the said Directors, either upon the value of the lands and tenements proposed to be purchased, or upon the amount of damages to be paid to them, as aforesaid, to nominate and appoint one or more indifferent person or persons, and for the said Directors to nominate and appoint an equal number of indifferent persons, who together with one other person, to be elected by ballot, by the persons so named, shall be Arbitrators to award, determine, adjudge, and order the respective sums of money which the said Company shall pay to the respective persons intitled to receive the same: the award of a majority of whom shall be final; and the said Arbitrators shall, and they are hereby required to attend at some convenient place in the vicinity of the said intended harbour, to be appointed by the said Directors, after eight days notice given them for that purpose by the said Directors, then and there to arbitrate, award, adjudge, and determine such matters and things as shall be submitted to their consideration by the parties interested; and that each Arbitrator shall be sworn before some one of Her Majesty's Justices of the Peace in and for the said District, any of whom may be required to attend the said meeting for that purpose, well and truly to assess the damages between the parties according to the best of his judgment: Provided always, that any award made under this Act shall be subject to be set aside on application to the Court of Queen's Bench, in the same manner and on the same grounds as in ordinary cases of submission by the parties, in which case reference may be again made to Arbitrators as hereinbefore provided.

Tolls.

IV. And be it enacted, that as soon as the said harbour shall be so far completed as to be capable of receiving and sheltering vessels, the said Company shall have full power and authority to ask for, demand, receive, recover, and take as toll, to and for their own proper use and benefit and behoof, on all goods, wares and merchandize shipped on board or landed out of any vessel or boat, from or upon any part of the lake shore between one half mile east and one half mile west of the mouth of the said Creek, in the Township of Whitby, in the said Home District, and upon all vessels and boats entering the said harbour according to the rates following, that is to say:—

Pot and Pearl Ashes, per barrel, nine pence,
Pork, Whiskey, Salt, Beef, and Lard, per barrel, five pence,

Flour

Flour, per barrel, three pence halfpenny,
 Flour, per hundred weight, two pence,
 Wheat, per sixty pounds, one penny,
 Merchandize, per barrel bulk, six pence,
 Merchandize, per hundred weight, two pence,
 Hollow Ware, per hundred weight, three pence,
 Bar and Pig Iron, per hundred, two pence halfpenny,
 Boards and Lumber, per thousand feet, board measure, one shilling and three pence,
 Boats, under twelve tons, one shilling and three pence,
 Boats and Vessels, from twelve tons and upwards, per ton, two shillings.

And all other articles not enumerated to pay in proportion to the above rates, subject to the Direction of the Directors appointed by virtue of this Act.

V. And be it enacted, that the said harbour, moles, piers, wharves, buildings, erections, and all materials which shall be from time to time got or provided for constructing, building, maintaining, or repairing the same, and the said tolls on goods, wares and merchandize, as hereinbefore mentioned, shall be and the same are hereby vested in the said Company and their successors for ever.

Harbour
wharves, &c.
vested in Com-
pany for ever.

VI. And be it enacted, that if any person or persons shall neglect or refuse to pay the tolls or dues to be collected under this Act, it shall and may be lawful for the said Company or their Officer, Clerk or Servant, duly appointed, to seize and detain the goods, vessels or boats on which the same were due and payable, until such tolls are paid; and if the same shall be unpaid for the space of thirty days next after such seizure, the said Company or their Officer, Clerk or Servant, as aforesaid, may sell or dispose of the said goods, vessels or boats, or such part thereof as may be necessary to pay the said tolls, by public auction, giving ten days notice thereof, and to return the overplus, if any, to the owner or owners thereof.

Company may
seize goods for
non-payment
of tolls.

VII. And be it enacted, that the property affairs and concerns of the said Company shall be managed and conducted by seven Directors, one of whom shall be chosen President, who shall hold their office for one year, which said Directors shall be Stockholders to the amount of at least four shares, as well as inhabitants of this Province, and to be elected on the second Monday in May in every year, at the Township of Whitby, at such time of the day as a majority of the Directors for the time being shall appoint; and public notice thereof shall be given in any Newspaper or Newspapers that may be published in the said Home District, 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 said Stockholders of the said Company

Affairs of
Company to be
managed by
Directors.

How to be
appointed.

pany 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 votes at any election shall be Directors; and if it shall happen at any such election that two or more 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 Stockholders hereinbefore authorized to hold such election, shall proceed to elect by ballot until it is ascertained which of the said persons so having an equal number of votes shall be Director or Directors, so as to complete the whole number of seven; and the said Directors so chosen so soon as may be after the said election shall proceed in like manner to elect by ballot one of their number to be President; and if any vacancy or vacancies shall at any time happen among the Directors, by death, resignation or removal from the Province, such vacancy or vacancies shall be filled for the remainder of the year, in which they may happen, by a person or persons to be nominated by a majority of the Directors.

Stockholders
to have votes
in proportion to
their shares.

VIII. And be it enacted, that each Stockholder shall be entitled to a number of votes proportioned to the number of shares which he or she shall have held in his or her own name, at least one month prior to the time of voting, according to the following rules, viz: one vote for each share not exceeding four, five votes for six shares, six votes for eight shares, seven votes for ten shares, and one vote for every five shares above ten.

Omission to
elect Directors
not to dissolve
the Corpora-
tion.

IX. And be it enacted, that in case it should at any time happen that an election of Directors should 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 and may be lawful on any day to make and hold an election of Directors in such manner as shall have been regulated by the by-laws and ordinances of the said Corporation.

Rules and
Regulations.

X. And be it enacted, that the Directors for the time being, or the major part of them, shall have power to make and subscribe such rules and regulations as to them shall appear needful and proper, touching the management and disposition of the stock, property, estate and effects of the said Corporation, and touching the duties of the Officers, Clerks and Servants, and all such other matters as appertain to the business of the said Company; and shall have power to appoint as many Officers, Clerks and Servants for carrying on the said business with such salaries and allowances as to them shall seem fit.

XI. And be it enacted, that on the second Monday in October next, after the passing of this Act, a meeting of the stockholders shall be held at Whitby, who, in the

he same manner as hereinbefore provided shall proceed to elect seven persons to be Directors, who shall continue in such office, until the first Monday in May next after their election, and who during such continuance shall discharge the duties of Directors in the same manner as if they had been elected at the annual election: Provided always, that if shares to the amount of one thousand pounds of the capital stock of the said Company shall not be taken, then the said meeting shall not be held until that amount of stock shall have been taken up, and at least thirty days notice given in the Upper Canada Gazette, or in any Newspaper or Newspapers that may be published in the said District.

XII. And be it enacted, that the whole capital or stock of the said Company, inclusive of any real estate which the said Company may have or hold by virtue of this Act, shall not exceed in value five thousand pounds, to be held in eight hundred shares of six pounds five shillings each, and that the shares of the said capital stock may, after the first instalment thereon shall have been paid, be transferred by the respective persons holding the same to other person or persons; and such transfer shall be entered and registered in a book or books, to be kept for that purpose by the said Company.

Capital Stock
£5,000.

Transferable.

XIII. And be it enacted, that as soon as Directors have been appointed, as aforesaid, it shall and may be lawful for them to call upon the Stockholders of the said Company, by giving thirty days notice thereof in the Upper Canada Gazette, or in any Newspaper or Newspapers that may be published in the said District, for an instalment of ten per cent upon each share which they or any of them, respectively, may subscribe, and that the residue of the sum or shares of the Stockholders shall be payable by instalments in such time and in such proportions as a majority of the Stockholders, at a meeting to be expressly convened for that purpose, shall agree upon, so as no such instalment shall exceed ten per cent, nor become payable in less than thirty days after public notice in the Upper Canada Gazette, or in any Newspaper or Newspapers that may be published in the said District: Provided always, that the said Directors shall not commence the construction of the said harbour until the first instalment shall be paid in.

Directors may
require an instalment of 10
per cent.

XIV. And be it enacted, that if any Stockholder or Stockholders, as aforesaid, shall refuse or neglect to pay, at the time required, any such instalment or instalments as shall be lawfully required by the Directors, as due upon any share or shares, such Stockholder or Stockholders so refusing or neglecting, shall forfeit such share or shares, as aforesaid, with any amount which shall have been previously paid thereon, and that the said share or shares may be sold by the said Directors, and the sum arising therefrom together with the amount previously paid in, shall be accounted for and applied in like manner as other monies of the said

Forfeiture of
Shares upon
non-payment of
instalment.

Proviso. said Company: Provided always, that the purchaser or purchasers shall pay the said Company, the amount of the instalment required, over and above the purchase money of the share or shares so purchased by him, her or them, as aforesaid, immediately after the sale, and before they shall be entitled to the certificate of the transfer of such shares so purchased, as aforesaid: Provided always, nevertheless, that thirty days notice of such forfeited shares shall be given in the Upper Canada Gazette, or in any Newspaper or Newspapers that may be published in the Home District; and that the instalment due may be received in redemption of any such forfeited share, at any time before the day appointed for the sale thereof.

Annual dividends and accounts.

XV. And be it enacted, that it shall be the duty of the Directors to make annual Dividends of so much of the profits of the said Company, as to them, or a majority of them shall seem advisable; and that once in each year an exact and particular statement shall be rendered of the state of their affairs, debts, credits, profits and losses, such statement to appear on the books, and to be open to the perusal of any stockholder at his or her reasonable request.

This Act declared a Public Act.

XVI. And be it enacted, that this Act shall be deemed and taken to be a public Act, and as such shall be judicially noticed by all Judges, Justices of the Peace, and other persons, without being specially pleaded.

The Harbour &c. after fifty years to become the property of the Crown.

XVII. And be it enacted, that at any time after fifty years after the making and completing the said Harbour, Her Majesty, Her Heirs and Successors may assume the possession and property of the same, and all and every the works and dependencies thereto belonging, upon paying to the said Company, for the use of the stockholders thereof, the full amount of their respective shares, or of the sums furnished and advanced by each subscriber towards the making and completing the said Harbour, together with such further sum as will amount to twenty five per cent upon the monies so advanced and paid, as a full indemnification to such Company; and the said Harbour shall, from the time of such assumption, in manner aforesaid, appertain and belong to Her Majesty, Her Heirs and Successors, who shall from thenceforth be substituted in the place and stead of the said Company, upon the conditions and subject to the provisions of any Act of the Legislature of this Province, that may be passed for or respecting the same: Provided always, that it shall not be lawful for Her Majesty, Her Heirs or Successors, at any time after the expiration of the said fifty years, to assume the possession and property of the said Harbour with its appurtenances, as aforesaid, unless it shall appear from the accounts of the said Company, to be for that intent laid before the Legislature, that the stockholders of the said Company have received every year, upon an average, the sum of twelve pounds ten shillings for every one hundred pounds they shall be possessed of in the said concern.

Proviso.

XVIII.

XVIII. And be it enacted, that from and after the period when the possession of the right, interest and property in and to the said Harbour shall have been assumed by Her Majesty, Her Heirs or Successors, as hereinbefore authorized, all tolls and profits arising therefrom shall be paid into the hands of Her Majesty's Receiver General, to and for the public uses of this Province, and shall form part of the Consolidated Revenue Fund thereof, and shall be accounted for to Her Majesty, Her Heirs and Successors, 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 the said Harbour shall be commenced within two years, and completed within seven years after the passing of this Act, otherwise this Act and every matter and thing herein contained, shall cease and be utterly null and void.

Profits of said Harbour when Crown property to be for the public uses of the Province.

C A P. LVII.

An Act for Incorporating the "Canada Fire Assurance Company."

[18th September, 1841.]

WHEREAS Louis Massue, Edward Burroughs, Charles Maxime Defoy, Charles Turgcon, Vital Tétu, George Okill Stuart, and François Xavier Paradis, Esquires, of the city of Quebec, President and Directors of the Canada Fire Assurance Company, by their humble Petition in this behalf, have represented that a large number of the Citizens of the City of Quebec, have associated themselves together for the purpose of insuring against losses by fire within this Province, under the name of the "Canada Fire Assurance Company," under certain articles of agreement, by which the Capital Stock of the said Association is limited to the sum of one hundred thousand pounds, current money of this Province, divided into four thousand shares of twenty five pounds each, of which upwards of fifty eight thousand pounds have been subscribed and taken up, and have since the formation of the said Association, in the year one thousand eight hundred and forty, transacted business to a very large extent, and still continue to do so; and have prayed that for the better enabling them to carry on their said business of Assurance, they, together with others the Stockholders of the said Company, their Successors and Assigns, may be incorporated under the name of "The Canada Fire Assurance Company;" And whereas the establishment of the said Fire Assurance Company is conducive to the advancement of commerce and tends greatly to promote the prosperity of the Province; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent

Preamble.

of

Certain persons Incorporated under the name of "The Canada Fire Assurance Company."

Corporate power of the Company.

May hold real estate to a certain amount.

Not to employ any of their Capital Stock in trade; but may invest it in Bank Stock or public securities.

Common Seal.

of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-write the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same that Louis Massue, Edward Burroughs, Charles Maxime Defoy, Charles Turgeon, Vital Tétu, George Okill Stuart, and François Xavier Paradis, and such others as now are or shall under the authority of this Act be associated with them, and their several and respective heirs, executors, curators, administrators, successors, and assigns, shall be and are hereby constituted and declared to be a Corporation, body corporate and politic, by the name of the "Canada Fire Assurance Company," and shall so continue and have succession till the first day of May, which will be in the year of our Lord one thousand eight hundred and eighty, unless this Act shall be in the mean time repealed by this Legislature; and shall and may by the said name be capable in law, to sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, in all courts and places whatsoever, and shall also be able and capable in law to purchase, acquire, hold, enjoy and retain, to them and their successors, lands and tenements, real or immoveable estate, for the convenient conduct and managing of the business of the said corporation, and for no other purpose, not exceeding the yearly value of three hundred pounds current money of this Province; and may sell, alienate and dispose of such lands, tenements, real or immoveable estate, and purchase others in their stead for the same purpose, not exceeding the yearly value aforesaid; and may also take and hold *hypothèque* upon real estate, either to secure the payment of any share of the capital stock thereof, or to secure the payment of any debt which may be contracted with the said Corporation; and may also proceed on the said mortgages and other securities for the recovery of the monies thereby secured, either at law or in equity or otherwise, in the same manner as any other mortgagee is or shall be authorized to do: Provided always, that it shall not be lawful for the said Corporation to deal, or use or employ any part of the stock, funds or monies thereof, in buying and selling any goods, wares and merchandizes, or in traffic, trade or commerce of any kind, otherwise than herein before specified and permitted; but nothing herein contained shall extend to prevent the said Corporation from investing in the Stock of any Incorporated Bank, or in public securities in this Province, the amount of Capital Stock paid in, or such portion thereof as it shall be deemed advisable by the Directors so to invest; and the said Corporation may have a common Seal, and may change and alter the same at their pleasure, and may also from time to time, at any general meeting of the Stockholders, and by a majority of the votes given at such meeting, as hereinafter provided, ordain, establish and put in execution By-laws, Ordinances and Regulations, (the same not being contrary to this Act, or to the Laws in force in this Province,) as
may

may appear to them necessary or expedient for the management of the said Corporation, its business and affairs, and may from time to time alter and repeal the same or any of them; and may by such majority, as aforesaid, elect and choose such Directors and other Officers, and vest in them such powers as to such majority shall seem meet and right for the purposes aforesaid; but the Directors appointed, or to be appointed before any such general meeting shall be held to remain in office until Directors shall be elected at some general meeting, and such By-laws, Ordinances and Regulations shall be made by the Directors already appointed, or who may hereafter be appointed, and shall be submitted to the Stockholders of the said Corporation for their approval and confirmation at a general meeting called for that purpose to be held in the manner hereinafter mentioned, or at any general annual meeting; and the said Corporation shall and may do and execute, in the manner aforesaid, all and singular other, the matters and things touching the management of the business of the said Corporation, which to them shall or may appertain to do; subject nevertheless, to the rules, regulations, stipulations and provisions herein prescribed and established.

May make
By-laws, and
elect Directors
and other Officers.

II. And be it enacted, that the Capital Stock of the said Corporation shall not exceed the sum of one hundred thousand pounds, current money aforesaid, divided into four thousand shares of twenty five pounds each, which shares shall be, and the same are hereby vested in the said several persons hereinbefore named, their successors and assigns, and in those other persons who shall or may hereafter become Stockholders in the said Corporation, according to the shares and interest which they may respectively have subscribed, purchased or acquired, and may have in the same; and that such part of the said sum of one hundred thousand pounds subscribed for, as may not have been paid in by the Stockholders, respectively, by whom the same is due, shall be paid by the said Stockholders, by such instalments, and at such times and places as the Directors of the said Corporation shall appoint, after notice of no less than thirty days in this behalf, to be previously given in one or more of the public Newspapers, published at the city of Quebec; and all executors, curators, and administrators, who shall pay up the instalments due by the estate or succession which they may respectively represent, in obedience to any call made for that purpose, in the manner aforesaid, shall be and they are hereby respectively indemnified.

Capital Stock
of the Corpora-
tion not to ex-
ceed £100,000.

Power to call
in Stock by in-
stalments.

III. Provided always, and be it enacted, that no Stockholder who shall not be a natural born subject of Her Majesty, or a subject of Her Majesty naturalized by Act of the British Parliament, or of the Legislature of this Province, or of either of the late Provinces of Lower Canada, or of Upper Canada, or who shall be a subject of any Foreign Prince, or State, shall either in person or by proxy, vote for the election of any Director to be elected, or shall vote at any meeting of the said

Stockholders
not subjects of
Her Majesty
excluded from
voting.

said Stockholders, for the purpose of ordaining, establishing or putting into execution any By-laws, Ordinances or Regulations to be made under the authority of this Act; or shall assist in calling any meeting of such Stockholders, or shall vote for any other purpose or purposes whatsoever; any thing herein contained to the contrary notwithstanding.

Number of
votes assigned
to each Stock-
holder.

IV. And be it enacted, that the number of votes to which each Stockholder or Stockholders, copartnership, body politic and corporate, holding stock in the said Corporation shall be entitled on every occasion when in conformity to the provisions of this Act votes of the members of the said Corporation are to be given, shall be in the proportion following, that is to say, for one share and not more than two, one vote; for every two shares above two, and not exceeding ten, one vote, making five votes for ten shares; for every four shares above ten, and not exceeding thirty, one vote, making ten votes for thirty shares; for every six shares above thirty and not exceeding sixty, one vote, making sixteen votes for sixty shares, and for every eight shares above sixty and not exceeding one hundred, one vote, making twenty votes for one hundred shares, but no person or persons, copartnership, body politic or corporate, being a member or members of the said Corporation, shall be entitled to a greater number than twenty votes.

Ten per cent
on the amount
of Stock to be
paid in.

V. Provided always, and be it enacted, that the said Corporation shall not commence or carry on the said business of insuring against loss by fire, until a sum equal to at least ten per cent. on the amount of the whole capital stock of one hundred thousand pounds shall have been paid in and at the disposal of the said Corporation, nor until at least the sum of fifty thousand pounds of the said capital stock has been subscribed for, nor shall any policy of insurance be at any time opened or renewed by the said Corporation, unless a sum equal to at least ten per cent on their whole capital stock, as aforesaid, after paying all lawful demands on them, shall be then paid up, and in their hands, and at their disposal, as aforesaid, nor any dividend or Bonus of the profits arising out of the business of assurance carried on by the said Corporation, shall be declared or paid out from the funds of the said Corporation, should the amount paid up, at any time be reduced by losses or otherwise, to less than the amount of ten per cent on the amount of the whole Capital Stock, as aforesaid; and for each and every offence against the provisions of this Section, the said Corporation shall be liable to a forfeiture of their corporate capacity, rights and privileges, upon a judicial proceeding declaring such forfeiture.

Forfeiture of
charter for con-
travention of
this section.

VI. And for the better security of the public, be it enacted, that it shall and may be lawful for the Governor, Lieutenant Governor or Person administering the Government of this Province for the time being, or for any or either Branch
of

of the Provincial Parliament, from time to time, to require from the President, Vice-President and Directors of the said Corporation, lists of the names of all and each of the Stockholders who may then hold shares in the Stock of the said Corporation, and a statement or account of the assets and liabilities of the said Corporation, mentioning more especially the sum or amount then paid up, and in the hands and at the disposal of the Corporation; and in such statement the risks for which the Corporation shall be then liable, shall be divided into classes according to the amount thereof, respectively, the first being those of five hundred pounds, currency, or under, the second class, those between five hundred pounds, currency, and one thousand pounds, currency, and so on by a like scale up to the highest risk for which the Corporation shall be liable, and the number of risks of each class shall be shown in such statement; and such lists, statement and account, the said President, Vice-President and Directors shall be bound to furnish when required, as aforesaid, upon oath.

Lists of Stockholders, and statement of the affairs of the Corporation to be furnished to the Governor, or Legislature.

VII. And be it enacted, that the Stockholders who have now subscribed, or those who may hereafter subscribe the said Capital Stock of the said Corporation, shall not, in any manner whatsoever, be liable for more than the amount of stock, for which he or they shall have respectively subscribed his or their names, except in respect of any contract or contracts of assurance made or entered into before the said Corporation commence operations under the provisions of this Act.

No Stockholder liable for more than the amount of his stock.

VIII. And be it enacted, that nothing herein contained shall affect, or be construed to affect, in any manner or way, the rights of Her Majesty, Her Heirs or Successors, or of any person or persons, or of any body politic or corporate, such only excepted as are herein mentioned.

Preservation of the rights of Crown.

IX. And be it enacted, that this Act shall be deemed a public Act, and shall be judicially taken notice of as such by all Judges, Justices of the Peace, and other persons whomsoever, without being specially pleaded.

To be a public Act.

C A P . LVIII.

An Act to consolidate certain debts due by the Home District, and to make provision for the payment thereof.

[18th September, 1841.]

WHEREAS by an Act of the Legislature of Upper Canada, passed in the fourth year of the reign of His late Majesty King George the Fourth, and intituled

Preamble.

intituled *An Act to provide for the erection of a Gaol and Court House in and for the Home District*, the Justices of the Peace for the Home District were authorized to raise, by loan, a sum not exceeding four thousand pounds, currency, to be applied towards building a Gaol and Court House in the said District; and any excess of revenue arising from the rate of one penny in the pound is by the said Act made solely applicable to the payment of the said loan; And whereas, the sum of two thousand pounds still remains unpaid out of the monies borrowed under the authority of the said Act; And whereas, by an Act of the said Legislature, passed in the seventh year of the reign of His late Majesty King William the Fourth, and intituled *An Act to authorize the Magistrates of the Home District to erect a new Gaol within the said District*, the Justices of the Peace of the said District, were authorized to contract for the building of a new Gaol and Court House in the said District; And whereas, under the authority of an Act of the said Legislature, passed in the second year of Her Majesty's reign, and intituled *An Act to authorize the Magistrates of the Home District to borrow a sum of money for the purpose of completing the new Gaol and Court House*, the said Justices have in pursuance of the power in them vested by the said Act, obtained a loan of five thousand four hundred pounds, which sum remains due, and is, according to the provisions of the said Act, secured on the monies to be derived from the sale of the old Gaol and Court House Block; And whereas, the Justices of the said District have, by their petition to the Legislature, prayed that the said debt of two thousand pounds, first above mentioned, and the said last mentioned debt of five thousand four hundred pounds may be consolidated, and may form together the debt of the said District; that the said consolidated debt may be secured on the proceeds of the old Gaol and Court House Block, and that until a sale of the said Block can be effected any excess of revenue arising from the rate of one penny in the pound, aforesaid, may be applicable to the payment of the said consolidated debt; and have further prayed, that the Townships now comprised within the said Home District, but which are henceforth to be included in the District of Simcoe, under the Act in that behalf made and provided, may be relieved from their present liability to pay a certain proportion of the debt of two thousand pounds. herein first above mentioned; And whereas, it is expedient to grant the Prayer of the said petition; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted, by the authority of the same that the said debt of two thousand pounds, first above mentioned, and the said debt of five thousand four hundred pounds, secondly above mentioned, shall be consolidated, and shall form together the consolidated debt

debt of the said Home District, which together with the interest thereon shall be secured upon the said old Gaol and Court House Block, and may be paid wholly, or in part out of any proceeds of the sale of the said Block, or of any part thereof, or out of any excess in the rate of one penny in the pound raised within the said District: Provided always, that the Townships now comprised within the said Districts, but which are hereafter to be included in the intended District of Simcoe, under the Act in that behalf provided, shall from and after the date of the Proclamation establishing the District of Simcoe, be, and they are hereby, relieved and discharged from all liability to pay their proportion of the debt of the Home District.

LIX.

An Act to provide for the construction of certain Light Houses and Lights within the Port of Montreal.

[18th September, 1841.]

WHEREAS it is expedient that certain Light Houses and Lights should be erected and maintained within the limits of the Port of Montreal, and the funds at the disposal of the Corporation of the Trinity House of Montreal are insufficient for that purpose; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada and for the Government of Canada*; And it is hereby enacted by the authority of the same, that it shall be lawful for the Governor, Lieutenant Governor or Person administering the Government by warrant or warrants under his hand to cause such sum or sums, not exceeding in the whole nine hundred and twenty five pounds, sterling, to be advanced to the Board of Works by the Receiver General out of the consolidated revenue fund of this Province, as may be necessary to defray the expense of erecting such Light Houses or Lights, with the requisite appurtenances, and at such places within the Port of Montreal, as may be deemed best adapted to ensure the safe navigation of the River Saint Lawrence within the limits of the said Port.

Preamble

Necessity of Light Houses at Montreal.

£925 may be advanced from the Provincial funds for the erection of Light Houses.

II. And be it enacted, that the moneys so advanced shall be repaid to the Receiver General for the public uses of the Province out of the moneys to be levied under

Repayable from the tolls.

under the authority of this Act by the Corporation of the Trinity House of Montreal.

Buildings vested in Corporation.

III. And be it enacted, that the said Light Houses and Lights when completed, and their appurtenances, and the ground (if any) acquired for the site thereof, shall be transferred to and vested in the said Corporation of the Trinity House of Montreal, and shall be maintained by the said Corporation (under whose control they shall then be) out of the funds placed by Law at their disposal for like purposes, or raised under the provisions of this Act.

Duties to be collected on Vessels entering the Port.

IV. And in order to make provision for the repayment of the sum so to be advanced as aforesaid and to provide for the maintenance of the said Light Houses and Lights, Be it enacted that from and after the first day of October of this present year of our Lord one thousand eight hundred and forty one, there shall be paid to and collected by the Naval Officer of the Port of Quebec, or such person as shall perform the duties of that office, at the Port of Montreal, the following rates of Light-duty, from all Ships, Steam-boats, and other Vessels coming into the Port of Montreal, from any place below and beyond the limits of the said Port (as now by Law defined) over and above all rates and duties of any kind whatever imposed on any such Ships or Vessels by any Act, Ordinance or Law now in force in this Province, and for each time they shall so enter the said Port : that is to say :

On all Vessels from any place beyond the limits of this Province, one penny per ton of the register burthen of such Vessels, respectively ;

On all Steam-boats one half penny per ton of the register burthen of such Steam-boats, respectively ;

On all Schooners, Steam-boat-barges and other River Craft, from places within the limits of the Province, one half penny per ton on the register burthen of such Vessels ;

And the said Light duty shall be paid by the owner, consignee, master, or person in charge of any such Vessel, as aforesaid, before it shall be allowed to clear from or leave the Port of Montreal, or may be recovered from any of the said parties by the said Naval Officer, in any manner in which duties are by Law recoverable.

Application of money so collected.

V. And be it enacted, that the moneys collected under the authority of this Act shall be paid over by the said Naval Officer, or Person performing the duties of

of that Office, as aforesaid (after deducting his per centage on the same) to the Corporation of the Trinity House of Montreal, and shall be employed by the said Corporation; Firstly, in defraying the expense of maintaining the Light Houses and Lights of which the construction is hereby authorised; Secondly in paying to the Receiver General the interest and principal of the sum to be advanced for the construction of the said Light Houses and Lights, as aforesaid; And Thirdly for the improvement of the navigation of the River Saint Lawrence within the limits of the Port of Montreal, and the general purposes of the Corporation; And all such moneys shall be accounted for in the same manner as other moneys at the disposal of the said Corporation: Provided always, that after the expiration of the Ordinance under which the said Corporation is constituted, the Trinity House of Quebec shall be substituted for it for all the purposes of this Act.

Maintaining
Light Houses.

Repayment of
sum advanced.

Improving na-
vigation of St.
Lawrence.

VI. And be it enacted, that the due application of the moneys to be advanced under the authority of this Act, and of the moneys to be repaid to the Receiver General, as aforesaid, (which moneys when so repaid shall form part of the consolidated Revenue Fund of this Province) shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury, for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct: And that an account of all such moneys shall be laid before the Legislative Assembly of this Province within fifteen days after the opening of the Session of the Provincial Legislature, next after the receipt or expenditure to which such account shall relate.

Accounting
Clause.

C A P. LX.

An Act to Incorporate certain persons therein mentioned, for the purpose of making a Macadamized Road from Dundas Street to the River Humber, in the Township of York.

[18th September, 1841.]

WHEREAS the inhabitants of the Townships of Etobicoke, Vaughan, King and Albion, and of that part of the Home District, lying in a Westerly direction from these Townships, have long felt the importance of having free access to Dundas Street by a Macadamized or Planked Road; and whereas it would be of great importance and benefit to the inhabitants of the said Townships that the road now travelled from Dundas Street to Weston, on the River Humber, and commencing at the Peacock Tavern on Dundas Street, in the Township of York, and terminating at the bridge which crosses the River Humber, in the rear of lot number

Preamble.

number twelve in the fifth Concession of the Township of York, should be macadamized or planked; and whereas John Grubb and others have petitioned the Legislature to be by law incorporated, for the purpose of effecting the said improvement, by means of a joint Capital Stock; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, that the said John Grubb, Joseph Dennis, James Lever, Joseph Holley, Thomas Musson, William Gibson and William Mathers, or any five of them, together with all such other persons as shall become Stockholders in such joint Capital or Stock, as hereinafter mentioned, shall be and are hereby ordained, constituted and declared to be a body corporate and politic, in fact by the name of "The Weston Road Company," and by such name they and their successors shall and may have continued succession, and by such name shall be capable of contending and being contended 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 that 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 the said name of "The Weston Road Company," shall be in law capable of purchasing, having and holding to them and their successors, any estate, real, personal or mixed, and which may be necessary for the use of the said Company, and of letting, conveying or otherwise parting therewith, for the benefit and on account of the said Company, from time to time, as they shall deem necessary or expedient; and shall have full power and authority to macadamize or plank the Road mentioned and described in the preamble to this Act, to erect Toll Gates and to take Tolls thereon, in the manner hereinafter mentioned, when the same shall be completed; and may, for the purposes of this Act, either use the Road now existing between the places aforesaid, or may change or alter the direction or place of the said road, or of any part thereof, as they shall find most expedient.

John Grubb and others incorporated by the name of "the Weston Road Company."

Corporate powers granted.

May hold real or personal estate.

And make a Turnpike Road, erect Gates and levy Tolls.

Amount of the Stock of the said Company.

Value of each Share.

Shares to be transferable.

Transfer to be registered.

II. And be it enacted, that the whole Capital Stock, (exclusive of any real estate which the said Company may have or hold by virtue of this Act,) shall not exceed in value three thousand five hundred pounds of lawful money of this Province, which said Capital shall be composed of three hundred and fifty shares of the value of ten pounds each; and that the said shares of the said Capital Stock shall be transferable, and may be from time to time transferred, by the respective persons so subscribing or holding the same, to other person or persons:
Provided

Provided always, that such transfer be entered or registered in a book or books to be kept for that purpose by the said Company.

III. And be it enacted, that within twenty days after the passing of this Act, books of subscription shall be opened at Weston, in the Township of Etobicoke, by such person or persons; and under such regulations within the meaning of this Act, as the said Petitioners or the majority of them shall by writing direct.

Books of subscription shall be opened at Weston.

IV. And be it enacted, that the said books of subscription shall remain open for subscription for ninety days, during which time no person subscribing shall so subscribe for more than twenty shares; but if after the expiration of the said ninety days any Stock should remain not taken up, then it shall be lawful for the said subscribers or any of them, or any other person or persons, to subscribe for any greater or less number of shares, so long as any of the said Stock may remain unsubscribed for.

Limitation of the number of Shares to be taken by any one party during a certain time.

V. And be it enacted, that all and every the subscribers for the said Stock or any part thereof, shall at the time of subscribing, pay a portion of one third upon the Capital Stock of the whole number of shares, for which they or any of them, respectively, may subscribe: and that such proportion so paid and deposited at the time of subscription, shall be at the disposal of the Directors hereinafter mentioned, to and for the purposes of this Act, in manner as hereinafter is directed, and that the residue of the sum or shares of the subscribers and Stockholders shall be payable by instalments, at such times, and in such proportion as a majority of the Stockholders, at a meeting to be expressly convened for that purpose, shall agree upon: Provided that no such instalment shall exceed one third of the said Capital Stock, or become payable in less than one year after public notice in the said Town of Weston.

One third of the subscription to be paid immediately.

When the remainder shall be paid.

Proviso as to calling in instalments.

VI. And be it enacted, that if any Stockholder, as aforesaid, shall refuse or neglect to pay at the time required, any such instalment or instalments, as shall be lawfully required by the Directors, as due upon any share or shares, then such Stockholder so refusing or neglecting, shall forfeit such share and shares, as aforesaid, with the amount previously paid thereon, and the said share or shares may be sold by the said Directors, and the sum arising therefrom, together with the amount previously paid thereon, shall be accounted for and divided in like manner as other monies of the said Company: Provided also, that nothing in this Act shall prevent any Stockholder from paying up the amount he subscribes for, at any time to the Directors, and the same shall be allowed to him by the said Company.

Shares on which instalments shall not be paid when duly called for shall be forfeited.

Proviso. Any subscriber may pay up his whole subscription at any time.

VII. And be it enacted, that as soon as the aforesaid deposit of thirty three and one

Directors shall be elected when one third of the Capital Stock shall be paid in.

Meeting.

Time for which the Directors shall serve.

Affairs of the Company to be managed by five Directors.

President.

Who may be Directors.

Yearly election

Proviso.

Elections of Directors how made.

Number of votes for any number of shares.

Proviso.

Only one partner to vote on any shares held by a partnership.

Qualification of Directors.

one third per cent upon the whole Capital Stock, shall be paid into the hands of such receiver or receivers as the Stockholders shall appoint, it shall and may be lawful for the subscribers or the majority of them, upon thirty days' notice, published in two of the Toronto newspapers, to call a public meeting at Weston aforesaid, for the purpose of proceeding to the election of Directors as hereinafter mentioned, and the persons then and there chosen shall be capable of serving until the first day of May, one thousand eight hundred and forty three: and the Directors so chosen shall commence the business of the said Company, and proceed therein till the first subsequent election of annual Directors, as hereinafter mentioned.

VIII. And be it enacted, that the Stock, Property, Affairs and Concerns of the said Corporation, shall be managed and conducted by five Directors, one of whom to be the President, who shall hold his office for one year; which Directors shall be Stockholders, and shall be inhabitants of the Home District, and shall be elected on the first Monday in April, in every year, at such time of the day, and at such place in the said Town of Weston, as the majority of the Directors for the time being, after thirty days public notice, shall appoint: Provided nevertheless, that the first Board of Directors to be chosen by the subscribers, as aforesaid, shall continue in office till the first day of April, one thousand eight hundred and forty three, as in the last section provided, and no longer unless re-elected.

IX. And be it enacted, that the election of Directors shall be held and made by such Stockholders of the said Company, as shall attend at the Town of Weston aforesaid, for that purpose, in their own proper persons or by proxy, and shall be determined by ballot, such ballot to be regulated and calculated by the number of votes allowed to such Stockholders, according to the number of shares held by them, respectively, as follows, that is to say: one vote for one share, three votes for five shares, five votes for ten shares, seven votes for fifteen shares, ten votes for twenty shares: Provided always, that the Stockholders so voting, shall be possessed of the share or shares, in respect of which they shall respectively vote at least three months before the time of election; and that no person, copartnership or body politic, shall be entitled to more than one vote for each share at any such election, nor at the determination of any other matter or thing concerning the said Company, or its affairs, which may, by the provisions of this Act, be submitted to the judgment and decision of the Stockholders generally: Provided also, that the choice of the Scrutineers hereinafter mentioned, and of the President, be had as hereinafter expressly directed.

X. And be it enacted, that the Directors to be chosen shall be Stockholders in the said Company, and shall hold to their own use ten shares at least; and that all and every copartnership and copartners, body and bodies politic or corporate, holding

holding any share or shares of the Stock of the said Company, shall each of them vote only as an individual Stockholder, nor shall two or more persons belonging to any such copartnership or copartnerships, body or bodies politic or corporate, be capable of being nominated or chosen, or of sitting as Directors, although such persons may hold Stock in their private right, or to their private use in the said Company.

XI. And be it enacted, that of the persons, as aforesaid, nominated and balloted for in manner aforesaid, those five shall be deemed elected who shall have the greater number of votes, according to the shares held by the voters, respectively, as hereinbefore prescribed, at each and every such election of Directors; and that at every such election on the first Monday of April, in each and every year, as aforesaid, after the ballot shall have been kept open from eleven of the clock in the forenoon to two of the clock in the afternoon, the five persons having the majority of the votes in manner aforesaid, shall so soon thereafter as convenient, on the same day be declared the Directors chosen for the ensuing year, by any two or more Scrutineers who shall have been previously nominated by the Stockholders, for the purpose of nomination and report of such ballot: Provided, nevertheless, that the Stockholders present at the place of ballot, shall in the nomination of Scrutineers vote *per capita*, and not by shares.

Election to be by majority of votes.

Time during which the ballot shall be kept open.

Directors elected to be declared by Scrutineers to be appointed for the purpose.

Election of Scrutineers.

XII. And be it enacted, that the said Directors on the same day and place wherein they shall have been so chosen and declared Directors, shall after all other persons have retired, choose by plurality of voices, one of their number to be President, in which choice the Directors shall vote *per capita* and not by shares.

Election of President.

XIII. And be it enacted, that in case of vacancy among the Directors, by death or absence for more than two months from the sitting of the said Board, such vacancy shall as often as necessary be supplied by ballot in manner aforesaid, the Directors for the time being being present, declaring such vacancy, and giving public notice to the Stockholders to meet at a day and place certain in the Town of Weston, aforesaid, for the purpose of supplying the said vacancy by ballot in manner aforesaid.

Vacancies in the Board of Directors how declared and supplied.

XIV. And be it enacted, that all questions submitted to or coming before the Board of Directors, concerning the affairs of the said Company, shall be decided by the majority of voices.

Questions how to be decided.

XV. And be it enacted, that the Directors for the time being, or the major part of them, shall have power to make and subscribe such rules and regulations, and the

The Directors may make By-laws for the

conduct of the
affairs of the
Company.

the same to alter and amend, as to them shall appear needful and just and proper, touching the management and disposition of the Stock, Property, Estate and Effects of the said Corporation, and touching the duties and conduct of the clerks and servants employed by the said Company, and shall have power to make and subscribe in the name of the said Company all contracts for labour, work, materials and all other matters concerning the construction of the said Road, and after the same be completed, concerning the tolls of the said Road, and other matters and things concerning as well the construction of the said Road, its charges, tolls, profits, losses, dividends, and revenue whatsoever; such rules and regulations not being contrary to this Act, nor to the Laws of this Province.

President and
Directors to fix
the tolls to be
taken on the
road.

XVI. And be it enacted, that it shall and may be lawful for the President and Directors of the said Company, from time to time, to order and establish the rates of toll payable by persons travelling upon the said Road, and the said Company shall annually, if required, exhibit an account to either or every branch of the Legislature of the Province, of the tolls so regulated and the amount thereof received; and of the sums expended in keeping the said Road in repair, and also such accounts authenticated in such manner and form as the authority so requiring the same may deem satisfactory.

Nett profits
of the Compa-
ny limited to
ten per Cent,
and any sur-
plus to form a
sinking fund
for the pur-
chase of the
Road &c for
the public use.

XVII. And be it enacted, that whenever the said Tolls shall in the annual receipts exceed in amount a sum sufficient to defray the expenses of maintaining and repairing the said Road, and to afford an annual income to the said Company of ten per cent profit on the Capital actually expended in the construction of the said Road, from the commencement of its being travelled, as aforesaid, then and in such case, the increasing surplus revenue of the said Tolls, shall be charged against the said Company, as so much by them received in the nature of a sinking fund, by means whereof to purchase from the said Company the entire estate, use and property of the said Road, to and for the use of the Public, in such manner and form as the Legislature of this Province, may, by Legislative enactment hereafter provide.

The Province
may at any
time purchase
the said Road
&c. allowing
the Company
ten per cent
interest, and
fifteen per cent
profit on their
Expenditure.

XVIII. And be it enacted, that the Legislature of this Province, may at any time whatever purchase the said entire estate, property, and use of the said Road from the said Company, paying to the said Company the Capital so as aforesaid actually expended, together with fifteen per cent advance thereupon; to the credit of which payment all revenue exceeding ten per cent, upon the *bona fide* expenditure, and over and above the expense of maintaining and repairing the said Road, shall be charged and taken, and it is also hereby provided and declared, that if any deficiencies of the said ten per cent annual profit should occur at any time, such deficiencies shall be also chargeable against the increasing revenue of the subse-
quent

quent years, so that the Company may fairly and actually receive ten per cent profit on their said *bona fide* expenditure, for the whole time they shall enjoy the estate, rights and privileges acquired under the authority of this Act.

XIX. And be it enacted, that the said Company shall have full power and authority for the purpose of forming and completing the Road, to purchase and hold in their corporate capacity such real estate as may be necessary for all the purposes of the said Road, and of this Act.

The Company may purchase and hold the real Estate necessary for the purposes of this Act.

XX. And be it enacted, that the Directors of the said Company for the time being, shall have full power to contract, compound, compromise and agree with the owners and occupiers of land through or upon which the said Road may most advantageously pass and terminate.

Company may agree with persons through whose lands the Road shall pass.

XXI. And be it enacted, that if in the making of such contract, composition, compromise, or agreement, any obstacle should arise between the parties thereto, touching the value of the portion of the land to be bought for the purposes aforesaid, then and in such case, it shall and may be lawful for the Directors for the time being, from time to time, as they or the majority of them shall think fit, to appoint one or more person or persons as Arbitrator or Arbitrators on the part of the said Company, and also for the party or parties disagreeing as to the value as aforesaid, to appoint one or more person or persons, being an equal number with those chosen by the said Directors, as Arbitrator or Arbitrators on his or her or their part; and that the persons so chosen on both sides shall (having met for that purpose) choose by ballot one other indifferent person: and the whole number of persons so chosen, shall be the Arbitrators between the parties disagreeing: and the said Arbitrators shall be sworn, by a Justice of the Peace, justly, impartially and equally, as far as in them lies, and to the best of their judgment, to determine the matter to be to them referred.

In case of disagreement Arbitrators may be appointed by the parties.

Umpire

Arbitrators to be sworn.

XXII. And be it enacted, that if after eight days notice in writing given to the party so disagreeing as to the value aforesaid, such party will not nominate or appoint an Arbitrator or Arbitrators as aforesaid, on his part, it shall and may be lawful for the said Directors to add to their first nomination as many others (not being Stockholders of the said Company) as and for the Arbitrators of the party so refusing to nominate for himself; and such added Arbitrators shall have the same power as if named by the party himself, and shall meet and ballot for the additional Arbitrator.

If the opposite party refuse to appoint Arbitrators the Company may appoint for such party.

XXIII. And be it enacted, that the Board of Arbitrators so constituted, shall fix a convenient day for hearing the respective parties, and shall give eight days notice

How the Arbitrators shall proceed to make their award.

Award to be final.

notice at least of the day and place; and having heard the parties, or otherwise examined into the merits of the matters so brought before them, the said Arbitrators or a majority of them, shall make their award and arbitrament thereupon in writing, which award or arbitrament shall be final as to the value so in dispute as aforesaid.

If the party do not within a certain time accept the sum awarded, the Company may take possession of the land.

XXIV. And be it enacted, that if the party so disagreeing, refuse to accept the value of land so ascertained by the Arbitrators, as aforesaid, till the end of the second term, in Her Majesty's Court of Queen's Bench in Canada West, next after the making of the award and tender of the value thereby ascertained, then and in such case, the Directors for the time being shall be at liberty and shall have full power to occupy the piece of land so valued by the said Arbitrators, and to Macadamize or plank it in the same manner as other portions of the said road.

The award may be pleaded in Bar to any action of Ejectment brought after a certain time.

XXV. And be it enacted, that in any action of ejectment, or other action, real, personal or mixed, for or on account of such occupation by the said Company, their Servants or Agents, or other person or persons using the said Road, the said award shall and may be pleaded in Bar to such action, at any time after the said two Terms in the said Court of Queen's Bench, notwithstanding any defect in form or substance in the said award: Provided always, and it is hereby enacted and declared, that it shall and may be lawful to and for the party or parties interested in the land mentioned in the award, or their Agent, by Counsel at any time within the two next Terms as aforesaid, after the same hath been made, and the amount of the value awarded tendered, to move the said Court of Queen's Bench to set aside such award for corruption or any other matter or thing for which awards are now subject to be impugned by Law: Provided also, that if the first award be so set aside by the Court of Queen's Bench, the matter in difference may again be submitted to other Arbitrators, and so on till a satisfactory award be made between the parties.

But during such time the party dissatisfied with the award may move the Queen's Bench to have it set aside.

Proviso.

Case where the Election of the Directors may not be had on the day appointed, provided for.

XXVI. And be it enacted, that in case it should at any time happen that an Election of Directors should not be made on the 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 and may be lawful on any other day to hold and make an Election, in such manner as shall have been regulated by the Rules of the said Corporation to be made for that purpose, such Rules not being contrary to the provisions of this Act.

Dividends.

XXVII. And be it enacted, that it shall be the duty of the Directors to make annual dividends of so much of the profits of the said Company, as to them or the majority of them shall appear advisable; and once in every three years, (and oftener

oftener if required by a majority of the votes of the Stockholders, at a general meeting to be called for that purpose) an exact and particular statement shall be rendered of the state of their affairs, debts, credits, profits and losses; and such triennial statements shall appear on the Books of the Company, and be open to the perusal of any Stockholder upon his reasonable request.

Accounts to be submitted to the Stockholders.

XXVIII. And be it enacted, that this Act shall be deemed and taken to be a Public Act, and as such shall be judicially noticed by all Judges and Justices of the Peace, and other persons without being specially pleaded.

Public Act.

XXIX. And be it enacted, that this Act from the time of passing thereof, shall continue in force for fifty years, and from thence to the then next ensuing Session of the Provincial Parliament, at which time the estate, rights, titles, tolls, and rates of the said Road shall vest in Her Majesty, Her Heirs, and Successors, to and for the public uses of this Province, unless it be otherwise provided by an Act of the Legislature, to be for that purpose, at any time hereafter enacted, or unless the said Road become so vested at an earlier period by the operation of the sinking fund aforesaid.

This Act shall be in force 50 years, and to the end of the then next Session, after which the said Road &c. shall be vested in the Crown.

C A P . L X I .

An Act for the protection of Copy Rights in this Province.

[18th September, 1841.]

WHEREAS it is expedient to secure to the Authors of Literary Publications, and to Engravers, the property of their respective Works, and to make certain provisions on the said subjects; and whereas it is expedient to repeal the laws now in force in that part of this Province formerly called Lower Canada relating thereto, and to make general provision for the whole Province; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that from and after the passing of this Act, the Act intituled *An Act for the protection of Copy Rights*, passed in that part of the Province formerly called Lower Canada, in the second year of the Reign of His late Majesty, be and the same is hereby repealed.

Preamble.

Act of L. C. 2 Will. 4 c. 53. repealed.

II.

Rights of authors of books, &c., how secured for a period of twenty eight years.

II. And be it enacted, that any person or persons resident in this Province, who shall be the author or authors of any book or books, map, chart, or musical composition, which may be now made or composed, and not printed or published, or shall hereafter be made or composed, or who shall invent, design, etch, engrave or cause to be engraved, etched or made from his own design, any print or engraving, and the executors, administrators or legal assigns of such person or persons, shall have the sole right and liberty of printing, reprinting, publishing and vending such book or books, map, chart, musical composition, print, cut, or engraving, in whole or in part, for the term of twenty eight years, from the time of recording the title thereof in the manner hereinafter directed.

If the author be living at the end of the 28 years, or be dead leaving a Widow or child alive, they shall have a further term of 14 years.

III. And be it enacted, that if at the expiration of the aforesaid term, such author, inventor, designer, engraver, or any of them, where the work had been originally composed and made by more than one person be still living, and residing in this Province, or being dead, shall have left a widow or child, or children, either or all them living, the same exclusive right shall be continued to such author, designer, or engraver, or if dead, then to such widow and child or children, for the further time of fourteen years: Provided always, that the title of the work secured shall be a second time recorded, and all such other regulations as are herein required in regard to original Copy Rights, be complied with in respect to such renewed Copy Rights; and that within six months after the expiration of the first term.

Provido.

In case of such extension, the renewal of copy right shall be publicly notified.

IV. And be it enacted, that in all cases of renewal of Copy Right under this Act, such author or proprietor shall within two months from the date of such renewal, cause a Copy of the record thereof to be published in the Official Gazette of the Province of Canada, for the space of four weeks.

A copy of the work for which a copy right is obtained, to be deposited in the office of the Provincial Registrar; and the deposit shall be recorded.

V. And be it enacted, that no person shall be entitled to the benefit of this Act, unless he shall, before publication, deposite a printed copy of such book or books, map, chart, musical composition, print, cut, or engraving, in the Office of the Registrar of the Province, which Officer is hereby directed and required to record the same forthwith in a book to be kept for that purpose, in the words following, (giving a copy of the title under his signature, to the said author or proprietor whenever he shall require the same.)

Form of recording.

Province of Canada:—

“ Be it Remembered, that on the _____ day
 “ of _____ in the year _____
 “ A. B., of the District of _____ hath deposited in this Office, a
 “ printed book. (map, chart, or otherwise, as the case may be,) the title of which
 is _____

“ is in the words following, that is to say :—(insert the title,) the right whereof he claims as author (or as proprietor, as the case may be.)” C. D.

For which record the Officer shall be entitled to receive from the person claiming such right, as aforesaid, five shillings, currency, and the like sum for every copy actually given to such person or his assigns: and the author shall also deposit a copy of the work, for which a Copy Right is obtained in the Library of the Legislative Assembly of this Province.

Fee to the Registrar.

VI And be it enacted, that no person shall be entitled to the benefit of this Act, unless he shall give information of Copy Right being secured, by causing to be inserted in the several copies of each, and every edition published during the term secured, on the title page, or the page immediately following, if it be a book, or if a map, chart, musical composition, print, cut, or engraving, by causing to be impressed on the face thereof, or if a volume of maps, charts, music or engravings, upon the title or frontispiece thereof, the following words, that is to say: “ Entered according to Act of the Provincial Legislature, in the year
“ by A. B., in the Office of the Registrar of the
“ Province of Canada.”

Notice that the copy right is secured shall be given on the title page &c., of the work.

VII. And be it enacted, that if any other person or persons, from and after the recording of the title of any book or books, according to this Act, shall within the term or terms herein limited, print, publish or import, or cause to be printed, published, or imported, any copy of such book or books, without the consent of the person legally entitled to the Copy Right thereof, first had and obtained, by deed duly executed, or shall, knowing the same to be so printed or imported, publish, sell, or expose to sale or cause to be published, sold or exposed to sale any copy of such book without such consent in writing, such offender shall forfeit every copy of such book to the person then legally entitled to the Copy Right thereof; and shall forfeit and pay ten shillings, currency, for every such sheet which may be found in his possession, either printed or printing; published, imported or exposed to sale, contrary to the intent of this Act; and one moiety of such penalty shall be to the use of Her Majesty, and the other to the legal owner of such Copy Right, to be recovered in any Court of competent jurisdiction.

Penalty on persons printing, or publishing, or importing the work, during the continuance of the copy right.

Penalty how recovered and applied.

VIII. And be it enacted, that if any person or persons, after the recording of the title of any print, cut or engraving, map, chart or musical composition, according to the provisions of this Act, shall, within the term or terms limited by this Act, engrave, etch or work, sell or copy, or cause to be engraved, etched or copied, made or sold, either on the whole or by varying, adding to or diminishing the main design, with intent to evade the Law, or shall print or import for sale, or cause to be

Penalty on persons publishing &c. any print of which a copy right has been obtained.

be

Penalty how recovered and applied.

be printed or imported for sale, any such map, chart, musical composition, print cut or engraving, or any parts thereof without the consent of the proprietor or proprietors of the Copy Right thereof, first obtained, as aforesaid, or knowing the same to be so printed or imported without such consent, shall publish, sell or expose to sale, or in any manner dispose of any such map, chart, musical composition, engraving, cut or print, without such consent, as aforesaid, then such offender or offenders shall forfeit the plate or plates on which such map, chart, musical composition, engraving, cut or print, shall be copied, and also all and every sheet thereof, so copied or printed, as aforesaid, to the proprietor or proprietors of the Copy Right thereof, and shall further forfeit ten shillings, currency, for every sheet of such map, musical composition, print, cut or engraving, which may be found in his or their possession, printed or published, or exposed to sale, contrary to the true intent and meaning of this Act; and one moiety of such forfeiture shall go to the proprietor or proprietors, and the other moiety to the use of Her Majesty, and such forfeiture may be recovered in any Court of competent jurisdiction.

This Act not to extend to works of persons not resident in this Province.

IX. And be it enacted, that nothing herein contained shall extend to prohibit the importation or vending, printing or publishing of any map, chart, book musical composition, print or engraving, written, composed or made by any person not residing in this Province.

Persons printing or publishing manuscript without the leave of the author, to be liable in damages.

X. And be it enacted, that if any person or persons who shall print or publish any manuscript whatever, or who, the same being printed or published elsewhere, shall offer it or cause it to be offered for sale in this Province, without the consent of the author or legal proprietor first obtained, as aforesaid, if such author or proprietor be resident in this Province, shall be liable to the author or proprietor for all damages occasioned by such injury, to be recovered in any Court of competent jurisdiction.

Penalty on persons printing or publishing any work, &c. and falsely pretending to have the copy right thereof.

XI. And be it enacted, that if any person or persons shall print or publish any book, map, chart, musical composition, print, cut or engraving, not having legally acquired the Copy Right thereof, and shall insert therein, or impress thereon, that the same hath been entered according to this Act, or words purporting the same, every person so offending, shall incur a penalty not exceeding fifteen pounds, currency, (one moiety thereof to the person who shall sue for the same, and the other moiety to the use of Her Majesty,) to be recovered in any Court of competent jurisdiction.

Limitation of actions.

XII. And be it enacted, that no action or prosecution for the recovery of any penalty under this Act, shall be commenced more than two years after the cause of action shall have arisen.

XIII.

XIII. And be it enacted, that the provisions of this Act intended for the protection and security of Copy Rights, and providing remedies, penalties and forfeitures, in case of violation thereof, shall be held and construed to extend to the benefit of the author or authors, or legal proprietor or proprietors of each and every work, as aforesaid, heretofore published in this Province, during the aforesaid term; provided the said author or authors, proprietor or proprietors, do comply with the provisions of this Act, in the same manner as if the work had never been published.

Provisions of this Act extended to works published before the passing thereof, if its requirements be complied with.

C A P . L X I I .

An Act to Incorporate the Ladies of the Roman Catholic Orphan Asylum of Montreal.

[18th September, 1841.]

WHEREAS an Association has existed for several years, in the City of Montreal, in this Province, under the name of "The Ladies of the Roman Catholic Orphan Asylum of Montreal," for the purpose of providing for the relief, support and education of destitute and friendless Orphans of the Roman Catholic persuasion in the said city, and has maintained, instructed, and placed out as apprentices, a large number of such Orphans, as aforesaid; And whereas the Association is composed of the several persons hereinafter mentioned, who have by their petition represented that the advantages arising from the said Association would be greatly extended and confirmed by the legal incorporation thereof, and have prayed that they and their successors may be incorporated under certain regulations and provisions hereinafter mentioned; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-write the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority aforesaid, that M. A. F. Viger, Marguerite Rolland, M. E. De Montenach, Marianne J. De Montenach, Amelie Berthelet, D. Perrault, Jossette Côté Quesnel, Agathe Fleming, Elmire De Rocheblave, Fanny Bleury Beaubien, Fanny Bouthillier, — Laframboise, Marguerite DeLorimier, Alice DeBleury, Marie Louise Rodier, Marie Reine Dumas, Adelaïde Quesnel, Emelie Boucher, Josette Dupuy, Catherine Dupuy, Catherine Pyke, Marie Charlotte Lacroix, Josette Guy, — Guy, Louise Lacroix, Marie Louise Leprohon, Matilda Leprohon, Sophie Larocque LeBourdais, Marie Euphrosyne

Preamble.

Certain Ladies incorporated by the name of "The Ladies of the Roman Catholic Orphan Asylum of Montreal."

Euphrasyme Doucet, Adelaïde Prevost, M. M. Delorme, Elizabeth La Montagne, — Mittelberger, M. L. Viger, E. Mondelet, M. Leocadie Lacombe, Lucie De Grosbois, Mary McCord, Caroline LaMontagne, Elmire L. R. DeRocheblave, Louise R. De Rocheblave, Angélique Côté Leframboise, and such other persons as shall under the provisions of this Statute become Members of the said Institution, shall be and are hereby declared to be a body politic and corporate, in deed and in name, by the name of "The Ladies of the Roman Catholic Orphan Asylum of Montreal," and by that name shall have perpetual succession and a common seal, and shall have power from time to time to alter, renew or change such common seal at their pleasure, and shall by the same name, from time to time and at all times hereafter, be able and capable to purchase, acquire, hold, possess and enjoy, and to have, take and receive to them and their successors to and for the uses and purposes of the said Corporation, any lands, tenements and hereditaments and real or immoveable property and estate situate, lying and being within this Province, not exceeding in yearly value the sum of one thousand pounds, currency, and the same to sell, alienate and dispose of, and to purchase others in their stead for the same purpose; and 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 unto in all Courts of Law and places whatsoever, in as large, ample and beneficial a manner as any other body politic or corporate, or as any persons able or capable in Law may or can sue or be sued, implead or be impleaded, answer or be answered unto in any manner whatsoever, and shall have power and authority to make and establish such Rules, Orders and Regulations not being contrary to this statute, nor to the Laws in force in this Province, as shall be deemed useful or necessary for the interests of the said Corporation and for the management thereof, and for the admission of Members into the said Corporation, and from time to time, to alter, repeal and change the said Rules, Orders and Regulations or any of them, and shall and may do, execute and perform all and singular other the matters and things relating to the said Corporation and the management thereof, which shall or may appertain thereto, subject nevertheless to the Rules, Regulations, Stipulations, and provisions hereinafter prescribed and established.

Corporation powers granted.

Common Seal.

May hold property.

Value of such property limited.

May sue and be sued.

May make by Laws.

Other powers.

Annual General Meeting of the Corporation when and how to be held.

II. And be it enacted, that an Annual General Meeting of the Members of the said Corporation shall be held on the first Tuesday of the month of October, in each and every Year, or if any such Tuesday be a holy day or if the Election be not for any cause then had, then on such day as shall be appointed in the manner hereinafter mentioned for the Annual Election of Directresses and Managers, a Secretary and a Treasurer of the said Association as to the said Corporation shall seem meet, by and through the Majority of such Members present at such General Meeting, and for the transaction of all matters and things relating to the said Corporation for the Year preceding the said first Tuesday of the said month of

of October, and for the adjustment and settlement of the transactions and business of the said Corporation for the said preceding year: Provided always that the said Corporation, on a requisition signed by not less than five of the Members thereof, shall by a notice to be inserted for not less than seven days in one or more of the Newspapers published in the City of Montreal, of which the Montreal Gazette shall be one, if then published, call a general meeting of the Members of the said Corporation, specifying the hour, day, place and object of the said meeting; and the Members aforesaid or the majority thereof at such general meeting, aforesaid, shall have power and authority to revise, alter or rescind any Rules, Orders and Regulations for the management of the Corporation, after notice of such repeal or alteration shall have been given at a general Meeting next immediately preceding that at which such application shall be made and considered, and to admit new Members and to fill up all vacancies which may occur among the said directresses and Managers, Secretary and Treasurer, aforesaid, and generally to do and perform all such matters and things as may be conducive to the well being of the said Corporation.

Extraordinary General Meeting may be called, and in what manner.

Power of any such extraordinary General Meeting.

III. And be it enacted, that all and every the estate and property, real and personal, belonging to, or hereafter to be acquired by the said members of the said Association, as such, and all debts, claims and rights whatsoever due to them in that quality, shall be and are hereby vested in the Corporation hereby established; and the Directresses, Managers, Secretary and Treasurer appointed or to be appointed before such annual general meeting shall be held, shall be and continue to be the Directresses, Managers, Secretary and Treasurer of the said Corporation, until others in their stead or the same shall be elected at such annual general meeting, in the manner herein provided, and the Rules, Orders and Regulations now made or to be made for the management of the said Association shall be and continue to be the Rules, Orders and Regulations of the said Corporation until altered or repealed in the manner herein provided, and the said Rules, Orders and Regulations shall be submitted to the Members aforesaid for their approval and confirmation, at such general meeting aforesaid.

Property now held by the Corporation vested in it.

The present Directresses, &c. to continue in office until the next general meeting.

The present Rules and Regulations shall continue in force until the same time

IV. And be it enacted, that the said Directresses and Managers for the time being shall have power to appoint such Officers and Servants of the said Corporation as shall be necessary for the well conducting of the business of the same, and to allow to them such compensation for their services, respectively, as shall be reasonable and proper, and the said Directresses and Managers shall be capable of exercising such other powers and authority for the well governing and ordering of the affairs of the said Corporation as shall be prescribed by the Rules, Orders and Regulations of the said Corporation.

Directresses and Managers may appoint officers and servants of the Corporation.

And shall have other powers requisite for the well being of the Corporation.

V.

No Member of the Corporation, or other person to be individually liable for any debt, &c. of the Corporation.

V. And be it enacted, that nothing herein contained shall have the effect, or be construed to have the effect of rendering all or any of the said several persons hereinbefore mentioned, or all or any of the Members of the said Corporation, or any person whatsoever individually liable or accountable for or by reason of any debt, contract or security for or by reason of the said Corporation, or for or on account, or in respect of any matter or thing whatsoever relating to the said Corporation.

Married Woman being Members of the Corporation, need not be specially authorized to Act as such.

VI. And be it enacted, that it shall not be necessary to the validity of any Act performed by any married woman, as a Member of the said Corporation, or to her becoming such, that she be thereunto specially authorized by her husband; any Law, usage, or custom to the contrary notwithstanding.

Rights of Her Majesty and others saved.

VII. And be it enacted, that nothing herein contained, shall affect or be construed to affect in any manner or way the rights of Her Majesty, Her Heirs or Successors, or of any person or persons, or of any body politic or corporate, such only excepted, as hereinbefore mentioned and provided for.

Public Act.

VIII. And be it enacted, that this statute shall be deemed a public statute and shall be publicly taken notice of as such by all Judges, Justices of the Peace, and other persons whatsoever, without being specially pleaded.

C A P. LXIII.

An Act to explain and amend an Act of the Legislature of Upper Canada, relative to District Turnpike Trusts.

[18th September, 1841.]

Preamble.

A-t U. C. 3
Vic. c. 53, cit-
ed.

WHEREAS doubts have arisen whether the Commissioners of the several Turnpike Trusts, in that part of the Province called Upper Canada, under and by virtue of an Act of the Parliament of the late Province of Upper Canada, passed in the third year of Her Majesty's Reign, and intituled, *An Act to repeal, alter and amend the Laws now in force for the regulation of the several Macadamized Roads within this Province*, have not power and authority to compel all persons living within half a mile of either side of the Roads placed by that Act under the care and management of such Commissioners, and who are by the existing Laws of the Province liable to perform statute labour, to commute the same and pay the amount in money, notwithstanding the road in front of the land

of

of such persons has not been macadamized, or otherwise improved by such Commissioners : and whereas it would be manifestly unjust that such power should exist, and it is expedient to remove all doubt in that behalf ; Be it therefore enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that no person living within half a mile of either side of any road placed by the hereinbefore recited Act, under the care and management of the said Commissioners, shall be held liable, or required to commute his or her statute labour and pay the amount in money, until the Commissioners shall have macadamized or otherwise improved that part of such road lying within half a mile of the land in respect of which such commutation shall be demanded ; any thing in the herein before recited Act to the contrary thereof notwithstanding.

In what cases commutation of statute labour shall be compulsory under the said Act.

II. And be it enacted, that so much of the second section or of any other part of the Act of the Parliament of Upper Canada, cited in the Preamble to this Act, as enacts in effect that the Trustees of the several Turnpike Trusts in the Home District, shall form one Board, to be known by the style and title of "The Commissioners of the Home District Turnpike Trust," and shall have power and authority over the several macadamized Roads within the limits of the said District, as far as the improvement thereof has been authorized by any Act of the Legislature of Upper Canada, or as may be inconsistent with the provisions of this Act, shall be and so much of the said Act is hereby repealed ; and that from and after the passing of this Act, the Trustees or Commissioners of each Macadamized Road within the said District, or so many of them as under the Act or Acts by virtue of which they were respectively appointed may exercise the powers thereby vested in such Trustees or Commissioners, shall with regard to the Road or Roads for which they were respectively appointed, and all matters and things therewith connected, have the same powers and authority and shall perform the same duties as were vested in or assigned to the "Commissioners of the Home District Turnpike Trust," with regard to such Road or Roads, respectively, and the matters and things therewith connected, by the Act cited in the Preamble to this Act.

The several Road Trusts in the Home District separated.

Powers of the separate Trusts.

III. And be it enacted, that if in any case where lands shall, before the passing of the Act first above cited, have been taken by the Commissioners or Trustees of any Road placed by the said Act under the control of the Commissioners of the District Turnpike Trust, for the purpose of such Road, or any other damage shall have

Where lands have been taken by Commissioners or

Trustees and no compensation made, the steps to be now taken to pay such compensation.

have been done to any person by such Commissioners or Trustees, in carrying into effect the powers in them vested by law, and no compensation shall, before the passing of this Act, have been paid or tendered to the party whose land was so taken, or who sustained such damage, as aforesaid, it shall be lawful for the Commissioners of the District Turnpike Trust to assess and tender such compensation, and if such compensation shall not be so assessed and tendered within six months after the passing of this Act, or if the party to whom it shall be tendered be not satisfied therewith, the amount of such compensation shall be decided by a Jury of the District at the Court of Quarter Sessions, to be empannelled and sworn for that purpose, at the request of the party entitled to compensation, and if no compensation shall have been offered, and a verdict for compensation shall be given, or if the verdict shall be for a greater sum than that tendered, as aforesaid, the Commissioners shall pay the costs of the proceeding, otherwise they shall be paid by the party claiming compensation, and the amount of the compensation assessed, tendered or awarded by verdict under the provisions of this section, shall and may be paid by the Commissioners of the District Turnpike Trust out of any monies in their hands applicable to the purposes of the Act first above cited.

CAP. LXIV.

An Act to amend an Act of the Parliament of the late Province of Upper Canada, intituled "An Act to authorize the establishment of Mutual Insurance Companies in the several Districts of this Province."

[18th September, 1841.]

Preamble.

WHEREAS it is expedient to amend the provisions of the Act of the Legislature of the late Province of Upper Canada, passed in the sixth year of the Reign of His late Majesty King William the Fourth, and intituled *An Act to authorize the establishment of Mutual Insurance Companies in 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 of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-write the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that so much of the fifth section of the said Act as provides that the Mutual Insurance Company first established under the authority of the said Act, in and for any District, shall alone have the right of insuring property

Act of U. C. 6 Will. 4, cap. 18.

So much of the 5th section of the said Act as prevents any Company from insuring property out of its own District, repealed.

perty lying within such District, under the authority of the said Act, shall be and the same is hereby repealed; and that henceforth it shall be and may be lawful for any Mutual Insurance Company in Upper Canada, after it shall have been lawfully incorporated under the provisions of the said Act, in any District of that part of the Province, to admit (if the Directors of such Company, the owner of any property, moveable or immovable, lying within any part of Upper Canada, as if such property was lying within the District in and for which such Company shall have been so incorporated, as aforesaid, and to insure any such property, as if the same was lying within such District; and that each and every person so admitted as a member of any such Mutual Insurance Company shall have the same rights, and be subject to the same liabilities as the other members of such Company; any thing in the said Act contained to the contrary hereof notwithstanding.

Any such Company may insure any property within Upper Canada.

Persons so insured shall be members of the Company insuring them.

II. Provided always, that the property so to be insured, as aforesaid, shall be in some District in which no Mutual Insurance Company shall have been incorporated under the authority of the said Act, or shall have been already Insured by the Mutual Insurance Company of the District in which such property shall be situate, to such amount as such last mentioned Company shall have thought proper, or shall have been refused expressly on the ground that such Company would not increase its liabilities, such refusal, certified by the Secretary of such Company to accompany the application to the Insurance Company for the District in which such property shall not be situate, and in which the Insurance shall be applied for:

Such property to be in a District where no company exists or have been already insured or have been refused insurance by the Company of the District in which it is situated.

III. And be it enacted, that whenever the total amount Insured by any Company incorporated under the authority of the said Act, shall on the day appointed for the election of Directors in any year, exceed the sum of one hundred thousand pounds, the number of Directors to be elected for the management of the affairs of such Mutual Insurance Company, for the then next year, shall be eleven, who shall have all the powers by the said Act, vested in the Board of Directors of such Company: Provided always, that five shall continue to be the number required to constitute a quorum, and that the Act of any majority of such quorum shall be deemed to be the Act of the whole Board; but if, on the day of such election, in any year, the amount insured by the Company shall not exceed the said sum, then the number of Directors to be elected, for the then next year, shall be as fixed by the seventh section of the said Act.

If amount insured by a Company exceed, £100,000 eleven Directors shall be elected.

Five to be a Quorum and the act of a majority thereof to be binding on the Board.

IV. And be it enacted, that nothing in the twelfth section of the said Act, shall be construed to prevent any promissory note deposited with any Mutual Insurance Company from being made payable to any Officer of such Company, or to any person

Promissory notes deposited in the Company may be made payable

to any officer thereof or other person and afterwards indorsed to the Company.

person or persons, for the purpose of being indorsed by such person or persons in favour of, or to such Company or any Officer thereof; and any such note, whether so deposited before or after the passing of this Act, shall be valid and effectual, any thing in the said Act contained to the contrary notwithstanding.

C A P . LXV.

An Act to Incorporate a Company under the style and title of "The
" City of Toronto Gas Light and Water Company."

[18th September, 1841.]

Preamble.

WHEREAS the Lighting of the Streets and Public Places of the City of Toronto, with Gas, and supplying the said City with good and wholesome water, would be of great public advantage; and whereas the "City of Toronto" under their Common Seal, and divers Inhabitants of the said City of Toronto, as well as Joseph Masson, Albert Furniss, and John Strang, have by their Petitions prayed that the said Joseph Masson, Albert Furniss and John Strang, and others who may become associated with them in the undertaking, may be incorporated under the style and title of "The City of Toronto Gas Light and Water Company," the better to enable such Institution to conduct and extend the business of manufacturing Gas and Lighting the said City of Toronto with Gas, and of supplying the same with Water; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-write the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted, by the authority of the same, that the said Joseph Masson, Albert Furniss, and John Strang, and all such persons as shall hereafter become Stockholders of the said Company, shall be and are hereby ordained, constituted and declared to be a Body Corporate and Politic, in Law, in fact and in name, by the style and title of "The City of Toronto Gas Light and Water Company," and by that name and style their assigns or successors shall and may have continued succession, and shall and may be capable in Law of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended in all Courts and places whatsoever, and that they and their assigns or successors may have a Common Seal, and may change and alter the same at pleasure, and shall and may have the power to purchase lands, tenements

Gas Light
and Water
Company
Incorporated
and invested
with certain
Powers.

ments and hereditaments for them and their assigns and successors, for the use of the said Gas and Water Works, and also to sell any of the said lands, tenements and hereditaments purchased for the purposes aforesaid, and any person or persons, bodies politic or corporate, may give, grant, sell, bargain or convey to the said Company, any lands, tenements or hereditaments for the purposes aforesaid, and the same may repurchase from the said Company : Provided always, that the said lands, tenements and hereditaments to be holden by the said Corporation, shall be held for the purposes and business of the said Gas Light and Water Company, in constructing their necessary works, and for no other purposes whatsoever, and shall not exceed at any time the yearly value of one thousand pounds, currency.

Common Seal.

Power to purchase Lands.

II. And be it enacted, that the said Company of Proprietors may raise and contribute among themselves, such sum as shall not exceed the sum of forty thousand pounds, currency, in four hundred Shares of one hundred pounds, currency, each ; and the money so raised shall be appropriated to the purpose of constructing, completing and maintaining the said Gas and Water Works, and to the purposes of this Act, and to no other object or purpose whatever.

Company of Proprietors may raise a sum not to exceed £40,000 for the purposes of this Act.

III. And be it enacted, that within one month after the passing of this Act, the first General Meeting of the Proprietors for carrying this Act into effect, shall be held at such place as the majority of such Proprietors shall appoint, to choose nine persons, being each a proprietor of ten or more shares in the said undertaking, as Directors, of whom any three or more shall be a Committee for managing the affairs of the Company ; and in the event of there not being nine Proprietors or Shareholders in the Company, then, and in that case the number of Directors shall be limited to the number of Proprietors or Shareholders, the qualification of each Director nevertheless being the ownership of at least ten shares as aforesaid, held in his own name and right.

General Meeting to be held one month after the passing of this Act.

Qualification and appointment of Directors.

IV. And be it enacted, that the Directors so chosen shall serve until the first Monday in the month of May, one thousand eight hundred and forty two, and shall, immediately after their election, at their first meeting, choose out of their number a President and Vice President, who shall hold their offices, respectively, during the same period for which the said Directors shall have been elected, as aforesaid, and shall thereupon commence the business and operations of the said Corporation ; and general meetings of the Proprietors or Shareholders shall be held annually for the purpose of electing Directors, as aforesaid, on the first Monday in the month of May in each year, at which meetings the Directors of the then passed year, shall exhibit a full and unreserved statement of the affairs of the Corporation, and of the funds, property and debts due to and from the said Company,

Period of Directors' Service.

Annual meetings for the Election of Directors and the Exhibition of the affairs of the Company.

In the event of Proprietors, &c. neglecting to meet as required by the Act, the Directors of the previous year to remain in office.

pany, which said statement shall be certified by the President, under his hand and seal; and in the event of there being no meeting of Shareholders or Proprietors in consequence of the said Shareholders or Proprietors neglecting to attend, in conformity with the requirements of this Act, then and in that case the Directors of the previous year, shall continue and remain in office until an election shall take place at a future meeting of the said Shareholders or Proprietors; and such Directors subsequently elected, or remaining in office, shall, at their first meeting after such election, or the period named in this Act for holding such annual meeting, choose out of their number a President and Vice President, who shall hold their offices, respectively, for the then ensuing twelve months, or until such subsequent election at a future meeting of the said Shareholders or Proprietors, as the case may be; and it shall be lawful for the said Directors, from time to time, in case of death, resignation, absence from the Province, or removal of the persons so chosen to be President or Vice President, or Director, or either of them, to choose in their or his stead from among them, the said Directors, another person or persons to be President or Vice President, or from amongst the other Shareholders or Proprietors, another person or persons to be Director or Directors, respectively, to continue in office until the next annual meeting, as aforesaid.

Proprietors, &c. may vote by proxy or in person.

V. And be it enacted, that Stockholders or Proprietors may vote by proxy or in person, and all elections shall be by ballot; and each Stockholder or Proprietor shall have one vote for every five Shares held by such Stockholder or Proprietor.

Powers of Directors.

Empowered to make By-Laws.

Proviso.

VI. And be it enacted, that the Directors or the Committee thereof, shall and may have the power to appoint Clerks and such other persons as may appear to them necessary for carrying on the business of the said Corporation, with such salaries and allowances to each as shall seem meet and advisable, and also shall and may have the power to make and prescribe, and alter such by-laws, rules, regulations and ordinances, as shall appear to them proper and needful touching the well ordering of the said Corporation, the management and disposition of its Stock, property, estate and effects, and also shall and may have the power to declare yearly or half yearly dividends out of the profits of the said business, as they may deem expedient: Provided always, that such by-laws, rules, regulations and ordinances, shall be in no wise inconsistent with the true intent and meaning of this Act, and the powers hereby granted, nor repugnant to the Laws of the Province.

Capital transferable.

VII. And be it enacted, that the Stock of the said Company shall be assignable and transferable according to such rules, and subject to such restrictions and regulations as the Board of Directors shall, from time to time, make and establish, and shall be considered as personal property: Provided also, that such transfer be entered

entered and registered in a Book or Books, kept for that purpose for the said Company.

VIII. And be it enacted, that it shall and may be lawful to and for the said Corporation after three days notice in writing to the Chamberlain of the said City of Toronto, to break up, dig and trench so much and so many of the streets, squares, and public places of the said City of Toronto, commencing at the Works of the said Corporation, and running throughout the said City of Toronto, as will be necessary for laying the mains and pipes to conduct the Gas and Water from the Works of the said Corporation to the consumers thereof, doing no unnecessary damage in the premises, and taking care, as far as may be, to preserve a free and uninterrupted passage through the said streets, squares, and public places, while the work is in progress, and making such openings in such parts of the said streets, squares, and public places, as the City Inspector, under the direction of the Common Council of the said City, shall reasonably permit and require; also placing guards or fences, with lamps, and providing watchmen during the night, and taking all other necessary precautions for the prevention of accidents to passengers and others, which may be occasioned by such openings; also finishing the work and replacing the said streets, squares, and public places, in as good a condition as before the commencement of the work, without any unnecessary delay: and in case of the neglect of any of the duties herein provided, as aforesaid, the said Corporation shall be subject to pay a fine of five pounds, currency, for every day such neglect shall continue, to be recovered by information in Her Majesty's Court of Queen's Bench on behalf of Her Majesty, Her Heirs and Successors, for the public uses of the Province, over and above such damages as may be recovered against the said Corporation in any civil action.

Corporation may break up the Streets for the purpose of laying pipes.

Making good damage.

IX. And be it further enacted, that in case the said Corporation shall open or break up any street, square, or public place, in the said City, and shall neglect to keep the passage of the said street, square, or public place, as far as may be, free and uninterrupted, or to place guards or fences with lamps, or to place watchmen, or to take any necessary precaution for the prevention of accidents, to passengers and others, or to close and replace the said streets, squares, or public places, without unnecessary delay, as hereinbefore provided, the City Inspector, under the direction of the Common Council of the said City, shall cause the duty so neglected to be forthwith performed, and the expense thereof, shall be defrayed by the said Corporation, on demand of the City Inspector, from the Cashier, or Treasurer, or any Director of the said Corporation, or in default of such payment the amount of the said claim shall and may be recovered from the said Corporation at the suit of the Mayor, Aldermen, and Commonalty of the said City in an action of debt in any Court of competent jurisdiction.

Consequences of neglect.

X

Corporation
to construct
fire plugs.

X. And be it enacted, that the said Corporation shall be held and obliged to make, erect, construct, repair, and keep in good order, at their own charges and expense, in such parts of the City of Toronto as may be fixed upon by the Common Council thereof, such number of good and sufficient fire plugs, not exceeding twenty, as may by the said Common Council be found necessary for the purposes of supplying fire engines, and of giving such other assistance as may be useful and necessary for extinguishing fires and preventing the communication thereof: Provided always, that the said Corporation shall not be compelled to make, erect or construct any fire plugs, as aforementioned, in any part of the City of Toronto, where they have not made or constructed pipes for conveying water.

Penalty on
persons pro-
curing Gas or
Water without
the consent of
the Directors
or their Offi-
cers.

XI. And be it enacted, that if any person or persons shall lay or cause to be laid any pipe or main, to communicate with any pipe or main belonging to this Corporation, or in any way obtain or use the Gas or Water without the consent of the Board of Directors, or their officer appointed to grant such consent, he or they shall forfeit or pay to the said Corporation the sum of twenty five pounds, and also a further sum of one pound for each day such pipe shall so remain, which said sum, together with costs of suit in that behalf incurred, may be recovered by civil action in any Court of Law in this Province, having jurisdiction competent to the same.

Penalty on
persons damag-
ing pipes or
other works, or
polluting water
in reservoirs.

XII. And be it enacted, that if any person or persons shall wilfully or maliciously break up, pull down, or damage, injure, put out of order, or destroy any main, pipes, engine, water-house, pipe, plug, or other work, or apparatus, appurtenances, or dependencies thereof, or any matter or thing already made and provided, or which shall be made and provided for the purposes aforesaid, or any of the materials used and provided for the same, or ordered to be erected, laid down, or belonging to the said Company, or shall in anywise wilfully do any other injury or damage, for the purpose of obstructing, hindering, or embarrassing the construction, completion, maintaining, or repairing of the said works, or shall cause or procure the same to be done, or who shall bathe, or wash or cleanse any cloth, wool, leather, skins, animals, or any noisome, or offensive thing, or cast, throw or put any filth, dirt, or any noisome or offensive thing, or cause permit or suffer the water of any sink, sewer, or drain to run, or be conveyed into, or cause any other annoyance to be done to the water within any reservoirs, cisterns, ponds, sources, or fountains, from which the water to supply the said City is to be conveyed, or shall increase the supply of Gas or Water, agreed for with the said Corporation by increasing the number or size of the holes in the Gas burners, or using the Gas without burners or otherwise wrongfully, negligently or wastefully burning the same, or by wrongfully or improperly wasting the water; every such person or persons shall be guilty of a misdemeanor, and on conviction thereof, the Court before whom such
person

person shall be tried and convicted, shall have power and authority to condemn such person to pay a penalty not exceeding five pounds, currency, or to be confined in the Common Gaol of the District for a space of time, not exceeding three months, as to such Court may seem meet.

XIII. And be it enacted, that nothing in this Act contained shall extend or be construed to extend to prevent any person or persons, body politic or corporate from constructing any works for the supply of Water or Gas to his or to their own premises, or to prevent the Legislature of this Province at any time hereafter, altering, modifying or repealing the powers, privileges or authorities hereinbefore granted to the said Corporation.

Act not to
affect private
Water or Gas
Works.

XIV. And be it enacted, that this Act be and is hereby declared to be a public Act, and that the same may be construed as such in Her Majesty's Courts in this Province.

A Public
Act.

XV. And be it enacted, that the penalties by this Act imposed, appertaining to Her Majesty, Her Heirs, and Successors, shall be reserved for the public uses of the Province, and for the support of the Government thereof; and the due application of the same shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury, for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall be pleased to direct.

Application of
penalties.

XVI. And be it enacted, that nothing herein contained shall affect, or be construed to affect, in any manner or way whatsoever the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, or of any bodies politic, corporate or collegiate, such only excepted as are herein mentioned.

Rights of the
Crown reserv-
ed.

XVII. And be it enacted, that the Gas Works hereinbefore mentioned, shall be in full operation within one year, and the Water Works be in operation within two years from the passing of this Act, in default thereof, the privileges and advantages granted by this Act to the said Company shall cease and be of no effect.

Condition im-
posed by Act.

XVIII. And be it enacted, that this Act shall be and remain in force for fifty years, and no longer.

Duration of
Act.

C A P . L X V I .

An Act to Incorporate the Ladies' Benevolent Society of Montreal.

[17th August, 1841.]

Preamble

WHEREAS an Association has existed for several years, in the City of Montreal in this Province, under the name of "The Montreal Ladies' Benevolent Institution," for the purpose of affording relief and support to destitute and friendless Widows and Orphans in the said City, and has in addition thereto afforded moral and religious instruction to all who have become dependent thereon: and whereas the Association is composed of the several persons hereinafter mentioned, who have by their petition represented that the advantages arising from the said Association would be greatly extended and confirmed by the legal incorporation thereof, and have prayed that they and their successors may be incorporated under certain regulations and provisions hereinafter mentioned; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted by the authority aforesaid, that Sarah Ann Richardson, Elizabeth Ogden, Ann Anderson, Juliet Holmes, Emma M. Crawford, Isabella Sewell, Annabella McIntosh, Margaret, D. Anderson, Isabella Dorwin, Mary Hallowell, Eweretta Richardson, Elizabeth Wallace Badgley, Charlotte Richardson, Isabella Stevenson, Jessy Solomons, Catherine H. Ogden, Jane Armour, Arabella Bellingham, Agnes Hall, Sophia Moffatt, Rebecca Hall, Rebekah Joseph, Jane Levicount, Ann McCord, Elizabeth Neutz, Jane Newhouse, Isabella Boston, Marion McIntosh, Jane Ross, Eliza Ross, Elizabeth Reid, Margaret McGillivray, Isabella Sewell, Caroline B. Dunscomb, Margaret M. White, Charlotte Wurtele, Susan Wilkes, Ann Wilson, Elizabeth Molson, Eliza McGill, and such other persons as shall under the provisions of this Statute become Members of the said Institution, shall be and are hereby declared to be a body politic and corporate, in deed and in name, by the name of "The Montreal Ladies' Benevolent Society," and by that name shall have perpetual succession and a common seal, and shall have power from time to time to alter, renew or change such common seal at their pleasure, and shall by the same name, from time to time, and at all times hereafter, be able and capable to purchase, acquire, hold, possess and enjoy, and to have, take and receive to them and their successors to and for the uses and purposes of the said Corporation, any land, tenements and hereditaments, and real

Certain Ladies incorporated by the name of "The Montreal Ladies' Benevolent Society."

Corporation powers granted.

Common Seal.

May hold property.

real or immoveable property and estate, situate, lying and being within this Province, not exceeding in yearly value the sum of one thousand pounds, currency, and the same to sell, alienate and dispose of, and to purchase others in their stead for the same purpose; and 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 unto in all Courts of Law and places whatsoever, in as large, ample and beneficial a manner as any other body politic or corporate, or as any persons able or capable in Law may or can sue or be sued, implead or be impleaded, answer or be answered unto in any manner whatsoever, and shall have power and authority to make and establish such rules, orders and regulations not being contrary to this Statute, nor to the Laws in force in this Province, as shall be deemed useful or necessary for the interests of the said Corporation and for the management thereof, and for the admission of Members into the said Corporation, and from time to time, to alter, repeal and change the said rules, orders, and regulations or any of them, and shall and may do, execute and perform all and singular other the matters and things relating to the said Corporation and the management thereof, which shall or may appertain thereto, subject nevertheless to the rules, regulations, stipulations, and conditions hereinafter prescribed and established.

Value of such property limited.

May sue and be sued.

May make By Laws.

Other powers.

II. And be it enacted, that an Annual General Meeting of the Members of the said Corporation shall be held on the first Tuesday of the month of October, in each and every year, or if any such Tuesday be a holyday or if the Election hereinafter mentioned be not for any cause then had, then on such day as shall be appointed in the manner hereinafter mentioned for the Annual Election of Directresses and Managers, a Secretary and Treasurer of the said Society, as to the said Corporation shall seem meet, by and through the majority of such Members present at such General Meeting, and for the transaction of all such matters and things relating to the affairs of the said Corporation for the year preceding such first Tuesday in the said month of October, and for the adjustment and settlement of the accounts and business of the said Corporation for the said preceding year: Provided always, that the said Corporation, on a requisition signed by not less than five of the Members thereof, may at any time by a notice to be inserted for not less than seven days in one or more of the Newspapers published in the City of Montreal, of which the Montreal Gazette shall be one, if then published, call a general meeting of the Members of the said Corporation, specifying the hour, day, place and object of the said Meeting; and the Members of the Society, or the majority thereof at any such extraordinary Meeting, as aforesaid, shall have power and authority to make, revise, alter or rescind any Rules, Orders and Regulations for the management of the Corporation, after notice of any motion for introducing any new rule, or for any such repeal or alteration shall have been given at the general meeting next immediately preceding that at which such motion shall be made and

Annual General Meeting of the Corporation when and how to be held.

Election of Directresses.

Extraordinary General Meeting may be called, and in what manner.

Power of any such extraordinary General Meeting.

and considered, and to admit new Members and to fill up all vacancies which may occur among the said Directresses and Managers, Secretary and Treasurer, aforesaid, and generally to do and perform all such matters and things as may be conducive to the well being of the said Corporation.

Property now held by the Corporation vested in it.

The present Directresses, &c. to continue in office until the next general meeting.

The present By-Laws of the Corporation shall continue in force until the same time.

Directresses and Managers may appoint officers and servants of the Corporation.

And shall have other powers requisite for the well being of the Corporation.

No Member of the Corporation, or other person to be individually liable for any debt, &c., of the Corporation.

III. And be it enacted, that all and every the estate and property real and personal now belonging to or hereafter to be acquired by the Members of the said Society as such, and all debts, claims and rights whatsoever due to them in that quality, shall be and are hereby vested in the Corporation hereby established; and the Directresses, Managers, Secretary, and Treasurer appointed or to be appointed before the first Annual General Meeting shall be held under the authority of this Act shall be and continue to be the Directresses, Managers, Secretary and Treasurer of the said Corporation until others in their stead or the same shall be elected at such Annual General Meeting, in the manner herein provided, and the Rules, Orders and Regulations now made or to be made for the management of the Association herein first mentioned shall be and continue to be the Rules, Orders and Regulations of the said Corporation until altered or repealed in the manner herein provided; and the said Rules, Orders and Regulations shall be submitted to the Members of the said Society for their approval and confirmation, at such first General Meeting, as aforesaid, at which they may be confirmed, rejected, altered or amended, or new rules substituted for them, without any previous notice; any thing herein contained to the contrary notwithstanding.

IV. And be it enacted, that the Directresses and Managers for the time being, shall have power to appoint such Officers and Servants of the said Corporation as shall be necessary for the well conducting of the business of the same, and to allow to them such compensation for their services, respectively, as shall be reasonable and proper, and the said Directresses and Managers shall be capable of exercising such other powers and authority for the well governing and ordering of the affairs of the said Corporation as shall be prescribed by the Rules, Orders and Regulations of the said Corporation.

V. And be it enacted, that nothing herein contained shall have the effect, or be construed to have the effect of rendering all or any of the said several persons hereinbefore mentioned, or all or any of the Members of the said Corporation, or any person whomsoever individually liable or accountable for or by reason of any debt, contract or security, incurred or entered into for or by reason of the said Corporation, or for or on account, or in respect of any matter or thing whatsoever relating to the said Corporation.

VI. And be it enacted, that it shall not be necessary to the validity of any act performed

performed by any married woman, as a Member of the said Corporation, or to her becoming such, that she be thereunto specially authorized by her husband; any Law, usage, or custom to the contrary notwithstanding.

Married Women being Members of the Corporation, need not be specially authorized by their husbands.

VII. And be it enacted, that nothing herein contained, shall affect or be construed to affect in any manner or way the rights of Her Majesty, Her Heirs or Successors, or of any person or persons, or of any body politic or corporate, such only excepted as are hereinbefore mentioned and provided for.

Rights of Her Majesty and others saved.

VIII. And be it enacted, that this Statute shall be deemed a public Act, and shall be publicly taken notice of as such by all Judges, Justices of the Peace, and other persons whomsoever, without being specially pleaded.

Public Act.

C A P. LXVII.

An Act to Incorporate the Montreal Asylum for aged and Infirm Women.

[18th September, 1841.]

WHEREAS an Association has existed for several years, in the City of Montreal, in this Province, under the name of "The Montreal Asylum for aged and infirm Women," for the purpose of affording relief and support to aged, infirm and decrepid Women in the said City, who are destitute of other means of support; And whereas the Association is composed of the several persons hereinafter mentioned, who have by their petition represented that the advantages arising from the said Association would be greatly extended and confirmed by the legal incorporation thereof, and have prayed that they and their successors may be incorporated under certain regulations and provisions hereinafter mentioned; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that Emelie Gamelin, Magdeleine Durand, P. Jos. Lacroix, A. P. Nowlan, M. C. Cuvillier, A. M. Delisle, M. A. F. Viger, J. Perrault, E. R. Fabre, S. Tavernier, L. Berthelet, and N. N. Delorme, and such other persons as shall under the provisions of this Statute become Members of the said Institution, shall be and are hereby declared to be a body politic and corporate

Preamble.

Certain Ladies incorporated by the name of "The Montreal Asylum for aged and infirm Women."

Corporate powers granted. Common Seal. May hold property. Value of such property limited. May sue and be sued. May make by Laws. Other powers.

corporate, in deed and in name, by the name, of "The Montreal Asylum for aged and infirm Women" and by that name shall have perpetual succession and a common seal, and shall have power from time to time to alter, renew or change such common seal at their pleasure, and shall by the same name, from time to time and at all times hereafter, be able and capable to purchase, acquire, hold, possess and enjoy, and to have, take and receive to them and their successors to and for the uses and purposes of the said Corporation, any lands, tenements, and hereditaments, and real or immoveable property and estate situate, lying and being within this Province, not exceeding in yearly value the sum of one thousand pounds, currency, and the same to sell, alienate, and dispose of, and to purchase others in their stead for the same purpose; and 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 unto in all Courts of Law and places whatsoever, in as large, ample and beneficial a manner as any other body politic or corporate, or as any persons able or capable in Law may or can sue or be sued, implead or be impleaded, answer or be answered unto in any manner whatsoever, and shall have power and authority to make and establish such Rules, Orders and Regulations not being contrary to this statute, or to the Laws in force in this Province, as shall be deemed useful or necessary for the interests of the said Corporation and for the management thereof, and for the admission of Members into the said Corporation, and from time to time, to alter, repeal and change the said Rules, Orders and Regulations or any of them, and shall and may do, execute and perform all and singular other the matters and things relating to the said Corporation and the management thereof, which shall or may appertain thereto, subject nevertheless to the Rules, Regulations, Stipulations, and provisions hereinafter prescribed and established.

Annual General Meeting of the Corporation when and how to be held.

Election of Directresses.

II. And be it enacted, that an Annual General Meeting of the Members of the said Corporation shall be held on the first Tuesday of the Month of October, in each and every Year, or if any such Tuesday be a holy day or if the Election be not for any cause then had, then on such day as shall be appointed in the manner hereinafter mentioned, for the Annual Election of Directresses and Managers, a Secretary and a Treasurer of the said Association as to the said Corporation shall seem meet, by and through the Majority of such Members present at such General Meeting, and for the transaction of all matters and things relating to the said Corporation for the Year preceding the said first Tuesday of the said Month of October, and for the adjustment and settlement of the transactions and business of the said Corporation for the said preceding Year: Provided always that the said Corporation, on a requisition signed by not less than five of the Members thereof, shall by a notice to be inserted for not less than seven days in one or more of the Newspapers published in the City

City of Montreal, of which the Montreal Gazette shall be one, if then published, call a general meeting of the Members of the said Corporation, specifying the hour, day, place and object of the said Meeting; and the Members, aforesaid, or the majority thereof at such General Meeting, aforesaid, shall have power and authority to revise, alter or rescind any Rules, Orders and Regulations for the management of the Corporation, after notice of such repeal or alteration shall have been given at a General Meeting next immediately preceding that at which such application shall be made and considered, and to admit new Members and to fill up all vacancies which may occur among the said Directresses and Managers, Secretary and Treasurer, aforesaid, and generally to do and perform all such matters and things as may be conducive to the well being of the said Corporation.

Extraordinary General Meeting may be called, and in what manner.

Power of any such extraordinary General Meeting.

III. And be it enacted, that all and every the estate and property real and personal belonging to or hereafter to be acquired by the said Members of the said Association as such, and all debts claims and rights whatsoever due to them in that quality, shall be and are hereby vested in the Corporation hereby established; and the Directresses, Managers, Secretary and Treasurer appointed or to be appointed before such Annual General Meeting shall be held, shall be and continue to be the Directresses, Managers, Secretary and Treasurer of the said Corporation until others in their stead or the same shall be elected at such Annual General Meeting, in the manner herein provided, and the Rules, Orders and Regulations now made or to be made for the management of the said Association, shall be and continue to be the Rules, Orders and Regulations of the said Corporation until altered or repealed in the manner herein provided, and the said Rules, Orders and Regulations shall be submitted to the Members, aforesaid, for their approval and confirmation, at such General Meeting, aforesaid.

Property now held by the Corporation vested in it.

The present Directresses, &c. to continue in Office until the next General Meeting.

The present By Laws of the Corporation shall continue in force until the same time.

IV. And be it enacted, that the said Directresses and Managers for the time being shall have power to appoint such Officers and Servants of the said Corporation as shall be necessary for the well conducting of the business of the same, and to allow to them such compensation for their services, respectively, as shall be reasonable and proper, and the said Directresses and Managers shall be capable of exercising such other powers and authority for the well governing and ordering of the affairs of the said Corporation as shall be prescribed by the Rules, Orders and Regulations of the said Corporation.

Directresses and Managers may appoint officers and servants of the Corporation.

And shall have other powers requisite for the well being of the Corporation.

V. And be it enacted, that nothing herein contained shall have the effect, or be construed to have the effect of rendering all or any of the said several persons hereinbefore mentioned, or all or any of the Members of the said Corporation, or any

No Member of the Corporation, or other person to be individually li-

able for any debt, &c., of the Corporation.

any person whatsoever individually liable or accountable for or by reason of any debt, contract or security for or by reason of the said Corporation, or for or on account, or in respect of any matter or thing whatsoever relating to the said Corporation.

Married Women being Members, not specially authorized to act as such.

VI. And be it enacted, that it shall not be necessary to the validity of any act performed by any married woman, as a Member of the said Corporation, or to her becoming such, that she be thereunto specially authorized by her husband; any Law, usage, or custom to the contrary notwithstanding.

Rights of Her Majesty and others saved.

VII. And be it enacted, that nothing herein contained, shall affect or be construed to affect in any manner or way the rights of Her Majesty, Her Heirs or Successors, or of any person or persons, or of any body politic or corporate, such only excepted, as are hereinbefore mentioned and provided for.

Public Act.

VIII. And be it enacted, that this Statute shall be deemed a public Statute, and shall be publicly taken notice of as such by all Judges, Justices of the Peace, and other persons whatsoever, without being specially pleaded.

C A P . LXVIII.

An Act to Incorporate the College of L'Assomption, in the County of Leinster.

[18th September, 1841.]

Preamble

WHEREAS it hath been represented to the Legislature of this Province, that the Ecclesiastics and persons hereinafter named, and divers Inhabitants of the Parish of L'Assomption and of other parts of the County of Leinster in this Province, have for many years past used their most zealous efforts to establish the College of L'Assomption in the said Parish, and that by such efforts, aided by grants of the Public Money by the Legislature of Lower Canada, they have succeeded in establishing the said College on a permanent footing, and that by the liberality of divers well disposed persons, property hath at sundry times been given or bequeathed for the maintenance of the said Collège; and whereas it would tend greatly to advance and extend the usefulness of the said Collège, and to promote the purposes for which it was founded, that it should be incorporated, and that the property given or bequeathed for its endowment should be held by the Corporation in Mortmain for the uses thereof; Be it therefore enacted, by the Queen's most excellent Majesty, by and with the advice and consent of the Legislative

Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-write the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, that there shall be and there is hereby constituted and established at L'Assomption in the County of Leinster, aforesaid, a body politic and corporate, under the name of "The Corporation of the College of L'Assomption," which Corporation shall consist of, firstly, the Roman Catholic Bishop of Montreal, or during the vacancy of the See, the Superior Ecclesiastical Dignitary resident in the District of Montreal, exercising an immediate jurisdiction in spiritual matters over all the Roman Catholics in the said District, or in case such Bishop or Dignitary should by Letters to that effect be registered in the Archives of the College delegate his authority in this behalf to any one of the Grand Vicars for the said District, then such Delegate, as aforesaid; secondly, the Director of the said College of L'Assomption appointed to be such by the Superior Ecclesiastical Dignitary of the Roman Catholic Church, residing in the said District of Montreal, as hereinbefore designated, and his Successors in office; thirdly, the Rector or the Missionary of the said Parish of L'Assomption, appointed to the Rectory by the Roman Catholic Bishop or his Successors in office; fourthly and fifthly, of the two Priests, or if there be none, of the two Ecclesiastics who shall have been longest resident in the said College of L'Assomption with the permission of the Superior Dignitary of the Roman Catholic Church in the District, (as hereinbefore designated) and who shall hold some office in the said College, and their Successors in office; sixthly, seventhly, eighthly, and ninthly, of the Reverend François Labelle, now Curé of L'Assomption, the Reverend Edouard Labelle, Priest, Doctor L. J. C. Cazéneuve, and Doctor Jean Baptiste Meilleur, Voluntary Trustees and among the Founders and Benefactors of the said College; and in case of the death of any one or more of the four Members of the Corporation last mentioned, he or they shall be succeeded by a person or persons to be chosen by the Inhabitant householders of the said Parish of L'Assomption qualified to vote at the Election of Parish Officers, and at the first annual meeting held for that purpose after the death of such Member or Members; and the person or persons so chosen to be Members of the said Corporation, shall at their death, respectively, be replaced by other persons chosen in like manner, and so on continually for ever; and such Corporation shall have perpetual succession and may have a common seal, with power to change, alter, break and renew the same when and as often as they shall think proper; and the said Corporation may under the same name, sue and be sued, plead and be impleaded, prosecute and be prosecuted in all Courts of Law now established in this Province, and shall have full power to make and establish such and so many Rules, Orders and Regulations (not being contrary to the Laws of the Country or to this Act) as they shall deem useful or necessary, as well concerning the system of education in, as for

The said College Incorporated.

Name.

Members of the Corporation.

Corporate powers granted

Common Seal

To make By-laws. for the conduct and government of the said College and the Corporation thereof, and the superintendence, advantage and improvement of all the property, moveable or immoveable, belonging to or which shall hereafter belong to the said Corporation, and shall have power to take under any legal title whatsoever, and to hold for the said College without any further authorization or letters of mortmain all land and property, moveable or immoveable which may hereafter be sold, ceded, exchanged, given, bequeathed or granted to the said Corporation, or to sell or alienate the same if need shall be : Provided always, that the net rents, issues and profits arising from the immoveable property and territorial acquisitions of the said Corporation, shall not at any time exceed the annual sum of two thousand pounds, current money of this Province ; and the said Corporation shall further have the right of appointing an Attorney or Attornies for the management of their affairs, and generally shall enjoy all the rights and privileges enjoyed by other bodies politic and corporate recognized by the Legislature.

To hold real property.

Such property not to exceed a certain value.

To appoint Attornies.

Revenues of the College how to be applied. II. Provided always, and be it enacted, that all the property which shall at any time belong to the said Corporation, as well as the revenues thereof, shall at all times be exclusively applied and appropriated to the advancement of Education in the said College, and to no other object, Institution or Establishment whatever.

Public Act. III. And be it enacted, that this Act shall be considered a Public Act, by all Judges, Justices of the Peace, and Officers of Justice, and by all other persons whomsoever, and shall be judicially taken notice of without being specially pleaded.

Rights not expressly affected to be saved. IV. And be it enacted, that this Act shall not extend to weaken, diminish or extinguish the rights and privileges of Her Majesty, Her Heirs and Successors, nor of any other person or persons, body politic or corporate, excepting only such rights as are hereby expressly altered or extinguished.

C A P. LXIX.

An Act to render the Penitentiary erected near Kingston, in the Midland District, the Provincial Penitentiary for Canada.

[18th September, 1841.]

Preamble. **W**HEREAS it is expedient that the Penitentiary erected near Kingston, in the Midland District, be made the Provincial Penitentiary for this Province

vince of Canada, so that convicts lawfully sentenced by any Court in that part of this Province called Lower Canada, to be imprisoned in the Penitentiary, may be conveyed to and confined in the Penitentiary aforesaid, during the term for which they may be respectively so sentenced; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-write the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the said Penitentiary shall hereafter be, and be called the Provincial Penitentiary of Canada; and that whenever any convict shall be lawfully sentenced by any Court in that part of this Province called Lower Canada, to be imprisoned in the Penitentiary, then the sentence shall be understood to mean the said Provincial Penitentiary, and the Sheriff having the lawful custody of the convict at the time of the conviction, shall upon an order from the Court before which the conviction shall have taken place, cause such convict to be conveyed by such persons as the Sheriff shall appoint, authorize and empower for that purpose, to the said Provincial Penitentiary, and shall cause him or her to be delivered into the custody of the Warden thereof, together with a certified copy of the sentence passed upon such convict, which shall for that purpose be furnished to the said Sheriff by the proper Officer with the order of the Court, as aforesaid; and the said Warden shall receive such convict into the said Penitentiary and shall safely keep him or her therein subject to the discipline thereof, until such sentence be executed or such convict be discharged in due course of Law: and the certificate of the Warden or assistant Warden of the delivery of such convict shall be a sufficient discharge and voucher to the said Sheriff, whose lawful and reasonable expenses incurred in the conveyance of such convict to the Penitentiary, aforesaid, shall be allowed him in his accounts with the Provincial Government, in the same manner and under the same provisions as other expenses by him lawfully incurred, and payable out of the public monies of the Province.

II. And be it enacted that the person or persons appointed, authorized and empowered by any Sheriff to convey any such convict, as aforesaid, to the said Penitentiary, shall, until the convict shall be delivered to the Warden thereof, and in all Districts or parts of this Province through which it may be necessary so to convey such convict, have the same authority and power over and with regard to such convict, and to command the assistance of any persons in preventing his or her escape, or in retaking him or her in case of an escape, as the Sheriff would himself have if lawfully conveying such convict from one part to another of the District in which he or she was convicted.

III.

The Penitentiary near Kingston, shall be the Provincial Penitentiary of Canada.

Convicts in Lower Canada, sentenced to the Penitentiary, may be sent to the said Penitentiary.

Duty and power of the Sheriff in such case.

Expenses incurred by the Sheriff to be allowed him.

Powers of the persons employed by the Sheriff, to convey any such Convict to the Penitentiary.

A certain Act of Upper Canada, for the Government of the said Penitentiary shall apply to Convicts imprisoned in it under this Act.

III. And be it enacted, that all the enactments and provisions of a certain Act of the Legislature of the late Province of Upper Canada, passed in the fourth year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act to provide for the maintenance and government of the Provincial Penitentiary erected near Kingston, in the Midland District*, with regard to convicts imprisoned in the said Penitentiary shall apply to convicts imprisoned therein under the authority of this Act.

Name of the Warden changed.

IV. And be it enacted, that from and after the passing of this Act, the name of office of the Warden of the said Penitentiary, shall be "The Warden of the Provincial Penitentiary of Canada," by which name he shall be capable of suing and being sued in all Courts and places within this Province, in all matters concerning the said Penitentiary.

Inspectors to appoint a Deputy Warden.

V. And be it enacted, that so much of the Act last above cited as authorizes the appointment of a Deputy Warden of the said Penitentiary, shall be and is hereby repealed; and it shall be lawful for the Inspectors appointed or to be appointed under the authority of the said Act, or for a majority of them from time to time to appoint, and to remove, an Assistant-Warden of the said Penitentiary, who shall act under the control and superintendence of the Warden, and according to the direction he shall receive from him, and shall, whenever there shall exist a vacancy in the office of Warden, or when the Warden shall be absent from the Penitentiary, have all the powers which by the said Act were in like cases vested in the Deputy-Warden.

To be under the control of the Warden.

C A P. LXX.

An Act to extend and define the limits of the Town of Woodstock in the District of Brock.

[27th August, 1841.]

Preamble.

WHEREAS it is expedient to extend and define the limits of the Town of Woodstock, in the District of Brock; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government*

Government of Canada; and it is hereby enacted by authority of the same, that all that tract of land lying and being situate within the boundaries hereinafter mentioned, shall from and after the passing of this Act, be within the Town of Woodstock, that is to say: a line commencing at a post planted at the South East angle of lot number nineteen in the first Concession of the Township of Blandford, and drawn thence in a Northerly direction along the East line of the said lot number nineteen to the allowance for road between the first and second Concessions in the said Township; thence Westerly along the outside of the said allowance for road, to the River Thames; thence along the water's edge on the Eastern side of the said River Thames to its junction with the Cedar Creek; thence along the water's edge on the Northern side of the said Cedar Creek to the Western line of the Township of East Oxford; thence Southerly along the said Western line of the Township of East Oxford to the allowance for road between the first and second Concessions of the said Township of East Oxford; thence Easterly along the centre of the said allowance for road, to the South East angle of lot number nineteen in the first Concession of the said Township of East Oxford; thence Northerly along the said line to Dundas Street; thence Easterly along Dundas Street to the place of beginning; and all allowance for roads adjoining the said boundaries shall be included within the same and the said town of Woodstock.

Boundaries of the Town of Woodstock extended and defined.

Allowances for roads adjoining such boundary to be within the said Town.

C A P . L X X I .

An Act to authorize the payment of a certain sum of money to Christopher Leggo.

[18th September, 1841.]

MOST GRACIOUS SOVEREIGN,

WHEREAS it is expedient that Christopher Leggo, of the Town of Brockville, should be indemnified for certain losses, by him sustained from causes which render it just, that such losses should be borne by the public; 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 of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that it shall be lawful for the Governor, Lieutenant Governor or

Preamble.

Person

A certain sum granted to C. Leggo, for losses.

Person administering the Government, by warrant under his hand, to authorize the payment of a sum not exceeding two hundred and forty six pounds to the said Christopher Leggo out of the Consolidated Revenue Fund of this Province, to indemnify the said Christopher Leggo for the losses aforesaid.

Accounting Clause.

II. And be it enacted, that the due application of all monies expended under the authority of this Act, shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury, for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct; and that an account of all such monies shall be laid before the Legislative Assembly of this Province within fifteen days after the opening of the then next Session thereof.

C A P. LXXII.

An Act to extend the provisions of an Ordinance therein mentioned to a certain Road on the North side of the River St. Charles, in the District of Quebec.

[18th September, 1841.]

Preamble.

WHEREAS it is expedient to extend the provisions of the Ordinance of the Legislature of the late Province of Lower Canada, passed in the Fourth year of Her Majesty's Reign, intituled *An Ordinance to provide for the improvement of certain Roads in the neighbourhood of and leading to the City of Quebec, and to raise a fund for that purpose*, to the Road hereinafter mentioned; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-write the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, that the provisions of the said Ordinance and the powers of the Trustees appointed under the authority thereof, shall extend to the Road leading from that sixthly mentioned in the ninth Section of the said Ordinance, to Scott's Bridge, (including the said Bridge,) and to the main Road running along the North bank of the River St. Charles, from Scott's Bridge, aforesaid, to the Bridge over the said River, commonly called the Red Bridge, or Commissioner's Bridge, (including the said Bridge,) as fully to all intents and purposes whatsoever, as if the said Roads and Bridges had been mentioned and described in the said ninth Section of the said Ordinance as among those to which the said provisions and powers should extend.

The provisions of the Ord: 4 Vic. cap. 17. extended to the Road North of Saint Charles River.

CAP.

C A P. LXXIII.

An Act to amend an Act of that part of the Province, formerly called Upper Canada, intituled, "An Act to provide for the making and keeping in repair the West Gwillimbury Road and Bridge, and to authorize the erection of a Toll Gate thereon."

[17th August, 1841.]

WHEREAS in and by a certain Act of the Legislature of the late Province of Upper Canada, passed in the sixth year of the Reign of His late Majesty, King William the Fourth, and intituled *An Act to provide for the making and keeping in repair the West Gwillimbury Road and Bridge, and to authorize the erection of a Toll Gate thereon*, it is among other things in effect enacted, that certain persons named in the said Act, or appointed in certain cases in the manner therein provided, shall be Commissioners with power to make such improvements on a certain Road and Bridge, in the said Act described, as by them may be deemed expedient and necessary, and shall have power to do and perform all and whatsoever act and acts, thing and things, necessary and proper to carry the intentions of the said Act into effect, and shall have certain other powers and shall perform certain duties by the said Act conferred upon and assigned to the said Commissioners; and whereas it is expedient that the number of such Commissioners be increased; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, in the Session held in the third and fourth years of Her Majesty's Reign, and intituled *An Act to Re-write the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, that it shall be lawful for the Governor, Lieutenant Governor or Person administering the Government of the Province, from time to time, and as occasion may require, by an instrument or instruments under his hand and seal, to appoint such other person or persons as he may think fit, to be Commissioners for the purposes of the Act first above cited, jointly with the Commissioners named in the said Act or appointed under the authority thereof, and to have jointly with the Commissioners last mentioned, all the powers and perform all the duties by the said Act conferred upon or assigned to the Commissioners named in or appointed under the same: Provided always, that the number of Commissioners appointed under this Act and in Office at any one time shall not exceed seven.

Preamble.

A certain Act
in part recited.

Governor &c.
may appoint an
additional
number of
Commissioners
for the purposes
of the said
Act.

Proviso.

CAP.

C A P . LXXIV.

An Act to amend the Law regulating the Election of Directors of the Grand River Navigation Company.

[18th September, 1841.]

Preamble.

WHEREAS three fourths of the Stock of the Grand River Navigation Company is held in trust and for the benefit of the Six Nation Indians; and whereas by the provision of the Act incorporating the said Company, the persons in whose name such Stock is so subscribed and held for the said Six Nation Indians, have no adequate influence in the appointment of the Directors by whom the affairs of the said Company are regulated and managed; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, that notwithstanding any thing contained in the twenty-first and twenty-second sections of an Act of the Parliament of Upper Canada, passed in the second year of the Reign of His late Majesty King William the Fourth, and intituled *An Act to incorporate a Joint Stock Company to improve the Navigation of the Grand River*, it shall and may be lawful for the Governor of this Province, by and with the advice and consent of the Executive Council, to nominate and appoint two of the Directors of the said Company, at the return of each and every Election of the same, so long as the said proportions of three fourths of the Capital Stock of such Company shall be, and shall continue to be holden as aforesaid, to and for the use and benefit of the said Six Nation Indians.

The Governor with the advice of the Executive Council may appoint two of the Directors of the Company, as long as three fourths of its stock is held for the six Nation Indians.

C A P . LXXV.

An Act to confirm a certain arrangement entered into by the Magistrates of the Districts of Gore and Wellington.

[18th September, 1841.]

Preamble.

WHEREAS by the twenty seventh section of an Act of the Parliament of the late Province of Upper Canada, passed in the seventh year of the Reign of his late Majesty King William the Fourth, and intituled *An Act erecting certain parts*

parts of the Counties of Halton and Simcoe into a new District, by the name of the District of Wellington, it is among other things in effect enacted, that the said Act shall not take effect until provision has been made by law for securing the payment by the County of Halton of a just proportion of the debt contracted on the credit of the Gore District for building the Gaol and Court House; and whereas it appears that at the general Quarter Sessions of the Peace, for the Gore District held at Hamilton, in the said District, in the month of April, one thousand eight hundred and forty, and before the date of the Proclamation issued under the authority of the said Act and establishing the District of Wellington, it was agreed between the Magistrates for those parts of the Counties of Halton and Simcoe which have since been established by the said Proclamation as the District of Wellington, and the Magistrates for the other parts of the said District of Gore, that the value of the District Buildings of the District of Gore should be estimated, and such value deducted from the whole debt of the said District, and that of the sum remaining after such deduction, two thirds should be paid by the said District of Gore and one third by the said District of Wellington; and whereas such estimation and deduction were made accordingly, and it was agreed by the said parties that the sum to be paid by the said District of Wellington under the said agreement and the provisions of the Act above cited, should be three hundred pounds, currency; and whereas it is expedient to confirm the said agreement; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the agreement recited in the Preamble of this Act, shall be and is hereby confirmed, and the payment of the said sum of three hundred pounds, currency, by the Magistrates of the said District of Wellington, or of the places which now constitute that District, to the Magistrates of the said District of Gore, or in part satisfaction of the debt contracted on the credit of the said District, for building the Gaol and Court House therein, shall be deemed and taken to be a full compliance with the requirements of the part herein before recited of the said twenty-seventh section of the Act first mentioned, and the said Act shall take effect accordingly.

Act of U. C.
7 Will. 4, cap.
116, in part re-
cited.

An agreement
made by the
Magistrates of
Gore District
and those of
the Wellington
District, recited

The said a-
greement con-
firmed, and the
above recited
requirements of
the said Act de-
clared to be
complied with.

C A P. LXXVI.

An Act to authorize a further Loan to complete the Building of the Court House and Gaol for the intended District of Dalhousie.

[18th September, 1841.]

Preamble.

The Justices of the Peace for the intended District of Dalhousie, may authorize an additional rate in such parts.

The Resolution authorizing such additional rate must be agreed to by at least two-thirds of the Magistrates present at the meeting: and shall then be transmitted to the several Clerks of the Peace.

The Clerks of the Peace shall enter such additional rate on the assessment Rolls.

Such additional rate shall be collected by the several Collectors:

WHEREAS it appears by the Petition of certain Justices of the Peace, residing within the limits of the intended District of Dalhousie, that the loan authorized by Law for the purpose of building a Gaol and Court House therein, has been found insufficient for the purpose proposed; and whereas it is desirable that the means of completing the said Gaol and Court House, may be provided without further delay; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-write the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that it shall and may be lawful for the Justices of the Peace, residing in such parts of the Districts of Johnstown, Bathurst and Ottawa, intended to be included in the new District of Dalhousie, at a meeting to be convened for that purpose, to resolve that an increased Tax, not exceeding one penny in the pound, over and above the ordinary assessment, on all rateable property within the limits intended to be included in the said new District, shall be levied and collected for a term not exceeding fifteen years, and if such Resolution shall be adopted by a majority of at least two thirds of the Magistrates present at the said meeting, copies thereof, signed by the Chairman of the said meeting, shall be transmitted to the Clerks of the Peace of the Johnstown, Bathurst and Ottawa Districts, respectively.

II. And be it enacted, that it shall be the duty of the Clerks of the Peace of the Johnstown, Bathurst, and Ottawa Districts, to insert in the assessment list of the several Townships intended to be included in the said new District of Dalhousie, the increased Tax, according to the Resolution furnished them, respectively, by the Chairman of the said meeting.

III. And be it enacted, that it shall be the duty of the Collectors of the several Townships within the parts of the Districts of Johnstown, Bathurst, and Ottawa, intended to be included in the said new District of Dalhousie, and they are hereby required to collect the monies so authorized as aforesaid to be raised under the

the authority of this Act, and shall pay the same over to the Treasurers of the Johnstown, Bathurst and Ottawa Districts, respectively, in the same way and manner as the ordinary assessments of the Districts have been heretofore paid; and further, that no per centage be allowed to the Treasurers of the Bathurst, Johnstown and Ottawa Districts, nor to any Assessor or Collector on the monies raised and collected under the authority of this Act,

and paid over to the Treasurers.

No per centage on such rate to be allowed to any Treasurer.

IV. And be it enacted, that it shall and may be lawful for the Magistrates of and residing within the parts of the said Districts of Johnstown, Bathurst and Ottawa, intended to be included in the new District of Dalhousie, so assembled as aforesaid, and they are hereby empowered by an order to be made at such meeting, to authorize and direct the Treasurer of the Building Committee appointed by virtue of an Act of the Legislature of Upper Canada, 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, and for other purposes therein mentioned*, to raise by loan from such person or persons as may be willing to advance the same on the credit of the rates and assessments authorized by this Act, and of all other rates and assessments to be raised, levied and collected in the said intended District, a sum not exceeding six thousand pounds, to be applied in the first place to the repayment of all such sum or sums of money together with the interest due on the same, as have been heretofore advanced under the authority of the said Act, by any person or persons to aid in the erection of the Gaol and Court House, in the said intended District of Dalhousie, and the remainder to be then applied to the completion of the said Gaol and Court House: Provided always, that the money borrowed under the authority of this Act, shall not bear a greater interest than six per centum per annum.

The Magistrates assembled at the meeting before mentioned, may authorize the Treasurer of the Building Committee, appointed under a certain Act, to raise a loan for completing the Gaol and Court House in the said intended District.

Such loan not to bear a greater interest than six per cent.

V. And be it enacted, that the Treasurer of the said intended District, for the time being, shall annually, until the loan so to be raised with the interest accruing thereon shall be paid and discharged, apply towards the payment of the same, a sum not less than four hundred pounds, together with lawful interest upon the whole sum which may from time to time remain due, from and out of the rates and assessments so coming into his hands for the use of the said intended District.

Treasurer of the intended District to apply a certain sum annually towards paying off such loan.

VI. And be it enacted, that so soon as the Treasurer shall be appointed for the said intended District of Dalhousie, the said Treasurer of the said Building Committee shall deliver to the said Treasurer of the said intended District, an account of all such sum or sums of money as he may have received on account of the said loans, and shall also pay over to the Treasurer of the said District of Dalhousie, such balance as may remain in his hands unexpended of the monies which he shall have received under the authority of this and any former Act.

Whenever a Treasurer is appointed for the said intended District, the Treasurer of the said Building Committee shall pay over all monies in his hands, to such new Treasurer.

VII.

Neither the Treasurer of the intended District nor the Treasurer of the Building Committee to have any poundage on the monies raised by loan as aforesaid.

VII. And be it enacted, that neither the present nor any future Treasurer to be appointed either by the said Building Committee or by the Magistrates of the intended District, shall be entitled or authorized to receive any poundage or per centage upon any sum or sums of money which shall or may be loaned under the authority of this Act, or which may come into his or their hands on account thereof, or for paying out any sum or sums of money in discharging or liquidating such loan with the interest thereon, as aforesaid.

Treasurer receiving monies under this Act to pay the same over to the Treasurer of the Building Committee.

VIII. And be it enacted, that it shall and may be lawful for the Treasurers of the Bathurst, Johnstown and Ottawa Districts, respectively, and they are hereby required, from time to time, as they shall receive the same, to pay over all such sum or sums of money as they may receive under the provisions of this Act, to the Treasurer of the Building Committee so appointed, as aforesaid, or to the Treasurer of the said new District of Dalhousie, when he shall be appointed.

Certain sections of an Act of the Legislature of Upper Canada repealed.

IX. And be it enacted, that the eighteenth, nineteenth, twentieth and twenty-first sections of an Act of the Legislature of Upper Canada, passed in the first year of the Reign of Her present Majesty, authorizing the erection of certain Townships into the said District of Dalhousie, and the whole of an Act of the said Legislature, passed in the third year of the Reign of Her Majesty, intituled *An Act authorizing the levying of an additional Tax on the District of Dalhousie, for the purposes of Building a Gaol and Court House therein*, be, and the same are hereby repealed.

C A P . LXXVII.

An Act to extend the time limited by Law for the construction and completion of the Port Dover Harbour.

[18th September, 1841.]

Preamble.

Act of U. C.,
5. Will. 4, cap.
23.

WHEREAS in and by an Act of the Parliament of Upper Canada, passed in the fifth year of the Reign of His late Majesty King William the Fourth, and intituled *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*, it is among other things in effect enacted that the said Act shall cease and be utterly null and void, unless the Harbour therein mentioned be completed within seven years from the passing of the said Act; And whereas the Harbour hath been commenced and a considerable sum of money expended thereon, and it is

is expedient to extend the time within which it may be completed so as to prevent the expiration of 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 of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted, by the authority of the same, that the said Act shall remain in force during seven years from the passing of this Act, after the expiration of which term it shall remain in full force and effect if the said Harbour be then completed, but shall otherwise cease and be thence forward utterly null and void.

The said Act shall remain in force if Port Dover Harbour be completed within a certain time.

C A P . LXXVIII.

An Act to increase the sum which may be raised, under a certain Act therein mentioned, for defraying the cost of certain Public Buildings in the County of Simcoe.

[18th September, 1841.]

WHEREAS by the nineteenth Section of an Act passed by the Legislature of the late Province of Upper Canada, in the seventh year of the Reign of His late Majesty King William the Fourth, intituled *An Act to authorize the erection of the County of Simcoe into a separate District, by the name of the District of Simcoe*, it is enacted, "That it shall and may be lawful for the Magistrates of the said County, so assembled as aforesaid, and they are hereby empowered by an order of such meeting, to authorize and direct the Treasurer so to be appointed as aforesaid, to raise by Loan, from such person or persons, bodies politic or corporate, who may be willing to lend the same on the credit of the rates and assessments to be raised, levied and collected in the said intended District, a sum not exceeding four thousand pounds, to be applied in defraying the expences of building the said Court House and Gaol;" And whereas the said sum of four thousand pounds have been duly raised and expended in building the said Gaol, and a further sum of three thousand pounds is required, and is absolutely necessary to be raised for completing the said Court House and Gaol; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great

Preamble.

Act of U. C. 7
Will. 4, cap.
32.

An additional loan not exceeding £3,000 authorized for completing the Court House and Gaol in the intended District of Simcoe.

Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that it shall and may be lawful for the Magistrates of the said County so to be assembled as in the said in part recited Act is mentioned, and they are hereby empowered by an order of their meeting to authorize and direct the Treasurer appointed under and by virtue of the provisions of the said in part recited Act, to raise by loan from such person or persons, bodies politic or corporate as may be willing to lend the same on the credit of the rates and assessments to be raised, levied, and collected in the said intended District, a further sum not exceeding three thousand pounds, to be applied in defraying the expense of completing the said District Buildings.

The said sum of £3,000 to be raised and applied as far as may be in the same way as the sums authorized to be raised by the Act in part recited.

II. And be it enacted, that the said sum of three thousand pounds, shall be raised in the same manner as the said sum of four thousand pounds is directed by the said in part recited Act to be raised; and that the provisions of the said Act shall be applied and considered to be applicable to the raising and laying out of the said sum of three thousand pounds hereby directed to be raised so far as they can be.

The Magistrates may authorize the change of the site of the intended Court House.

III. And whereas it may be advisable to alter or change the site of the said Court House from that originally selected; Be it therefore enacted, that the said Magistrates in their Sessions assembled, shall have power to direct that the said Court House be erected on the site originally selected, or on such other part of the Government Reservation in the Town of Barrie, as they shall deem most advantageous.

How the rates and taxes in the said intended District shall be collected, and to whom paid over.

The Treasurer of the County of Simcoe may receive and may recover, if they be not paid the monies collected for the purposes aforesaid.

IV. And be it enacted, that the rates and taxes required to be raised within the said intended District, for the purposes of erecting such Gaol and Court House as aforesaid, shall be collected by the Treasurer appointed by the Magistrates of the County of Simcoe; for which purpose the Treasurer of the Home District shall, and is hereby required to deliver to the said Treasurer of the County of Simcoe, within twenty days after he shall have completed the same, a certified list of the Collectors for the several Townships forming the said intended District of Simcoe, together with a list of their sureties and a return of such sums as may be applicable to defraying the cost of the said Buildings; which said list of Collectors and their sureties and the said return being duly certified, shall be full and sufficient authority to the said Treasurer of the County of Simcoe to proceed to the recovery of all sums for which such Collectors and their sureties may be liable.

V. And be it enacted, that neither the present nor any future Treasurer to be appointed either by the said Building Committee or by the Magistrates of the said intended

intended District, shall be entitled or authorized to receive any poundage or percentage upon any sum or sums of money which shall or may be loaned under the authority of this Act, or which may come into his or their hands on account thereof, or for paying out any sum or sums of money in discharging or liquidating such loan with the interest thereon as aforesaid.

The Treasurer of the said intended District to have no poundage on the monies which shall come into his hands under this Act.

C A P. LXXIX.

An Act to incorporate certain persons under the title of the "Caledonia Bridge Company."

[18th September, 1841.]

WHEREAS the construction of a Bridge over the Grand River, at the Village of Caledonia, would be a great public convenience to the Inhabitants thereof: And whereas James H. Mackenzie, Thomas Charte, Elisha Bingham, James E. Andrews, John Bingham, William Walker, Walter Bryant, George Bryant, John Canada and others, by their Petition have prayed for the privilege of being Incorporated for the promotion of that object; Be it therefore enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the said James H. Mackenzie, Thomas Charte, Elisha Bingham, James E. Andrews, John Bingham, William Walker, Walter Bryant, George Bryant, John Canada and others, together with all such persons as hereafter shall become Stockholders of the said Caledonia Bridge Company, shall be and are hereby ordained, constituted and declared to be a body corporate and politic in fact, and by the name of the "Caledonia Bridge Company," and by the same name of the Caledonia Bridge Company, they and their successors shall be in Law capable of purchasing, having and holding any estate, real, personal or mixed, to and for the use of the said Company, and of letting, conveying or otherwise departing therewith, for the benefit and on account of the said Company, from time to time, as they shall deem necessary: Provided always, that such estate shall not exceed ten acres.

Preamble.

Certain persons incorporated by the name of "The Caledonia Bridge Company."

Their corporate powers.

Proviso.

II. And be it enacted, that a Share in the said Caledonia Bridge Company, shall be six pounds five shillings, and the number of Shares shall not exceed four hundred

Number and value of the

shares in the stock of the said Company.

hundred, and that the whole amount of the stock, estate and property, which the said Company shall be authorized to hold, including the capital stock or shares before mentioned, shall never exceed in value two thousand five hundred pounds.

Books of subscription to be opened, in the District of Niagara.

III. And be it enacted, that books of subscription shall be opened within one month after the passing of this Act, in the District of Niagara, at such time, and by such person or persons as a majority of the Petitioners, at a meeting to be held in the District of Niagara for that purpose, shall appoint.

First meeting how to be called.

IV. And be it enacted, that as soon as the sum of five hundred pounds, shall have been subscribed, it shall and may be lawful for the subscribers, or any two or more of them, to call a meeting, to be held at some place in the District of Niagara, for the purpose of proceeding to the election of the number of Directors hereinafter mentioned, in manner hereinafter described in respect to the annual election of Directors, and the persons then and there chosen shall be the first Directors, and be capable of serving until the first Monday in the month of July following such election.

First Directors.

Three Directors to manage the affairs of the Company.

V. And be it enacted, that the stock, property, affairs and concerns of the said Company, shall be managed and conducted by three Directors, one of whom shall be chosen President, who shall hold their office for one year; which Directors shall be Stockholders to the amount of at least ten shares, and be elected on the first Monday in July in each and every year, at such time of the day, and at such place at or near the intended site of the works of the said Company, as a majority of the Directors for the time being shall appoint; and public notice shall be given by the said Directors, in some one Newspaper published in the District of Niagara, of such time and place, not more than sixty nor less than thirty days previous to the said election, as they shall think fit; and such election shall be had and made by such of the Stockholders of the said Company as shall attend for that purpose in their own proper person or by proxy; and all elections for Directors shall be by ballot, and the three persons who shall have the greatest number of votes at any election shall be Directors, except as is hereinafter provided; and if it shall at any election appear that any two or more persons have an equal number of votes, in such manner that a greater number of persons than three shall by a plurality of votes appear to be chosen Directors, then the said Stockholders hereinbefore authorized to hold such election, shall proceed to ballot a second time, and by a plurality of votes determine which of the said persons so having an equal number of votes shall be a Director or Directors for the ensuing year, so as to complete the whole number of three, and the said Directors immediately after

Qualification of Directors, and time and place of Election.

Notice.

Election to be by ballot.

Case of equal number of votes provided for.

after the said election shall proceed in like manner to elect by ballot one of their number to be President; and if any Director shall absent himself from the Province, and cease to be an Inhabitant thereof for the space of six months, his office shall be considered vacant; and if any vacancy or vacancies shall at any time happen among the Directors, or if the office of any person or persons connected with the said Company, shall become vacant by death, resignation, or removal from the Province, the same shall be filled for the remainder of the year by such person or persons as the Director or Directors may appoint.

Election of a President by the Directors.

Vacancies of the Directors or other Officers, how filled.

VI. And be it enacted, that each Stockholder shall be entitled to a number of votes, proportioned to the number of shares which he or she shall hold and shall have held in his or her name, at least one month previous to the time of voting, being one vote for each share.

Number of votes to which each stockholder shall be entitled.

VII. And be it enacted, that in case it should at any time happen that an election of Directors should not be made, when on any day pursuant to this Act it ought to have been made, the said Corporation shall not for that cause be deemed to be dissolved, but that it shall and may be lawful on any other day to hold and make an election, in such manner as shall have been regulated by the Laws and Ordinances of the said Corporation.

If the Election of Directors be not had on the day appointed it may be had on a subsequent day.

VIII. And be it enacted, that it shall be the duty of the Directors to make such yearly or half yearly dividends of the profits of the said Company as to them, or a majority of them, shall appear desirable.

Dividends how made.

IX. And be it enacted, that it shall and may be lawful for any person or persons, Her Majesty's Subjects or others, to subscribe for any number of shares, not exceeding in the first instance forty shares, the amount whereof shall be due and payable as follows, that is to say: ten per cent on each share so subscribed shall be payable to the said Company immediately after the Stockholders shall elect the number of Directors hereinbefore mentioned, and the remainder by Instalments of not more than twenty per cent, at such period as the President and Directors shall from time to time appoint: Provided that no Instalment shall be called for in less than thirty days after public notice shall have been given in such papers as the Directors shall see fit: Provided also, that if any Stockholder or Stockholders shall neglect or refuse to pay to the said Company, the Instalments due on any share or shares held by him, her or them, at the time required by Law, such Stockholder or Stockholders, shall forfeit such share or shares as aforesaid, together with the amount previously paid thereon; and the share or shares so forfeited, shall be sold by the Directors at public auction, after having given such notice as the Directors shall think proper, and the proceeds thereof, with what had been previously

How many shares may be subscribed for by each person in the first instance.

How the amount subscribed for shall be paid.

Penalty on persons neglecting to pay instalments when due.

Proviso.

previously paid thereon, shall be accounted for and applied in the same manner as any other funds of the said Company : And provided also that the purchaser or purchasers, shall pay up the residue of Instalments on back shares so purchased as aforesaid before he, she or they shall be entitled to a certificate for such shares.

Any amount of stock may be taken by one subscriber, if the whole be not subscribed for within a certain time.

X. And be it enacted, that if within one-month after such books of subscription as aforesaid shall be opened, the whole number of shares shall not be taken up and subscribed for, then it shall be lawful for any former subscriber to increase his subscription ; and that after the first Instalments shall have been paid to the said Company, the shares shall become transferable on the books of the said Company.

Shares transferable.

Directors may make Rules and Regulations for the Government of the Company.

XI. And be it enacted, that the Directors for the time being, or a major part of them, shall have power to make and subscribe such rules and regulations as to them shall appear needful and proper, touching the management and disposition of the stock, property, estate and effects of the said Company, and touching the security to be given by, and the duties 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 have power to appoint such Officers, Clerks and Servants, as may be deemed necessary to carry on such business, and with such salaries and allowances as to them shall seem fit ; also to place such tolls on travellers and carriages as may yield them a return for their outlay, not exceeding twenty per centum per annum : Provided that such rules and regulations be not repugnant to the Laws of this Province, and that the tolls on the said Bridge, shall not exceed those which are or may be placed on the Bridge at Brantford or at Dunnville.

Their powers in other respects.

Proviso.

Public Act.

XII. And be it enacted, that this Act be and the same is hereby declared to be a public Act, and that the same shall be construed as such in all Her Majesty's Courts in this Province.

General issue.

XIII. And be it enacted, that in all actions to be brought against the said Company at any time, it shall and may be lawful for them to plead the general issue, and to give this Act and the special matter in evidence under it.

How the stock of the Company shall be transferable.

XIV. And be it enacted, that the shares of the said Capital Stock shall be transferable, and may from time to time be transferred by the respective persons so subscribing the same : Provided always, that such transfer be entered or registered in a book or books, to be kept for that purpose by the Directors.

XV.

XV. And be it enacted, that this Act of Incorporation shall in no wise be forfeited by any non-user at any time before the first day of January, which will be in the year of our Lord, one thousand eight hundred and forty-five.

Act not to be forfeited for non-user before 1st Jan. 1845.

XVI. And be it enacted, that it shall and may be lawful for the Directors to commence the operations of the said Company, as soon as twenty five per cent shall be paid on the Capital Stock subscribed as aforesaid.

25 per cent to be paid in before commencing operations.

XVII. And be it enacted, that notwithstanding the privileges hereby conferred, the Legislature may at any time hereafter make such addition to this Act, or such alteration in any of its provisions as they may think proper, for affording just protection to the public, or to any person or persons, body politic or corporate, in respect to their estate, property, or rights, or any interest therein, or any advantage, privilege or convenience connected therewith, that may be affected by any of the powers given by this Act.

The privileges granted by this Act may be modified by any subsequent Act.

XVIII. And be it enacted, that the said Company shall construct the said Bridge with a suitable swing not less than thirty six feet wide, or in such a manner as will not obstruct the navigation of the Grand River, and keep a proper person to open the same at any time and all times, and for neglecting or refusing to keep a proper person or persons to attend the same when required, shall for every such offence forfeit the sum of six pounds five shillings, to be recovered before any one of Her Majesty's Justices of the Peace, in and for the Niagara District, on the oath of one or more credible witnesses.

Company to make a swing-bridge so that the navigation may not be impeded.

Penalty for contravention.

XIX. And be it enacted, that this Act shall continue to the full end and term of fifty years, and no longer.

Duration of Act.

C A P . LXXX.

An Act to establish a Company by the name of "The Sydenham
"Mountain Road Company."

[18th September, 1841.]

WHEREAS the Inhabitants of Dundas, in the District of Gore, and those in the Township of West Flamboro', on the Mountain East of the property of Mr. Rees Tunis, in East Flamboro', and persons travelling in the direction of the City of Toronto, have long experienced the want of an easy macadamized road up the said Mountain : And whereas it has been ascertained by a survey of the lands

Preamble.

lands of George Rolph, Esquire, by James Kirkpatrick; Deputy Provincial Surveyor, that a good and safe road up the Mountain can be made by an expenditure of not more than two thousand pounds: And whereas it is desirable that such improvement should be made from the top of the Mountain, to the Waterloo turnpike road at the Catholic Church in Dundas, agreeably to the survey of the same by the said James Kirkpatrick, Esquire, Deputy Provincial Surveyor; and whereas John Gamble, Thomas Racey, J. P., James B. Ewart, J. P., John Keagey, Robert Holt, George Rolph and others, have petitioned the Legislature to be by Law incorporated for the purpose of effecting by means of a joint capital or stock, such a macadamized road from the top of the said Mountain to the said Waterloo turnpike road, at the Catholic Church in Dundas, agreeably to the said survey of the same by James Kirkpatrick, Esquire, Deputy Provincial Surveyor; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, that the said John Gamble, Thomas Racey, J. P., James B. Ewart, J. P., John Keagey, Robert Holt, George Rolph, or any three of them, together with all such other persons as shall become Stockholders in such joint capital or stock, as hereinafter mentioned, shall be and are hereby united into a Company for the making, macadamizing, completing and maintaining the said road according to the powers and authorities, rules, and directions hereinafter set forth and expressed for that purpose, and for that purpose shall be and are hereby ordained, constituted and declared to be a body corporate and politic in fact, by the name of "The Sydenham Mountain Road Company," and by this name, they and their successors shall and may have continued succession, and by such name 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 that 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 the same name of "The Sydenham Mountain Road Company," shall be in Law 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, which it shall or may be necessary or expedient for them to hold for the necessary purposes of the said Company, and of letting, conveying or otherwise parting therewith, for the benefit and on account of the said Company, from time to time as they shall deem necessary or expedient.

Certain persons incorporated by the name of "The Sydenham Mountain Road Company."

Corporate powers granted them.

Common Seal.

Power to hold property of any kind.

II. And be it enacted, that the whole capital stock (exclusive of any real estate which the said Company may have or hold by virtue of this Act), shall not exceed in value two thousand pounds of lawful money of this Province, which said capital shall be composed of four hundred shares of the value of five pounds each; and that the said shares of the said capital stock shall be transferable, and may be from time to time transferred, by the respective persons so subscribing or holding the same, to every other person or persons: Provided always, that such transfer be entered or registered in a book or books to be kept for that purpose by the said Company: And provided also, that nothing herein contained shall extend or be construed to extend to allow the said Company to carry on the business of Banking.

Amount of the Capital stock of the Company.

Number of shares.

How transferable.

Transfers to be registered.

Proviso.

III. And be it enacted, that within twenty days after the passing of this Act, books of subscription shall be opened in the Town of Dundas, West Flamboro', East Flamboro', Hamilton and Ancaster, in the District of Gore, by such person or persons, and under such regulations within the meaning of this Act, as the said Petitioners or the majority of them shall by writing direct.

Books of subscription to be opened in certain places.

IV. And be it enacted, that the said books of subscription shall remain open for subscription for ninety days, during which time no person subscribing shall so subscribe for more than twenty shares; but if after the expiration of the said ninety days any stock should remain not taken up, then it shall be lawful for the said subscribers or any of them, or any other person or persons, to subscribe for any greater or less number of shares, so long as any of the said stock may remain unsubscribed for.

Regulations touching the mode of subscribing.

V. And be it enacted, that all and every the subscribers for the said stock or any part thereof, shall at the time of subscribing pay a proportion of one third upon the capital stock of the whole number of shares, for which they or any of them respectively may subscribe: and that such proportion so paid and deposited at the time of subscription, shall be at the disposal of the Directors hereinafter mentioned, to and for the purposes of this Act, in manner as hereinafter is directed, and that the residue of the sum or shares of the subscribers and stockholders shall be payable by instalments, at such times, and in such proportion as a majority of the Stockholders at a Meeting to be expressly convened for that purpose, shall agree upon: Provided that no such instalment shall exceed one third of the said capital stock, or become payable in less than one year after public notice in said Town of Dundas.

One third of the sum subscribed for to be paid forthwith.

The remainder to be payable by instalments.

Limitation of amount and time of calling in instalment.

Proviso.

VI. And be it enacted, that if any Stockholder, as aforesaid, shall refuse or neglect to pay at the time required, any such instalment or instalments as shall be lawfully

Subscribers not paying instalments when

called upon, to
forfeit the in-
stalments paid.

Proviso.

lawfully required by the Directors, as due upon any share or shares, then such Stockholders so refusing or neglecting, shall forfeit such share and shares as aforesaid with the amount previously paid thereon, and that the said share or shares may be sold by the said Directors, and the sum arising therefrom, together with the amount previously paid thereon, shall be accounted for and divided in like manner as other monies of the said Company: Provided always, that nothing in this Act shall prevent any Stockholder from paying up the amount he subscribes for, at any time to the Directors, and the same shall be allowed to him by the said Company.

When one
third of the
whole capital
stock is paid in,
a meeting of
the stockhold-
ers shall be en-
ded.

And Direc-
tors elected.

Term of ser-
vice of Direc-
tors.

VII. And be it enacted, that as soon as the aforesaid deposit of thirty-three and one third per cent upon the whole capital stock, shall be paid into the hands of such Receiver or Receivers as the Stockholders shall appoint, it shall and may be lawful for the subscribers or the majority of them, upon thirty days notice published in the Town of Dundas, in the Gore District, to call a Public Meeting at the village of Dundas aforesaid, for the purpose of proceeding to the Election of Directors as hereinafter mentioned, and the persons then and there chosen shall be capable of serving until the first Monday in April, in the year eighteen hundred and forty-two, and the Directors so chosen shall commence the business of the said Company, and proceed therein till the first subsequent annual election of Directors as hereinafter mentioned.

Number of
Directors.

President.

Who may be
Directors.

Day of an-
nual election.

Proviso, as
to the first
Board of Di-
rectors.

VIII. And be it enacted, that the stock, property, affairs and concerns of the said Corporation of the Sydenham Mountain Road Company, shall be managed and conducted by five Directors, one of whom to be the President, who shall hold his office for one year; which Directors shall be Stockholders, and shall be inhabitants of the District of Gore, and shall be elected on the first Monday in April in every year, at such time of the day, and at such place in the said Town of Dundas, as the majority of the Directors for the time being, by thirty days public notice shall appoint: Provided nevertheless, that the first Board of Directors to be chosen by the subscribers, as aforesaid, shall continue in office till the first Monday of April, which will be in the year of our Lord, eighteen hundred and forty-two, as in the last clause provided, and no longer unless re-elected.

Who shall
elect the Di-
rectors.

IX. And be it enacted, that the election of Directors shall be held and made by such Stockholders of the said Company, as shall attend at Dundas aforesaid, for that purpose, in their own proper persons or by proxy, and shall be determined by ballot, such ballot to be regulated and calculated by the number of votes allowed to such Stockholders, according to the number of shares held by them respectively, as follows, that is to say: one vote for each share not exceeding four, five votes for six shares, six votes for eight shares, seven votes for ten shares, and one

one vote for every five shares above ten : Provided always, that the Stockholders so voting, shall be possessed of the share or shares in respect of which they shall respectively vote, at least three months before the time of election ; and that no person, copartnership or body politic, shall be entitled to more than one vote for each share at any such election, nor at the determination of any other matter or thing concerning the said Company, or its affairs, which may by the provisions of this Act, be submitted to the judgment and decision of the Stockholders generally : Provided always, that the choice of the Scrutineers hereinafter mentioned, and of the President, be had as is hereinafter expressly directed.

One vote allowed for each share, whether held by one or more persons.

Choice of President and Scrutineers.

X. And be it enacted, that the Directors to be chosen shall be Stockholders in the said Company, and shall hold to their own use ten shares at least ; and that all and every copartnership and copartners, body and bodies politic or corporate, holding any share or shares in " The Sydenham Mountain Road Company," shall each of them vote only as an individual Stockholder ; nor shall two or more persons belonging to any such copartnership or copartnerships, body or bodies politic or corporate, be capable of being nominated or chosen, or of sitting as Directors, although such persons may hold stock in their private right or to their private use in said Sydenham Mountain Road Company.

Qualification of Directors.

Copartners to vote as one stockholder.

No two or more partners shall be directors at one time.

XI. And be it enacted, that of the persons, as aforesaid, nominated and balloted for in manner aforesaid, those five shall be deemed elected who shall have the greater number of votes, according to the shares held by the voters, respectively, as hereinbefore prescribed, at each and every such election of Directors ; and that at every such election, on the first Monday of April, in each and every year as aforesaid, after the ballot shall have been kept open from eleven of the clock in the forenoon, till two of the clock in the afternoon, the five persons having the majority of the votes in the manner aforesaid, shall so soon thereafter as convenient, on the same day, be declared the Directors chosen for the ensuing year, by any two or more Scrutineers who shall have been previously nominated by the Stockholders for the purpose of examination and report of such ballot : Provided nevertheless that the Stockholders present at the place of ballot, shall in the nomination of Scrutineers vote *per capita* and not by shares.

The five qualified persons having the greater number of votes to be Directors.

Time during which the ballot shall be open.

Directors elected to be Scrutineers

Proviso as to appointment of Scrutineers.

XII. And be it enacted, that the said Directors on the same day and place wherein they shall have been so chosen and declared Directors, shall, after all other persons have retired, choose by plurality of voices, one of their number to be President, in which choice the Directors shall vote *per capita*, and not by shares.

Directors to Elect a President.

XIII. And be it enacted, that in case of vacancy by death or absence for more than

Vacancies
in the Board of
Directors how
filled.

than two months from the sitting of the said Board, such vacancy shall as often as necessary be supplied by ballot in manner as aforesaid, the Directors for the time being present declaring such vacancy, and giving public notice to the Stockholders to meet at a day and place certain in the village of Dundas, aforesaid, for the purpose of supplying the said vacancy by ballot in manner aforesaid.

Majority of
voices to decide
questions before
the Board.

XIV. And be it enacted, that all questions submitted to or coming before the Board of Directors, concerning the affairs of the said Company, shall be decided by the majority of voices.

Directors to
make rules and
regulations for
the manage-
ment of the
company, &c.

XV. And be it enacted, that the Directors for the time being, or the major part of them, shall have power to make and subscribe such rules and regulations, and the same to alter and amend, as to them shall appear needful and just and proper, touching the management and disposition of the stock, property, estate and effects of the said Corporation, and touching the duties and conduct of the Clerks and Servants employed by the said Company, and shall have power to make and subscribe in the name of the said Company all contracts for labour, work, materials and all other matters concerning the construction of the said Road, and after the same be completed, concerning the Tolls of the said Road and other matters and things concerning as well the construction of the said Road, its charges, tolls, profits, losses, dividends and revenue whatsoever; such rules and regulations not being contrary to this Act, nor to the Laws of this Province.

And to make
contracts.

President
and Directors
to establish the
rates of Toll.

XVI. And be it enacted, that it shall and may be lawful for the President and Directors of the said Company, from time to time, to order and establish the rates of Toll payable by persons travelling upon the the said Road, and the said Company shall annually if required, exhibit an account to either or every branch of the Legislature of the Province, of the Tolls so regulated and the amount thereof received; and of the sums expended in keeping the same in repair, and also such accounts authenticated in such manner and form as the authority so requiring the same may deem satisfactory:

Company, if
required, to
render an ac-
count of their
receipts and
expenditure to
the Legislature.

Company to
receive their
expenses and
ten per cent on
their outlay.

XVII. And be it enacted, that whenever the said Tolls shall in the annual receipts exceed in amount a sum sufficient to defray the expenses of maintaining and repairing the said Road, and to afford an annual income to the said Company of ten per cent profit on the capital actually expended in the construction of the said Road, from the commencement of its being travelled, as aforesaid, then and in such case the increasing surplus revenue of the said Tolls shall be charged against the said Company, as so much by them received in the nature of a sinking fund, by means whereof to purchase from the said Company the entire estate, use and property of the said Road to and for the use of the Public, in such manner and form as the Legislature of this Province may by Legislative enactment hereafter provide.

Any surplus,
to be a sinking
fund towards
paying off the
outlay and ac-
quiring the
Road for the
public.

XVIII.

XVIII. And be it enacted, that the Legislature of this Province shall be at liberty at any time whatever to purchase the said entire estate, property, and use of the said road from the said Company, paying to the said Company the capital so as aforesaid, actually expended, together with fifteen per cent advance thereupon; to the credit of which payment all revenue exceeding ten per cent, upon the *bona fide* expenditure, and over and above the expense of maintaining and repairing the said road, shall be charged and taken: and it is also hereby provided and declared, that if any deficiencies of the said ten per cent annual profit should occur in the case of the said road, such deficiencies shall be also chargeable against the increasing revenue of the subsequent years, so that the Company may fairly and actually receive ten per cent profit on the said *bona fide* expenditure, for the whole time they shall enjoy the estate, rights, and privileges of the said Company.

The Legislature may purchase the road &c. from the company on paying the actual outlay and fifteen per cent profit.

Deficiencies in the profit of ten per cent to be charged and be against sinking fund.

XIX. And be it enacted, that the said Company shall have full power and authority for the purpose of forming and completing the road, to purchase and hold in their corporate capacity, such real estate as may be necessary for all the purposes of the said road, and of this Act.

Company may hold the requisite real estate.

XX. And be it enacted, that the Directors of the said Company for the time being, shall have full power to contract, compound, compromise, and agree with the owners and occupiers of any land through or upon which the said road may most advantageously pass and terminate.

May agree with owner of property thro' which the Road shall pass.

XXI. And be it enacted, that if in the making of such contract, composition, compromise, or agreement, any obstacle should arise between the parties thereto, touching the value of the portion of the land to be bought for the purposes aforesaid, then and in such case it shall and may be lawful for the Directors for the time being, from time to time as they or the majority of them shall think fit, to appoint one or more person or persons as Arbitrator or Arbitrators on the part of the said Company, and also for the party or parties disagreeing as to the value, as aforesaid, to appoint one or more person or persons, being an equal number with those chosen by the said Directors, as Arbitrator or Arbitrators on his or her or their part; and that the persons so chosen on both sides shall (having met for that purpose) choose by ballot one other indifferent person; and the whole number of persons so chosen, shall be the Arbitrators between the parties disagreeing; and the said Arbitrators shall be sworn, by a Justice of the Peace, justly, impartially and equally, as far as in them lies, to the best of their judgment, to determine the matter to be to them referred.

If the Company and the parties owning the property required do not agree on the value, the same shall be settled by arbitration.

Arbitrators how appointed.

To be sworn.

XXII. And be it enacted, that if after eight days notice in writing given to the party

If after a certain notice, the party disagreeing will not appoint arbitrators, the Directors may appoint for him.

party so disagreeing as to the value aforesaid, such party will not nominate or appoint an Arbitrator or Arbitrators, as aforesaid, on his part, it shall and may be lawful for the said Directors to add to their first nomination as many others (not being Stockholders of the said Company) as and for the arbitrators of the party so refusing to nominate for himself; and such added Arbitrators shall have the same power as if named by the party himself, and shall meet and ballot for the additional Arbitrator.

How the arbitrators shall proceed.

XXIII. And be it enacted, that the Board of Arbitrators so constituted, shall fix a convenient day for hearing the respective parties, and shall give eight days notice at least of the day and place; and having heard the parties or otherwise examined into the merits of the matters so brought before them, the said Arbitrators or a majority of them shall make their award and arbitrament thereupon in writing, which award or arbitrament shall be final as to the value so in dispute as aforesaid.

Their award to be final.

If the party disagreeing, refuse to accept the value during a certain time, the Directors may enter upon the ground, and use it as portion of the Road.

XXIV. And be it enacted, that if the party so disagreeing, refuse to accept the value of the land so ascertained by the Arbitrators, as aforesaid, till the end of the second term, in Her Majesty's Court of Queen's Bench in Canada West, next after the making of the award and tender of the value thereby ascertained, then and in such case the Directors for the time being shall be at liberty and shall have full power to occupy the piece of land so valued by the said Arbitrators, and to macadamize it in the same manner as other portions of the said Road.

Award of arbitrators may, after a certain time be pleaded in bar of an action of ejectment &c., touching the property to which it shall relate.

XXV. And be it enacted, that in any action of ejectment, or other action real, personal, or mixed, for or on account of such occupation by the said Company, their servants, or agents, or other person or persons, using the said road, the said award shall and may be pleaded in bar to such action, at any time after the said two terms in the said Court of Queen's Bench, notwithstanding any defect in form or substance in the said award: Provided always, and it is hereby enacted and declared, that it shall and may be lawful to and for the party or parties interested in the land mentioned in the award, or their agent, by Counsel, at any time within the two next terms as aforesaid, after the same hath been made and the amount of the value awarded tendered, to move the Court of Queen's Bench to set aside such award for corruption or any other matter, or thing for which awards are now subject to be impugned by Law: Provided also, that if the first award be so set aside by the Court of Queen's Bench, the matter in difference may again be submitted to other Arbitrators and so, *toties quoties*, till a satisfactory award be made between the parties.

But shall, during a certain time, be liable to be set aside for certain causes.

Other Arbitrators may be appointed if the first award be set aside:—and so *toties quoties*.

XXVI. And whereas the said George Rolph, one of the Petitioners to whom belongs

belongs the land the road is intended to pass over, has already expended a sum of money towards constructing a part of the said Mountain road, and it is just that he should be paid or otherwise reimbursed, or indemnified for the same; and the said George Rolph is willing to accept stock, to the amount of his expenditure as aforesaid; be it therefore enacted, that it shall and may be lawful for the said George Rolph to subscribe for as many shares of stock as may, (at the rate before mentioned for each share) be equal in value to the said lands, and the work thereon performed, according to an estimation thereof to be made by competent persons, and approved by the said Directors as just: the limitation hereinbefore made of twenty shares, as the maximum of stock for which any one individual is permitted to subscribe within the ninety days of the first opening of the Books of Subscription as aforesaid, to the contrary notwithstanding.

George Rolph may forthwith take stock to the value of certain lands and the work done thereon, a certain provision of the Act notwithstanding.

XXVII. And be it enacted, that in case it should at any time happen that an election of Directors should not be made on the 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 and may be lawful on any other day to hold and make an election, in such manner as shall have been regulated by the rules of the said Corporation to be made for that purpose, such rules not being contrary to the provisions of this Act.

If the Election of Directors does not take place on the day thereby appointed, it may be held afterwards, and the Corporation shall not be dissolved.

XXVIII. And be it enacted, that it shall be the duty of the Directors to make annual dividends of so much of the profits of the said Company, as to them or the majority of them shall appear advisable; and once in every three years, (and oftener if required by a majority of the votes of the Stockholders, at a general meeting to be called for that purpose) an exact and particular statement shall be rendered of the state of their affairs, credits, and its profits and losses; and such triennial statements shall appear on the books of the Company, and be open to the perusal of any Stockholder upon his reasonable request.

Directions to make dividends out of the profits.

Certain statements to be entered in the books of the Company and open to the Stockholders.

XXIX. And be it enacted, that this Act shall be deemed and taken to be a public Act, and as such shall be judicially noticed by all Judges and Justices of the Peace, and other persons, without being specially pleaded.

Public Act.

XXX. And be it enacted, that this Act from the time of the passing thereof, shall continue in force for fifty years, and from thence to the next ensuing Session of the Provincial Parliament, at which time the estate, rights, titles, tolls and rates of the said road shall vest in Her Majesty, Her Heirs and Successors, to and for the public uses of this Province, unless it be otherwise provided by an Act of the Legislature, to be for that purpose at any time hereafter enacted, or unless the said

Duration of this Act.

After 50 years the road shall become public property.

said road become so vested at an earlier period by the operation of the sinking fund aforesaid.

C A P. LXXXI.

An Act to empower George Durand, Esquire, to construct a Canal for Mill purposes in the Township of Sarnia.

[18th September, 1841.]

Preamble.

WHEREAS Captain Richard E. Vidal, Dugall Ferguson, W. T. Jones, and others, Inhabitants of the Township of Sarnia, in the Western District, have, by their Petition to the Legislature, represented that it is of great importance to all the Northern Townships of the County of Kent, that Mills should be established at the Town of Port Sarnia, and that George Durand, Esquire, of the Town of Port Sarnia, is willing to establish such Mills, provided he can obtain from the Legislature authority to cut a Canal or race-way from the River *Aux Perches* on lot number fifteen in the sixth concession of the said Township of Sarnia, to the waters of the River Saint Clair, and have prayed that such authority be granted to the said George Durand, accordingly : and whereas it is expedient that the prayer of the said Petitioners be granted, and that such authority be given ; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-write the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that it shall be lawful for the said George Durand, his heirs, assigns, and legal representatives, to cut and open a Canal or race-way from the River *Aux Perches*, on Lot number fifteen of the sixth concession of the said Township of Sarnia, to the waters of the River Saint Clair, in front of Lot number seventy four in the front concession of the said Township, and to convey by such Canal or race-way, and to use for Mill purposes such portion of the waters of the said River *Aux Perches*, as he or they may require for such purposes ; any Law, usage or custom to the contrary notwithstanding.

George Durand empowered to use the waters of the River *Aux Perches*, for Mill purposes.

No other privilege to be granted than that expressly mentioned.

II. Provided always, and be it enacted, that nothing in this Act, contained shall be construed to authorize the said George Durand, his heirs, assigns, or legal representatives, to enter upon the property of any person or party whomsoever without

without the permission of such person or party, or to confer any right or privilege on the said George Durand, except that of conveying and using the waters of the said River *Aux Perches*, in the manner and for the purposes aforesaid.

III. And be it enacted, that the said right of conveying and using the waters of the said River, as aforesaid, shall be forfeited by non-user for any continuous period exceeding five years, at what time soever such non-user may occur.

Privilege to be forfeited by non-user for five years.

C A P . LXXXII.

An Act to permit Robert John Turner to practise as Solicitor in the Court of Chancery.

[17th August, 1841.]

WHEREAS Robert John Turner, of the Town of Kingston, in the Midland District, Gentleman, hath by his Petition represented, that he is a duly admitted Solicitor, and has practised in the High Court of Chancery and the Courts of Queen's Bench, Common Pleas and Exchequer in England, for a period of eighteen years and upwards, and that he has for some time past been engaged in the profession of an Equity Draftsman in this Province, and hath prayed that an Act may be passed to authorize the Court of Chancery, in this Province, to admit him to practise therein as a Solicitor; and whereas it is expedient to comply with the prayer of the said Petition; Be it therefore enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that it shall and may be lawful for the High Court of Chancery in this Province, in its discretion, to admit the said Robert John Turner to practise as Solicitor in the said Court, any Law or Statute to the contrary notwithstanding.

Preamble.

Robert John Turner, may be admitted to the High Court of Chancery to practise as a Solicitor.

C A P . LXXXIII.

An Act for the relief of Philippe Aubert DeGaspé.

[18th September, 1841.]

WHEREAS Philippe Aubert DeGaspé, a Debtor, confined in the Common Gaol at Quebec, hath by his petition represented that he has been incarcerated

Preamble.

cerated since the month of May, one thousand eight hundred and thirty eight, under a judgment of the Court of King's Bench at Quebec, rendered in the month of June, in the year one thousand eight hundred and thirty four, at the suit of the Crown, for the sum of eleven hundred and sixty nine pounds, fourteen shillings, currency, and that towards satisfying and discharging the said debt, and to obtain his enlargement, he hath, according to the provisions of a Statute of the Legislature of the late Province of Lower Canada, passed in the sixth year of the Reign of His late Majesty King William the Fourth, and intituled *An Act to afford relief during a limited time to Insolvent Debtors*, given into Her Majesty's Court of Queen's Bench, at Quebec, a statement under oath of all his property, real and personal, in possession and in expectancy, offering to surrender the same towards the satisfaction of the said debt, but that by a decision rendered by the Court of Appeals in the said late Province of Lower Canada, it hath been determined that the benefits intended by the said Act to Insolvent Debtors, do not extend to Debtors of the Crown; and whereas it appears that the health of the said Philippe Aubert De Gaspé is materially impaired by his long confinement, and that he is willing in good faith to surrender all his property of every description, towards satisfying the aforesaid debt, and it is consistent with humanity in such case to afford him relief on certain conditions; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, that from and after the passing of this Act, the said Philippe Aubert DeGaspé, on making oath before any Justice of Her Majesty's Court of King's Bench at Quebec, or any Judge of the Division of the Court of Common Pleas, sitting in the Territorial Division of Quebec, that he hath not, since he gave in on oath to the said Court of King's Bench at Quebec, the said statement of his property, real and personal, that is to say, since the eighteenth day of May, one thousand eight hundred and thirty-six, done or caused any thing to be done, whereby such property is deteriorated or may be less available towards satisfying the said Judgment, than at the time when the said statement was made and given into Court; and on giving good and sufficient security to the satisfaction of any one of Her Majesty's Justices of the said Court of King's Bench or Common Pleas, that he will not exceed the limits of the District of Quebec, shall be entitled to his liberty, and to go at large within the limits of the said District of Quebec, any Statute, Law, Usage, or Custom in force in this Province to the contrary in anywise notwithstanding; and the condition of the recognizance to be entered into in this behalf, shall be that the cognizees shall not become liable unless the said Philippe Aubert DeGaspé shall

Philippe Aubert de Gaspé on making oath that he hath not in any way diminished or deteriorated his property since he gave in a statement thereof on oath, to the Court of King's Bench at Quebec, on the 18th May, 1836, and on giving bail that he will not exceed the limits of the District of Quebec, shall be permitted to go at large within the said limits.

Conditions of the Bail Bond to be given.

shall depart from or exceed the limits of the said District, without having paid the said debt due to Her Majesty under the judgment aforesaid : Provided always, that if the said Phillippe Aubert DeGaspé shall go on board of any vessel or boat lying in any river within or opposite the said District of Quebec, this shall not be held to operate a forfeiture of the recognizance so to be entered into by him.

Proviso.

II. Provided always, and be it enacted, that nothing herein contained, shall be construed to invalidate or affect in anywise any security or securities or other legal recourse Her Majesty may have for the recovery of the amount of the said judgment.

Not to invalidate any security or legal recourse which Her Majesty may have for the recovery of such Judgment.

C A P . LXXXIV.

An Act to secure to, and confer upon Lewis Lyman, an inhabitant of this Province, the civil and political rights of a natural born British Subject.

[18th September, 1841.]

WHEREAS Lewis Lyman, of the Seigniorship of Beauharnois, Esquire, has by his humble Petition in that behalf, represented his desire of establishing his abode in this Province, and for the removal of the legal disabilities under which he labours, as an Alien, has prayed that he may be naturalized as a subject of Her Most Gracious Majesty : and whereas it seems meet and expedient that the prayer of the said Petition should be granted ; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the said Lewis Lyman, shall be deemed, adjudged and taken to be, and so far as respects his 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, privileges or appurtenances thereto belonging, or any interest therein, and in all other respects whatsoever, to have been a natural born British Subject of Her Majesty and of Her Royal Predecessors, to all intents, constructions and purposes whatsoever, as if he had been born within this Province : Provided always, that in order to entitle himself to the benefit of this Act, the said Lewis Lyman shall take and subscribe, before the Clerk of the Peace, for the District of Montreal, the Oath of Allegiance to Her Majesty, Her Heirs and Successors. and that such Oath

Preamble.

Lewis Lyman naturalized, and the rights of a natural born British Subject conferred on him within this Province.

so taken and subscribed, shall be kept by the said Clerk of the Peace, among the Records of his Office.

This Act to be
a public Act.

II. And be it enacted, that this Act shall be taken and declared to be a Public Act, and as such shall be judicially taken notice of by all Judges, Justices of the Peace, and all others whom it shall concern, without being specially pleaded.

C A P . LXXXV.

An Act to naturalize the Reverend William Sharts.

[18th September, 1841.]

Preamble.

WHEREAS the Lutherans of Williamsburgh and Osnabruck, in the Eastern District of this Province, have secured the services of the Reverend William Sharts, as the ordained Pastor of the Lutherans, whose Congregation numbers about five hundred and fifty persons, and have by their humble petition to the Legislature, stated that as the said Reverend William Sharts is a native of the United States of America, he is incapacitated by Law to perform some of the duties of his ministerial office in solemnizing the rite of Holy Matrimony, etc. and has resided in this Province about two years, thereby being unable to avail himself of the Laws now in force relative to Aliens; and have prayed that an Act may be passed to naturalize the said Reverend William Sharts: and whereas it is expedient to grant the said prayer; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the titles of the said Reverend William Sharts, or his heir or heirs, or either of them, respectively, to any real estate in this Province, shall not be impeached or held invalid, or such estate held liable to be resumed by Her Majesty, Her Heirs, or Successors on account of his being an Alien; but he shall be deemed, adjudged and taken, so far as respects his capacity at any time heretofore, or now, or hereafter, 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 be, and to have been a natural born subject

The Revd. William Sharts naturalized and the rights of a natural born British Subject conferred on him within this Province.

subject of Her Majesty, to all intents, constructions and purposes whatsoever as if he had been born in this Province.

II. And be it enacted, that so soon as the said Reverend William Sharts shall have taken and subscribed the oath hereinafter inserted, or, being of the persons allowed to affirm, have made the affirmation hereinafter mentioned, before some persons duly authorized to administer the oath contained in an Act of the Parliament of the late Province of Upper Canada, passed in the ninth year of His late Majesty's Reign, and intituled *An Act to secure and confer upon certain Inhabitants of this Province, the civil and political rights of natural born subjects*, he shall be, and is hereby, admitted and confirmed in all the privileges of British birth within this Province.

On taking
the following
oath.

III. And be it enacted, that the said Reverend William Sharts, shall take and subscribe the following oath or affirmation: "I, A. B. do sincerely promise and "swear," (or "affirm," as the case may be,) "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 dependent thereon: So help me God."

Oath.

IV. And be it enacted, that this Act shall be deemed and taken to be a public Act, and as such shall be judicially taken notice of by all Judges, Justices of the Peace, and all others whom it shall concern, without being specially pleaded.

This Act to be
a Public Act.

C A P. LXXXVI.

An Act to secure to, and confer upon Jacques Alexandre Tailhades, an inhabitant of this Province, the civil and political rights of a natural born British Subject.

[27th August, 1841.]

WHEREAS Jacques Alexandre Tailhades, residing in the City of Montreal, Gentleman, has by his humble Petition in that behalf represented his desire of establishing his abode in this Province, and for the removal of the legal disabilities under which he labours, as an Alien, has prayed that he may be naturalized as a subject of Her Most Gracious Majesty: and whereas it seems meet and expedient that the prayer of the said Petition should be granted; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act

Preamble.

Jacques Alexandre Tailhades naturalized, and the rights of a natural born British Subject conferred on him within this Province.

Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, that the said Jacques Alexandre Tailhades shall be deemed, adjudged and taken to be, and so far as respects his 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, privileges or appurtenances thereto belonging or any interest therein, and in all other respects whatsoever, to have been a natural born Subject of Her Majesty and of Her Royal Predecessors, to all intents, constructions and purposes whatsoever, as if he had been born within this Province: Provided always, that in order to entitle himself to the benefits of this Act, the said Jacques Alexandre Tailhades shall take and subscribe before the Clerk of the Peace for the District of Montreal, the Oath of Allegiance to Her Majesty, Her Heirs and Successors, and that such oath so taken and subscribed shall be kept by the said Clerk of the Peace among the Records of his Office.

This Act to be a public Act.

II. And be it enacted, that this Act shall be taken and deemed to be a public Act, and as such shall be judicially taken notice of by all Judges, Justices of the Peace, and all others whom it shall concern, without being specially pleaded.

C A P. LXXXVII.

An Act to empower certain Trustees therein mentioned, to convey a portion of a certain lot of land in the Township of Lochiel, in the Eastern District, to the Reverend John McIsaac.

[18th September, 1841.]

Preamble.

WHEREAS by Her Majesty's Letters Patent, under the Great Seal of the late Province of Upper Canada, bearing date the twenty-second day of January, in the year of our Lord, one thousand eight hundred and forty, Lot number twenty-nine in the sixth concession of the Township of Lochiel, in the Eastern District, was granted to Malcolm McGillivray, Roderic McLeod, Archibald McGillivray and John McPhee, Trustees of and acting for the Presbyterian Congregation of the said Township, and their heirs and successors, as such Trustees, in trust for the said Congregation; and whereas it appears from the petition addressed to the Legislature, by the said Trustees, that they were entitled only to the west half, or one hundred acres of the said lot, and that the east half or one hundred acres was bought

bought and paid for by the Reverend John McIsaac, the Clergyman in charge of the said Congregation, who alone had a right thereto, and the said Trustees have further prayed that they may be authorized to convey the said east half to the said Reverend John McIsaac, his heirs and assigns for ever : and whereas it is just and expedient to grant their prayer ; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that from and after the passing of this Act the said Trustees be empowered and authorized, and they or any two or more of them as such Trustees and on behalf of themselves, their heirs and successors in the said trust, are hereby empowered and authorized by deed of conveyance under their hands and seals, validly to convey in fee simple, the east half, or one hundred acres, of the said lot to the said John McIsaac, his heirs and assigns for ever, freed and discharged from the trusts in the said Letters Patent contained, any thing in the said Letters Patent to the contrary notwithstanding.

Certain
Trustees per-
mitted to trans-
fer a certain
lot in Lochiel
to Revd. J.
McIsaac.

PROVINCIAL STATUTES OF CANADA.

ENACTED by Her Most Excellent Majesty, our Sovereign Lady, VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, QUEEN, Defender of the Faith, &c., by and with the advice and consent of the Legislative Council and Assembly of the said Province, constituted and assembled by virtue of and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the Third and Fourth year of Her Majesty's Reign, intituled, "*An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada.*"

VOL. I. CONTINUED.
(Reserved Acts.)



KINGSTON :

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

Anno Domini, 1842.

PROVINCIAL STATUTES

OF

CANADA.

ANNO REGNI QUARTO ET QUINTO

VICTORIÆ,

DEI GRATIA, BRITANNIARUM REGINÆ.

HIS EXCELLENCY THE RIGHT HONORABLE

CHARLES, BARON SYDENHAM,

GOVERNOR GENERAL.

**Being the FIRST Session of the FIRST Provincial Parliament
of CANADA.**

(RESERVED ACTS

**To which the ROYAL ASSENT was subsequently promulgated by His Excellency
SIR CHARLES BAGOT, G. C. B. &c. &c. GOVERNOR GENERAL.)**



ANNO QUARTO & QUINTO

VICTORIÆ REGINÆ.

C A P. LXXXVIII.

An Act to regulate the Inspection of Beef and Pork.

18th September, 1841.—Presented for Her Majesty's Assent and reserved "for the signification of Her Majesty's pleasure thereon."
 19th March, 1842.—The Royal Assent signified by the Proclamation of His Excellency SIR CHARLES BAGOT, Governor General.

WHEREAS it is expedient that the regulations now in force in those parts of the Province formerly called Lower Canada and Upper Canada, respectively, with regard to the Curing, Packing and Inspection of Beef and Pork, should be consolidated—that one uniform Law should be enacted for the whole Province of Canada, and that the Inspection of the articles aforesaid, intended for exportation, should cease to be compulsory, but should be optional to the parties interested: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-write the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that a certain Act of the Legislature of the late Province of Lower Canada, passed in the forty fourth year of the Reign of His late Majesty King George the Third, and intituled *An Act to regulate the Curing, Packing and Inspecting of Beef and Pork to be exported from the Province of Lower Canada*, and the Ordinance of the Legislature of the said late Province, passed in the second year of Her Majesty's Reign, and intituled *An Ordinance to regulate the Curing, Packing and Inspection of Beef and Pork intended for exportation*, suspending the said Act, and also an Act of the Legislature of the late Province of Upper Canada, passed in the forty fifth year of the Reign of his said late Majesty King

Preamble.

Act of L. C.
44 Geo. 3. c. 9.

Ordinance 2.
Vict. c. 15.

Act of U. C.
45 Geo. 3. c.

Act of U. C.
3 Vict. c. 23.

The said Acts
and all other
laws regulating
the inspection
of Beef and
Pork, repealed.

King George the Third, and intituled *An Act to regulate the Curing, Packing and Inspection of Beef and Pork*, and also an Act of the said Legislature, passed in the third year of the Reign of Her present Majesty, and intituled *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,'* and all other Acts or parts of any Acts relating in any manner to the Packing, Curing or Inspecting of Beef and Pork, or the remuneration of the Inspectors thereof, immediately before the passing of this Act in force in this Province, or in any part thereof, shall be and each of them, and every part thereof is hereby repealed; and all and every the powers vested by them or any of them, or under any authority conferred by them or any of them, in any person or persons whomsoever, shall cease and determine.

Boards of Ex-
aminers how
appointed.

II. And be it enacted, that from and after the passing of this Act, it shall be lawful for the Board of Trade in the Cities of Quebec, Montreal and Toronto, and in the Town of Kingston, respectively, and for the Municipal authorities in other places where Inspectors may be required for the purposes of this Act, to appoint a Board of Examiners of applicants for the office of Inspector of Beef and Pork, and from time to time to remove such Examiners and appoint others in their stead; and such Board of Examiners shall in the Cities of Quebec and Montreal, respectively, consist of five, and in other places of three fit, proper and skilful persons, resident in the place or in the immediate vicinity of the place for which they are respectively to act; and such Examiners shall before acting as such, severally take and subscribe the following oath, before any one of Her Majesty's Justices assigned to keep the Peace within the District in which such Examiners shall respectively reside, and such Justice is hereby required and authorized to administer the same: "I, A. B. do swear, that I will not, directly or indirectly, personally or by means of any person or persons in my behalf, receive any fee, reward or gratuity whatever by reason of any function of my office of Examiner, and that I will therein, well and truly in all things, act without partiality, favor or affection and to the best of my knowledge and understanding. So help me God."

Oath to be
taken by the
members.

Inspectors
how to be ap-
pointed.

III. And be it enacted, that the Mayor of the said City of Quebec Montreal or Toronto, or of the Town of Kingston, respectively, for the time being, and the Warden or chief municipal Officer of any other place as aforesaid for the time being, shall and may, from time to time, by an instrument under his hand and the seal of the Corporation, nominate and appoint an Inspector of Beef and Pork for each of the said Cities, Town, or other places as aforesaid, and may from time to time, remove any such Inspector and appoint another in his stead; but no person shall be appointed as such Inspector who shall not previously to his appointment

Must be ex-
amined.

ment as such, have undergone an Examination before the Board of Examiners for the place for which he shall be so appointed, as to fitness, character and capacity in the manner hereinafter provided; nor shall any person be so appointed as Inspector of Beef and Pork, unless approved of and recommended as such by the Board of Examiners, or a majority of them, pursuant to such examination; nor in any place in which there shall be a Board of Trade, except on the requisition of such Board, with which the Mayor or chief municipal Officer shall be bound to comply; and before any Inspector shall act as such, he shall furnish two good and sufficient sureties, jointly and severally with himself, for the due performance of the duties of his office, in the sum of five hundred pounds, currency, if such Inspector be appointed for the City of Quebec or for the City of Montreal, and in the sum of two hundred and fifty pounds, currency, if such Inspector be appointed for the City of Toronto, or for the Town of Kingston, or for any other place for which an Inspector may be appointed; and such sureties shall be approved by the Mayor, or Warden, or other chief municipal Authority by whom such Inspector shall have been appointed, and a Bond shall be executed to Her Majesty, her Heirs and Successors in the form used with regard to the sureties of persons appointed to offices of trust in this Province; and such Bond shall avail to the Crown and to all persons whomsoever who shall or may be aggrieved by any breach of the conditions thereof, and no such Inspector shall allow any person whomsoever to act for him about the duties of his office, excepting only his sworn assistant or assistants to be appointed in the manner hereinafter provided.

And approved
by the Board
of Examiners.

To furnish
security.

Amount.

How given.

To whom
such security
shall avail.

IV. And be it enacted, that the Bond or suretyship which shall be made or executed by such Inspector and his sureties, by virtue of this Act, shall be made and shall be kept at the office of the Clerk of the Corporation of the City or Town, or place for which such Inspector shall be appointed; and every person shall be entitled to have communication and copy of any such Bond or Suretyship at such Clerk's office upon payment of one shilling, currency, for each communication, and of two shillings and six pence, currency, for each copy.

Where the
Bond shall be
kept.

V. Provided always and be it enacted, that the Board of Examiners to be constituted as aforesaid, shall be, and they are hereby authorized and required, before proceeding to the Examination of any person who may be hereafter desirous of being appointed an Inspector of Beef and Pork as aforesaid, to require the attendance of two or more persons of the greatest experience and practice in the Packing, Curing and Inspection of Beef and Pork, or of the fullest knowledge of Beef and Pork as to quality and packing; and the said Board in their discretion are also hereby further authorized to permit any other person or persons to be also present at such examination; and each and every of the said persons so required

Board of exam-
iners shall be
assisted at the
examination by
competent per-
sons.

Or

or permitted to attend, may, in the presence of the said Board, propose questions to the person under examination, touching and respecting his knowledge as to quality, packing and curing of and other matters relating to, or connected with the Inspection of Beef and Pork.

Inspectors to
take oath of
office.

The oath.

Oath how re-
corded.

VI. And be it enacted, that each person, examined, approved and recommended as aforesaid, shall, if appointed an Inspector of Beef and Pork, before he shall act as such, take and subscribe an oath before the Mayor, Warden or chief municipal Officer of the place for which he shall be appointed (which Mayor, Warden or chief municipal Officer is hereby required and authorized to administer the same,) in the words following, to wit: "I, A. B. do solemnly swear, " that I will faithfully, truly and impartially, to the best of my judgment, skill " and understanding, do and perform the office of an Inspector of Beef and Pork, " according to the true intent and meaning of an Act of the Legislature of this " Province, intituled '*An Act to regulate the Inspection of Beef and Pork*'; and that I " will not, directly or indirectly, by myself or by any other person or persons whom- " soever, trade or deal in Beef or Pork of any description, otherwise than for the " use and consumption of my own family, during the time I shall continue such In- " spector; and that I will not, directly or indirectly, brand or suffer to be branded " any cask or half cask of Beef or Pork but such as shall be sound and good and " of the quality designated by such brand, and with regard to which all the other " requirements of the said Act shall have been complied with, to the best of my " knowledge, So help me God." Which oath shall be recorded in the office of the Clerk of the Corporation of the City, Town, or place where the same shall be taken; and for recording such oath, and for a certificate thereof, the Clerk shall be entitled to demand and have the sum of two shillings and six pence, currency, and no more, and shall give communication of the original to any person who shall apply for the same, on payment of one shilling, currency, for each such communication, and two shillings and six pence for each Copy.

Inspectors at
present in of-
fice.

VII. Provided always and be it enacted, that any person who at the time this Act shall come into force shall hold the Office of Inspector of Beef and Pork for any place in this Province, shall on his application to that effect immediately after the said time be reappointed as Inspector under this Act by the Mayor or chief municipal Officer of the place in which he shall have acted as Inspector without any new examination or any intervention of the Board of Trade, anything in the foregoing Sections of this Act, to the contrary notwithstanding; but shall after such reappointment be removable and shall give security, and shall be bound by all the other provisions of this Act in the same manner as other Inspectors appointed under the authority thereof. -

VIII.

VIII. And be it enacted, that the Inspector of Beef and Pork for the City of Quebec, and the Inspector for the City of Montreal, shall and may appoint one or as many more Assistants as he shall, from time to time, be required to appoint by the Board of Trade of the City for which he is appointed, for the acts of which Assistants he shall be and is hereby declared to be responsible; and shall be bound to increase, the number of such Assistants from time to time, on a requisition in writing to that effect from the Board of Trade, and may diminish the same with the permission of the said Board; and each such Assistant shall be subject to the approval of the said Board of Examiners, and skilful persons sitting with them, in the manner hereinbefore provided for the examination of Inspectors, and before entering upon the duties of his office, shall furnish two good and sufficient sureties to Her Majesty, in the sum of two hundred and fifty pounds, currency, for the due performance of his duties, by a Bond to be taken, made, recorded, kept and delivered in the manner provided with regard to the Bonds given by Inspectors; and shall take and subscribe the following Oath, before the Mayor of the City for which he shall be appointed, who is hereby authorized and required to administer the same: "I, A. B. do swear, that I will diligently, faithfully and impartially execute the office of Assistant to the Inspector of Beef and Pork for _____ according to the true intent and meaning of an Act of the Legislature of this Province, intituled '*An Act to regulate the inspection of Beef and Pork,*' and that I will not, directly or indirectly, personally or by means of any person or persons in my behalf, receive any fee, reward or gratuity whatever: by reason of my Office of Assistant to the said Inspector (except my salary from the said Inspector,) and that I will not, directly nor indirectly, trade in the articles of Beef or Pork, or be, in any manner, concerned in the purchase or sale of Beef and Pork, except so far as may be necessary for myself and family:— "So help me God:" and such bond shall be in duplicate, and one part thereof shall be delivered to the Inspector and the other part thereof, as also the said Oath, shall remain in the office of the Corporation of the City in which the same shall be taken for the same purposes, and in all cases subject to the same regulations as to communication and copy, as is provided with regard to the Bond and Oath of the Inspector.

Inspectors in Quebec and Montreal to appoint Assistants.

Assistants to be examined.

And to give security.

And to take an oath.

The oath.

Where the Oath and Bond shall be kept.

IX. And be it enacted, that the said Assistants shall respectively be paid by, and shall hold their offices at the pleasure of the Inspector, and may be removed or re-instated or others may be appointed in their stead by such Inspector.

Assistants to hold office at the pleasure of the Inspector.

X. And be it enacted, that the Inspectors and Assistant Inspectors so to be nominated and appointed are severally hereby authorized and required to cut up, salt, pack and cure, or if already packed, to unpack and examine throughout, adding salt, if necessary, and coopering up the same in the proper manner according to the requirements

Certain duties of Inspectors called upon to inspect Beef or Pork.

Proviso. requirements of this Act, each and every barrel or half barrel, tierce or half tierce of Beef and Pork submitted to them for Inspection : Provided always, that such Inspection may be made either at the store, shop or warehouse of such Inspector, (which he is hereby required to keep in a convenient situation for that purpose,) or at some store within the limits of the City, Town or Place for which he may have been appointed, at the option of the proprietor or possessor of such Beef or Pork, by whom it shall have been submitted for inspection.

Inspectors to have brands.

XI. And be it enacted, that each Inspector and Assistant Inspector shall provide and have, as aforesaid, a sufficient number of iron or other metal brands for his use, wherewith he shall brand or cause to be branded, immediately after inspection on each and every barrel or half barrel, tierce or half tierce of Beef or Pork, the words "Quebec" "Montreal" "Toronto" or "Kingston" or the name of the place for which he may be appointed, as the case may be, and the initial, of the Christian name, and the surname at full length of the Inspector, with the quality thereof as hereinafter directed ; and each and every barrel or half barrel, tierce or half tierce of Pork or Beef, which may on inspection be found to be soft or still fed, although it may be in all other respects fat and of good quality, shall be branded by the Inspector or Assistant Inspector with the word "Soft" in letters as large as those upon the rest of the brand, in addition to the brand designating the quality ; and in all cases where Beef and Pork shall be found to be of unsound and unmerchantable quality, arising from other causes, the Inspector or Assistant Inspector shall brand or cause the same to be branded with the word "Rejected" at full length and in plain legible characters : and in all cases where Beef or Pork may appear inferior to the mark of the packer or of any former Inspector, it shall be the duty of the Inspector or Assistant Inspector, and he is hereby authorized and required, to erase and correct the same ; and the Inspector or Assistant Inspector shall also brand on each barrel or half barrel, tierce or half tierce of Pork or Beef so inspected by him, the month and year in which it was inspected : and for such inspection and branding the said Inspectors, respectively, shall be entitled to receive of and from the person who may have submitted the same for inspection, for each and every barrel and half barrel, tierce or half tierce, respectively, of Beef or Pork so inspected, salted, packed, pickled and branded, the sum of one shilling, currency, for each barrel, and seven pence half penny, currency, for each half barrel, the sum of one shilling and six pence for each tierce, and the sum of eleven pence for each half tierce, exclusive of cooperage and repairs, the charge, for which said cooperage and repairs shall not exceed six pence per barrel or half barrel, tierce or half tierce and in consideration of which all barrels or half barrels, tierces or half tierces shall be delivered in good shipping order ; and such fee or allowance shall be paid by the owner or consignee of such Beef or Pork before it shall be

Soft or still-fed Beef or Pork.

Rejected Beef or Pork.

Date of inspection to be marked.

Fees to Inspector.

Cooperage.

Bills of inspection.

be

be removed; and as soon as any Beef or Pork shall be inspected, a certificate or bill of Inspection shall be furnished by the Inspector or Assistant Inspector, without fee or reward, specifying neatly and legibly the quantity of Beef or Pork so delivered to him and the owner's mark or marks thereon, and the quantities and qualities ascertained by inspection, and the charges thereof: and if any Inspector or Assistant Inspector shall, knowingly and wilfully, give an untrue or incorrect certificate of the quantity or quality of any Beef or Pork by him inspected, or shall give such certificate without a personal examination and inspection of such Pork or Beef, he shall thereby incur a penalty of twenty pounds, currency, for each offence, and be dismissed from his office and declared incapable of ever after following the same: Provided always, that no Beef or Pork which shall have been so branded and inspected in one month or year, and re-inspected and repacked in another, shall bear any other brand of the year and month than that originally affixed to it; and all the said brand marks shall be branded on one head of the barrel or half barrel, tierce or half tierce: Provided always, that in all cases where any Beef or Pork shall have been sold subject to inspection, the person applying to the Inspector to have the same inspected shall be entitled to reimbursement of the price of inspection from the vendor, if such applicant be not himself the vendor, or unless an express stipulation to the contrary shall have been made at the time of sale, or of the agreement to submit the Beef or Pork to inspection: Provided also that any such agreement shall imply a warranty that all the requirements of this Act have been complied with, as well with regard to the provisions to which it relates, as to the vessels in which they are contained, and the marks upon such vessels.

Penalty for giving false Bills of inspection.

Proviso as to Beef or Pork re-inspected.

Who shall pay inspection charges.

XII. And be it enacted, that all such brand marks as aforesaid, shall be large and legible, and it shall be the duty of each and every Inspector of Beef and Pork to govern himself, so far as may be possible, by one uniform standard of quality for each description of Beef and Pork, and such Inspectors are hereby required to brand all marks required by law upon barrels or half barrels, tierces or half tierces of Beef or Pork, within a space not exceeding fourteen inches long by eight inches broad on each of the casks inspected by them, under a penalty of twenty pounds, currency, for each barrel or half barrel, tierce or half tierce inspected and not branded, or otherwise branded than is required by this Act.

Mode of branding.

XIII. And be it enacted, that no Inspector of Beef and Pork shall, when he shall inspect any Beef or Pork, at the store hereinbefore required to be kept by him for the purpose, charge any storage thereon, unless the same shall have been left in his store more than three days after he shall have delivered to the proprietor or consignee thereof a notice of the same having been inspected, or have delivered an inspection bill thereof to such proprietor or consignee.

When the Inspector may not charge storage.

XIV.

Provisions in charge of an Inspector not to be left exposed.

XIV. And be it enacted, that no Inspector of Beef or Pork shall suffer the same, if left in his charge after it shall have been inspected, to be exposed to the heat of the sun or inclemency of the weather longer than six days, under the penalty of ten pounds, currency, for every such offence; and every Inspector who shall neglect to provide a suitable store in a convenient situation, shall upon complaint being made of the same, and after conviction, incur a penalty of twenty shillings per day for every day he shall have neglected to provide himself with such store after his appointment as Inspector.

Who shall furnish salt, barrels, &c. if needed.

XV. And be it enacted, that nothing in this Act shall be construed to extend to prevent any Inspector of Beef and Pork appointed under this Act, from furnishing salt, saltpetre or barrels or half barrels, tierces or half tierces, if necessary, but it shall be optional with the proprietor or consignee of such Beef or Pork, to furnish such salt, saltpetre, barrels or half barrels tierces or half tierces himself, should he see fit, whether the same be for new packing or to replace unsound, old packages or bad salt, and whether the same be at the stores of the Inspector or of such proprietor or consignee.

Disputes between any Inspector and the owner or provisions inspected how to be decided.

XVI. And be it enacted, that if any dispute shall arise between any Inspector or Assistant Inspector to be appointed by virtue of this Act, and the proprietor or possessor of any Beef or Pork by him inspected, with regard to the quality and condition thereof, or relating in any respect to the same, then upon application, by either of the parties in difference, to any one of Her Majesty's Justices of the Peace for the District in which such Inspector or Assistant Inspector shall reside, the said Justice of the Peace shall issue a summons to three persons of skill and integrity, one of whom shall be named by the Inspector or Assistant Inspector, another by the proprietor or possessor of the Beef or Pork, and the third by the said Justice of the Peace, (who failing the attendance of either of the parties in difference is hereby authorized and required to name for him) requiring the said three persons immediately to examine the said Beef and Pork and report their opinion of the quality and condition thereof under oath, (which oath the said Justice of the Peace is hereby authorized and required to administer) and their determination or that of a majority of them made in writing shall be final and conclusive, whether approving or disapproving the Judgment of the Inspector or Assistant Inspector, who shall immediately attend to and conform himself thereto, and brand or cause to be branded each and every barrel or half barrel, tierce or half tierce of the qualities or condition directed by the determination aforesaid: and if the opinion of the Inspector or Assistant Inspector be thereby confirmed, the reasonable costs and charges of re-examination (to be ascertained and awarded by the said Justice of the Peace,) shall be paid by the said proprietor or possessor of the Beef or Pork, if otherwise, by the Inspector or Assistant Inspector.

Costs.

XVII.

XVII. And be it enacted, that if any Inspector or Assistant Inspector, so to be nominated or appointed shall refuse or neglect, on application to him made, personally or by writing, left at his dwelling house, store, office, or warehouse on any lawful day between sunrise and sunset, by any proprietor or possessor of Beef or Pork (such Inspector or Assistant Inspector not being at the time of such application employed in inspecting Beef or Pork elsewhere) immediately, or within two hours thereafter, to proceed to such inspection, he shall, for every such neglect or refusal, forfeit and pay to such person so applying, on conviction thereof before any one Justice of the Peace, on the oath of one credible witness, other than the informer, the sum of five pounds, currency, over and above all the damages occasioned by such refusal or neglect, to the party complaining.

Penalty on Inspector refusing to act when called upon.

XVIII. And be it enacted, that on the head of any barrel or half barrel, tierce or half tierce containing any thin, rusty, measley, tainted, sour or unmerchantable Pork, or unmerchantable or spoiled Beef, branded "Rejected" in consequence of its being so, the true character both as to quality and condition of such Pork or Beef shall also be marked with black paint; and it shall be the duty of each Inspector, appointed under this Act, to certify, whenever required, the quality of any Beef or Pork by him inspected, the state and condition thereof, and the packages containing the same, specifying the extent of damage appearing on inspection, and the apparent cause thereof, whether by exposure, injury in transportation or from the original packing or putting up of such Beef or Pork, and also specifying the brands, or other marks, upon the casks or packages inspected, and the name of the owner or possessor thereof.

How rejected Provisions shall be marked.

XIX. And be it enacted, that from and after the passing of this Act, each and every barrel and half barrel, tierce or half tierce containing Beef and Pork inspected in this Province, shall be made of good seasoned white oak staves, and the heads not less than three quarters of an inch thick, and each stave on each edge at the bilge shall not be less than half an inch thick when finished for barrels, nor less than three quarters of an inch thick when finished for tierces, and the wood of half barrels, or of half tierces shall be in the same proportion to their size, and shall in both cases, be free from every defect: each barrel and half barrel, tierce or half tierce shall be hooped and covered two thirds of the length with good oak, ash, or hickory hoops, leaving one third in the centre uncovered: and each barrel, or half barrel tierce or half tierce shall be bored in the center of the bilge with a bit of not less in diameter than one inch, for the reception of pickle; each barrel shall be not less than twenty seven inches, nor more than twenty eight inches and a half long, and the contents of each barrel in which Beef shall be packed or re-packed shall not be less than twenty eight gallons, nor more than twenty nine gallons, wine measure, and the contents of each barrel

Materials, size and construction of Barrels, &c. used for packing Beef or Pork.

barrel in which Pork shall be packed or re-packed shall not be less than thirty gallons nor exceed thirty one gallons, wine measure, each tierce shall not be less than thirty inches, nor more than thirty one inches long; and the contents of each tierce in which Beef shall be packed or re-packed, shall not be less than forty four gallons, nor exceed forty five gallons, wine measure; and the contents of each tierce in which Pork shall be packed or re-packed shall not be less than forty five gallons, nor exceed forty six gallons, wine measure, and half barrels or half tierces in which Beef and Pork shall be packed and re-packed shall severally contain half the number of gallons above mentioned, and no more, and it shall be the duty of the Inspector or Inspectors appointed under this Act to examine carefully and ascertain the sufficiency of each barrel, and half barrel, tierce or half tierce before branding the same, and to brand none with regard to which the requirements of this Act have not been complied with.

No others to be branded by Inspectors.

What salt, &c. shall be used in packing Beef and Pork.

XX. And be it enacted, that the salt which shall be used in the packing and re-packing of Beef and Pork inspected and branded under the authority of this Act, shall be clean St. Ubes, Isle of May, Lisbon, Turks Island, or other coarse grained salt of equal quality: and every barrel of fresh Beef or Pork shall be well salted with seventy five pounds, and every tierce with one hundred and twelve pounds, of good salt, as aforesaid, exclusive of a sufficient quantity of pickle as strong as salt will make it; and to each barrel of Beef and Pork shall be added four ounces, and to each tierce six ounces, of saltpetre; and each half barrel, or half tierce of fresh Beef and fresh Pork shall be salted with half the quantity of salt and saltpetre above mentioned, with a sufficiency of pickle; and in all cases of packing and re-packing Beef and Pork to be inspected and branded under the authority of this Act, the Inspector is hereby authorized to use salt, saltpetre and pickle in his discretion.

How Beef subjected to inspection shall be classed.

Mess Beef.

Prime Mess Beef.

XXI. And be it enacted, that all Beef which an Inspector shall find on examination to have been killed at a proper age and to be fat and merchantable, shall be cut into pieces as nearly square as may be, not more than eight nor less than four pounds weight, and shall be sorted and divided for packing and re-packing in barrels, half barrels tierces and half tierces into four different sorts, to be denominated respectively, "Mess," "Prime Mess," "Prime" and "Cargo Beef:" Mess Beef shall consist of the choicest pieces only, that is to say, Briskets, the thick of the Flank, Ribs, Rumps and Sirloins of Oxen, Cows or Steers, well fatted; and each barrel or half barrel, tierce or half tierce containing Beef of this description shall be branded on one of the heads with the words "*Mess Beef*:"—Prime Mess Beef, shall consist of pieces of meat of the second class, from good fat cattle, without shanks or necks; and barrels and half barrels, tierces and half tierces containing Beef of this description shall be branded on one of the heads thereof, with the words

words "*Prime Mess Beef*."—Prime Beef shall consist of choice pieces of fat cattle, amongst which there shall not be more than the coarse pieces of one side of a carcase, the houghs and neck being cut off above the first joint; and barrels and half barrels tierces and half tierces containing Beef of this description shall be branded on one of the heads with the words "*Prime Beef*."—Cargo Beef shall consist of the meat of fat cattle of all descriptions of three years old and upwards, with not more than half a neck and three shanks (with the houghs cut off above the first joint,) and the meat otherwise merchantable; and barrels and half barrels, tierces and half tierces containing such Beef shall be branded on one of the heads "*Cargo Beef*."—and each barrel in which Beef of either of the foregoing descriptions shall be packed or re-packed, shall contain two hundred pounds of Beef, and each half barrel one hundred pounds, each tierce three hundred pounds, and each half tierce one hundred and fifty pounds.

Prime Beef.

Cargo Beef.

Weight of
meat in each
Barrel.

XXII. And be it enacted, that all Pork which an Inspector shall find, on examination, to be fat and merchantable, shall be cut in pieces as nearly square as may be, and not exceeding six nor less than four pounds weight, and shall be sorted and divided into four different sorts, to be denominated respectively: "*Mess*," "*Prime Mess*," "*Prime*," and "*Cargo Pork*"; Mess Pork shall consist of the rib pieces only, of good hogs not weighing less than two hundred pounds each, and barrels and half barrels, tierces and half tierces containing such Pork, shall be branded on one of the heads, "*Mess Pork*"; Prime Mess Pork shall consist of the pieces of good fat hogs not weighing less than one hundred and ninety pounds each, the barrel to contain the coarse pieces of one hog only, that is to say, two half heads, (not exceeding together sixteen pounds in weight) with two shoulders and two hams and the remaining pieces of a hog, the tierce to contain the relative proportion of heads, shoulders and hams, and the remaining pieces of one hog and a half hog; and barrels and half barrels, tierces and half tierces, containing Pork of this description shall be branded on one of the heads "*Prime Mess Pork*."—Prime Pork shall consist of the pieces of good fat hogs, not weighing less than one hundred and fifty pounds each, the barrel to contain the coarse pieces of one hog and a half only; that is to say: three half heads, (not exceeding together twenty four pounds in weight,) three hams and three shoulders, and the remaining pieces of a hog, and a half hog, the tierce to contain the relative proportions of heads, shoulders and hams, and the remaining pieces of two hogs and a quarter of a hog; and each barrel or half barrel, tierce or half tierce containing Pork of this description shall be branded on one of the heads "*Prime Pork*."—Cargo Pork shall consist of the pieces of fat hogs, weighing not less than one hundred pounds each, the barrel to contain the coarse pieces of not more than two hogs, that is to say: four half heads, (not exceeding together in weight thirty pounds,) four shoulders and four hams, and the remaining pieces of

How Pork
subjected to
inspection shall
be classed.

Mess Pork.

Prime Mess
Pork.

Prime Pork.

Cargo Pork.

of

of two hogs, and shall be otherwise merchantable Pork, the tierce to contain the relative proportions of heads, shoulders and hams and the remaining pieces of three hogs; and the barrels and half barrels, tierces and half tierces containing Pork of this description shall be branded on one of the heads, "Cargo Pork," but in all cases the following parts shall be cut off, and not packed, namely, the ears close to the head, the snout above the tusks, the legs above the knee joint, the tail shall also be cut off, and the brains, tongue and bloody grizzle taken out: 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 tierce three hundred pounds, and each half barrel or half tierce one half those quantities, respectively, of the several kinds and qualities of Pork as aforesaid, and shall be branded accordingly.

Certain parts to be left out in all cases.

Weight of meat in each Barrel.

Inspectors or assistants not to deal in Beef or Pork.

XXIII. And be it enacted, that no Inspector or Assistant Inspector of Beef and Pork shall directly or indirectly trade or deal in Beef or Pork, or be concerned in such trade whether by buying, bartering or exchanging any live or dead cattle or hogs, with a view to pack the same or get them packed, or by buying, bartering or exchanging Beef or Pork when packed, nor shall he purchase Beef or Pork of any description, otherwise than for the use and consumption of his family, under a penalty of fifty pounds, current money of this Province, for each and every offence, and on pain of being removed from office.

Penalty on persons fraudulently erasing, altering brands or marks; &c.

XXIV. And be it enacted, that if any packer of Beef or Pork or any other person or persons whomsoever shall, with a fraudulent view, or intention, efface or cause to be effaced or obliterated from any barrel or half barrel tierce or half tierce of Beef and Pork having undergone inspection, all or any of the Inspector's brand marks, or shall counterfeit any such mark or marks, or impress or brand the same on any barrel or half barrel tierce or half tierce of Pork or Beef, or shall empty or partially empty any barrel or half barrel, tierce or half tierce of Pork or Beef branded after inspection, in order to put into the same other Beef or Pork, or shall use for the purpose of packing any Beef or Pork, old barrels or half barrels, tierces or half tierces without destroying the old brand marks before offering the same for sale or exportation, or, not being an Inspector or Assistant Inspector, shall brand any Pork or Beef with the Inspector's brand marks, such person so offending shall, for every such offence, incur a penalty of fifty pounds, currency; and any Inspector or Assistant Inspector who shall inspect or brand any Beef or Pork, out of the limits for which he shall be appointed, or shall hire out his brands to any person whomsoever, or shall connive at or be privy to any fraudulent evasion of inspection of Beef and Pork by others, shall for every such offence, incur a penalty of fifty pounds currency.

XXV.

XXV. And be it enacted, that nothing herein contained shall be construed to prevent any person from packing for exportation or from exporting any Beef or Pork without inspection, provided such Beef or Pork be packed in tierces or half tierces, barrels or half barrels of the dimensions herein before prescribed for such vessels, respectively, and be marked with black paint or branded on one end thereof with the name and address of the packer, the date and place of packing, the weight and the quality of the provisions contained in each package, nor shall any thing herein contained prevent any person from packing for exportation or from exporting without inspection any Rounds of Beef, Rounds and Briskets of Beef, the meat of young pigs called pig Pork, the tongues of neat cattle, the tongues of pigs, hams of pigs or pig's cheeks, or any smoked or dried meat of any description contained in tubs, casks, or barrels or other packages of any kind, provided each package be marked in the manner above mentioned; but each and every person who shall export any meat of the kind last mentioned not so marked, as aforesaid, or Beef or Pork of any other kind not so marked or not packed in barrels or half barrels, tierces or half tierces of the dimensions herein before prescribed, shall thereby incur a penalty of twenty shillings, currency, for each and every barrel or half barrel, tierce or half tierce, tub, cask or other package with regard to which the provisions of this section shall be contravened, and such penalty shall be recovered and applied in the manner provided with regard to the other penalties imposed by this Act.

Barrels &c.
to have certain
marks.

XXVI. And be it enacted, that all fines, penalties and forfeitures imposed by this Act, not exceeding ten pounds sterling, shall be recoverable, with costs, in a summary way before any two of Her Majesty's Justices of the Peace of the District, and may in default of payment, be levied by warrant of distress, to be issued by such Justices, against the goods and chattels of the offender, and when the same shall exceed the sum of ten pounds sterling, they shall be sued for and recovered by Civil Action before any Court of competent jurisdiction, and levied by execution as in the case of debt: and one moiety of all such fines and forfeitures (except such as herein before directed to be otherwise applied) when recovered, shall be immediately paid into the hands of the Treasurer of the City, Town or Place wherein the suit, action or prosecution shall have been brought, and shall remain at the disposal of the Corporation of the City, Town or Place, respectively, for the public uses thereof, and the other moiety shall belong to the person who shall sue for the same, unless the action be brought by any Officer of such Corporation, in which case the whole shall belong to the Corporation for the uses aforesaid.

Penalties how
recovered and
applied.

XXVII. And be it enacted, that if any action or suit shall be commenced against any person or persons for any thing done in pursuance of this Act, or contrary

Limitation
of actions.

trary to the directions thereof, such action or suit shall be commenced within six calendar months next after the matter or thing done or omitted to be done, and not afterwards, and the defendant 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 that the same was done in pursuance and by the authority of this Act; and if it shall appear so to have been done, then the Judgment shall be 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.

Treble costs.

Act. to commence 1st. Jan. 1842.

XXVIII. And be it enacted, that the foregoing enactments of this Act shall have force and effect upon, from and after the first day of January, in the year of our Lord one thousand eight hundred and forty two and not before.

To cease 1st. Jan. 1843.

XXIX. And be it enacted, this Act shall continue in force until the first day of January, in the year of our Lord one thousand eight hundred and forty eight, and to the end of the next Session of the Provincial Parliament, and no longer.

C A P. LXXXIX.

An Act to regulate the Inspection of Flour and Meal.

18th September, 1841.—Presented for Her Majesty's Assent and reserved "for the signification of Her Majesty's pleasure thereon."

19th March, 1842.—The Royal Assent signified by the Proclamation of His Excellency SIR CHARLES BAGOT, Governor General.

Preamble.

WHEREAS it is expedient, that the regulations now in force in the different Sections of the Province with regard to the packing and Inspection of flour and Indian Meal, should be repealed, and one uniform Law enacted for the whole Province, and that the Inspection of the articles aforesaid, intended for exportation, shall cease to be compulsory and be left optional with the parties interested: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada and for the Government of Canada*, and it is hereby enacted by the authority of the same, that from and after the passing of this Act, a certain Ordinance of the Legislative Council of the Province of Quebec, passed in the twenty-fifth year of the Reign of His late Majesty King George the Third, and intituled *An Ordinance to prevent the exportation of unmerchantable Flour, and the false taring of Bread and Flour Casks, to regulate the packing and Inspection of Flour, and*
Indian

Indian Meal, and to provide for ascertaining the quality of Biscuit in future, and a certain Act of the Legislature of Lower Canada, passed in the forty sixth year of the Reign of His late Majesty King George the Third, intituled An Act to repeal an Ordinance made and passed in the twenty fifth year of His Majesty's Reign, intituled 'An Ordinance to prevent the exportation of unmerchantable Flour and the false taring of Bread and Flour Casks, to regulate the packing and Inspection of Flour and Indian Meal, and to provide for ascertaining the quality of Biscuit in future', and a certain other Act of the same Legislature, passed in the fifty eighth year of the Reign of His late Majesty King George the Third, intituled An Act to amend an Act passed in the forty sixth year of His Majesty's Reign, intituled An Act to repeal an Ordinance made and passed in the twenty fifth year of His Majesty's Reign, intituled 'An Ordinance to prevent the exportation of unmerchantable Flour and the false taring of bread and Flour Casks, to regulate the packing and Inspection of Flour and Indian Meal, and to provide for ascertaining the quality of Biscuit in future,' and a certain other Act of the said Legislature, passed in the second year of the Reign of His Majesty King George the Fourth, intituled An Act to provide for the better Inspection of Flour, and a certain Ordinance of the Governor and Special Council of Lower Canada, passed in the second year of the Reign of Her present Majesty, and intituled An Ordinance to suspend certain Acts therein mentioned, and to regulate in a better manner the packing and Inspection of Flour and Indian Meal, and a certain Act of the Legislature of the Province of Upper Canada passed in the forty first year of the Reign of His Majesty King George the Third, 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, and a certain other Act of the said Legislature, passed in the sixtieth year of the Reign of His Majesty King George the Third, intituled 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 authorize the Governor, Lieutenant Governor or Person administering the Government to appoint Inspectors of Flour, Pot and Pearl Ashes within this Province, and all other Acts or parts of Acts or Laws in force within this Province, or any part thereof, and relating in any manner to the packing, branding, inspecting or exportation of Flour and Indian Meal, or to the appointment, powers or remuneration of the Inspectors thereof, shall be and each of them, and every part thereof, is and are hereby repealed, and all and every the powers vested by them or any of them or under any authority conferred by them or any of them, in any person or persons whomsoever shall cease and determine.

Certain Acts
repealed.

II. And be it enacted, that from and after the passing of this Act, it shall be lawful for the Board of Trade in the Cities of Quebec, Montreal and Toronto and in the Town of Kingston, respectively, and for the municipal authorities in other places where Inspectors may be required for the purposes of this Act, to appoint a Board

Boards of
Examiners.

of

of Examiners of applicants for the Office of Inspector of Flour and Meal, and from time to time to remove such Examiners and appoint others in their stead ; and such Board of Examiners shall in the Cities of Quebec and Montreal, respectively, consist of five, and in other places of three fit, proper and skilful persons resident in the place or in the immediate vicinity of the place, for which they are respectively, to act ; and such Examiners shall before acting as such, severally take and subscribe the following Oath, before any one of Her Majesty's Justices assigned to keep the Peace, within the District, in which such Examiners are respectively to act ; and such Justice is hereby required and authorized to administer the same, " I. A. B. do swear, that I will not directly or indirectly, personally or by means of any person or persons on my behalf receive any fee, reward, or gratuity whatever by reason of any function of my Office as Examiner, and that I will therein well and truly in all things act without partiality, favour or affection, and to the best of my knowledge and understanding—So help me God."

Oath.

Inspector of
Flour and
Meal:

III. And be it enacted, that the Mayor of the said Cities of Quebec, Montreal and Toronto, or of the Town of Kingston, respectively, and the Warden or Chief Municipal Officer of any other place as aforesaid, for the time being shall and may from time to time, by an instrument under his hand and the Seal of the Corporation, nominate and appoint an Inspector of Flour and Meal, for each of the said Cities and Towns and other places, as aforesaid, and may from time to time remove any such Inspector and appoint another in his stead ; but no person shall be appointed as such Inspector who shall not previously to his appointment as such have undergone an examination before the Board of Examiners of the place for which he is to be appointed, as to fitness, character and capacity, in the manner hereinafter provided ; nor shall any person be appointed an Inspector of Flour and Meal unless approved of and recommended as such by such Board of Examiners, or a majority of them, pursuant to such examination ; nor in any place in which there shall be a Board of Trade, except on the requisition of such Board, with which the Mayor or Chief Municipal Officer shall be bound to comply, and before any Inspector shall act as such, he shall furnish two good and sufficient sureties, jointly and severally with himself for the due performance of the duties of his office, in the sum of five hundred pounds, currency, if such Inspector be appointed for the City of Quebec or for the City of Montreal, and in the sum of two hundred and fifty pounds currency, if such Inspector be appointed for the City of Toronto or for the Towns of Kingston and Hamilton, or for any other place for which an Inspector may be appointed, and such sureties shall be approved by the Mayor or other Chief Municipal Officer by whom the Inspector shall have been appointed, in whose keeping the Bond shall remain ; and the Bond shall be executed to Her Majesty, Her Heirs and Successors in the forms used with regard to sureties from persons appointed to Offices of Trust in this Province, and shall avail

Examination :

Sureties.

avail to the Crown and to all persons whomsoever who shall or may be aggrieved by any breach of the Conditions thereof; and no such Inspector shall allow any person whomsoever to act for him about the duties of his Office excepting only his sworn Assistant or Assistants, to be appointed in the manner hereinafter provided.

IV. And be it enacted, that the Bond or suretyship which shall be made or executed by any Inspector by virtue of this Act, shall be made and kept at the Office of the Clerk of the Corporation of the City, Town or Place for which such Inspector shall be appointed, and every person shall be entitled to have communication and copy of any such Bond or suretyship at such Clerk's Office, upon payment of one shilling, currency, for every communication and two shillings and sixpence, currency, for each copy.

Bond to be open to public inspection.

V. Provided always and be it enacted, that the Board of Examiners to be constituted as aforesaid, shall be and they are hereby authorized and required, before proceeding to the examination of any person who may be hereafter desirous of being appointed an Inspector of Flour and Meal as aforesaid, to require the attendance of two or more persons of the greatest experience and practice in the manufacture of Flour and Meal, or of the fullest knowledge of the qualities of Flour and Meal; and the said Board, in their discretion, are also hereby further authorized to permit any other person or persons to be also present at such examination, and each and every of the said persons so required or permitted to attend, may in the presence of the said Board, propose questions to the person then under examination touching and respecting his knowledge as to quality, manufacture or other matters relating to or connected with the Inspection of Flour and Meal.

Examiners may call in the aid of experienced persons.

VI. And be it enacted, that each person examined, approved and recommended as aforesaid, shall if appointed an Inspector of Flour and Meal, as aforesaid, before he shall act as such, take and subscribe an Oath before any one Justice assigned to keep the Peace within the District in which he shall be appointed, (which Justice is hereby required and authorized to administer the same) in the words following, to wit: "I, A. B. do solemnly swear, that I will faithfully, truly and impartially, to the best of my judgment, skill and understanding, do and perform the office and duty of an Inspector of Flour and Meal, and that I will not directly or indirectly, by myself or by any other person or persons whomsoever, trade or deal in Flour or Meal, or be connected in any such Trade, nor purchase any Flour or Meal of any description, otherwise than for the use and consumption of my family, during the time I shall continue such Inspector. So help me God," which Oath shall be recorded in the Office of the Clerk of the Corporation for the City, Town, or place where the same shall be taken; and for recording such Oath and for a Certificate thereof, the Clerk shall

Inspector's Oath.

be

be entitled to demand and have the sum of two shillings and six pence, currency, and no more, and shall give communication or copy of the original to any person who shall apply for the same, on payment of one shilling, currency, for every such communication, and two shillings and six pence, currency, for each copy.

Inspectors
already ap-
pointed.

VII. Provided always and be it enacted, that any person who, at the time this act shall come into force, shall hold the Office of Inspector of Flour and Meal for any place in this Province, shall on his application to that effect immediately after the said time, be reappointed as Inspector under this Act by the Mayor or Chief Municipal Officer of the place in which he shall have acted as Inspector, without any new examination or any intervention of the Board of Trade, any thing in the foregoing sections of this Act, to the contrary notwithstanding; but shall after such reappointment be removable and shall give security and shall be bound by all the other provisions of this Act, in the same manner as other Inspectors appointed under the authority thereof.

Assistant
Inspectors.

VIII. And be it enacted, that the said Inspector of Flour and Meal for the City of Quebec, and the Inspector for the City of Montreal, shall and may appoint one or as many more Assistants as he shall from time to time be required to appoint by the Board of Trade of the City, for which he is appointed, for the acts of which Assistants he shall be and is hereby declared to be responsible; which number of Assistants he shall be bound to increase from time to time on a requisition in writing to that effect from the said Board, and each such Assistant shall be subject to the approval of the said Board of Examiners and skilful persons sitting with them in the manner hereinbefore provided with regard to Inspectors, and shall before entering upon the duties of his office, furnish two good and sufficient sureties to Her Majesty, in the sum of two hundred and fifty pounds, currency, for the due performance of his duties, by a Bond to be taken, made, recorded, kept and delivered in the manner provided with regard to the Bond given by Inspectors, and shall take and subscribe the following Oath, before the Mayor of the City, for which he shall be appointed, who is hereby required to administer the same. "I, A. B. do swear that I will diligently, faithfully and impartially, perform the duties of the office of Assistant to the Inspector of Flour and Meal for the City of _____ according to the true intent and meaning of the Act of the Legislature of this Province, intituled *An Act to regulate the inspection of Flour and Meal*, and that I will not directly or indirectly, personally or by means of any person or persons in my behalf receive any fee, reward, or gratuity whatever by reason of my office of Assistant to the said Inspector, (except my salary from the said Inspector) and that I will not directly or indirectly trade in the articles of Flour or Meal, or be in any manner concerned in the purchase or sale of Flour or Meal, except so far as may be necessary, for the use of myself and family: So help me God," and such Bond and Oath as aforesaid, shall be open

Oath.

open to inspection, and copies may be had thereof, on the same terms and conditions as are hereinbefore provided with regard to the Bond given and the Oath taken by the Inspector.

IX. And be it enacted, that the said Assistants shall respectively be paid by, and shall hold their offices at the pleasure of the Inspector, and may be removed or reinstated, or others may be appointed in their stead by such Inspector.

Payment of
Inspectors.

X. And be it enacted, that the said Inspectors and Assistant Inspectors so to be nominated and appointed, are severally hereby authorized and required to examine and inspect each and every barrel and half barrel of Flour and Meal, on application being made for that purpose by the proprietor or possessor thereof, and to ascertain the respective qualities and conditions thereof, by boring the head of each barrel or half barrel and probing the contents to the whole depth of the cask, by an instrument not exceeding five eighths of an inch in diameter within the gauge or bore of such instrument for that purpose, and after inspecting such Flour or Meal, the said Inspectors or Assistant Inspectors, respectively, shall plug, or cause to be plugged the hole bored in each barrel or half barrel for inspection: Provided always, that such inspection may be made either at the Store, Shop or Warehouse of such Inspector, which he is hereby required to keep in a convenient situation for that purpose, or at some Store within the limits of the place for which the Inspectors shall be appointed, respectively, at the option of the Proprietor or Possessor of such Flour or Meal.

Inspection of
Flour and
Meal Barrels.

XI. And be it enacted, that each and every Inspector or Assistant Inspector, shall, if required, deliver to the owner of any Flour or Meal or to his authorized agent all Flour or Meal which such Inspector or Assistant Inspector may have taken from any barrel or half barrel of such Flour or Meal with the instrument used for the purpose of inspection, under the penalty of five pounds, currency.

Flour, &c.
taken to be
restored.

XII. And be it enacted that each Inspector shall provide and have a sufficient number of iron or other metal brands, for the use of themselves and their Assistants, wherewith they shall respectively brand or cause to be branded, immediately after inspection, on each and every barrel or half barrel of Flour or Meal, the words "Quebec" "Montreal" "Toronto" "Kingston" "Hamilton" or the name of any other place as the case may be, and the initial of the Christian name and the surname at full length of the Inspector, with the quality thereof as hereinafter directed; and on each and every barrel or half barrel of Flour or Meal, which may on inspection be found sour, without any other damage or unmerchantable quality, the Inspector or Assistant Inspector, shall brand or cause to be branded the word "sour" in letters as large as those upon the rest of the brand or mark

Brands.

in addition to the brand or mark designating the quality; and in all cases where Flour or Meal shall be found to be of unsound or unmerchantable quality arising from other causes such Inspector or Assistant Inspector shall brand or cause the same to be branded with the word "Rejected" at full length, and in plain legible characters in addition to the brand or mark designating the quality; and in all cases where the quality of the Flour or Meal inspected may appear to be inferior to the brand or other mark of the manufacturer, and not to be properly designated by the brand or mark, it shall be the duty of the Inspector or Assistant Inspector, and he is hereby authorized and required to erase and correct the same; and the Inspector or Assistant Inspector, shall also brand or mark on each barrel of Flour or half barrel of Flour or Meal so inspected by him, the month and year in which they were inspected, with the quality of the Flour or Meal so inspected and examined; and for such inspection and branding or marking, the Inspector shall be entitled to receive of and from the person who may have applied to him to inspect the same, for each and every barrel and half barrel, respectively, of Flour or Meal, so inspected and branded or marked, the sum of two pence, currency, exclusive of cooerage; and such fee or allowance shall be paid by the owner or Consignee of such Flour and Meal before it shall be removed; and as soon as any Flour or Meal shall be inspected a certificate or Bill of inspection shall be furnished by the Inspector or Assistant Inspector without fee or reward, specifying neatly and legibly the quantity and quality ascertained by inspection, and the charges thereof, and the owner's or manufacturer's mark or marks thereon; and if any Inspector or Assistant Inspector, shall knowingly and wilfully give an untrue and incorrect certificate of the quantity or quality of any Flour or Meal by him inspected, or shall give such certificate without a personal examination and inspection of such Flour or Meal he shall forfeit and pay a penalty of twenty pounds, currency, for each offence, and be dismissed from his office and be disqualified from ever after following the same: Provided always, that no Flour or Meal which shall have been so branded, marked or inspected in one month or year, and re-inspected and examined in another, shall bear any other brand or mark of the year and month than that originally affixed to it: and all the said brands and other marks shall be branded or marked on one head of the barrel or half barrel: Provided always, that it shall be the duty of the Inspector or Assistant Inspector, respectively, to examine each or every barrel of Flour or Meal offered for inspection, and in no case to brand or mark the same, unless the name of the manufacturer or packer, the place of packing, and quality of the Flour and Meal, the tare and net weight are branded or marked legibly thereon: Provided always, that in all cases where any Flour or Meal shall have been sold subject to inspection the person applying to the Inspector shall be entitled to reimbursement of the price of inspection from the vendor, if such applicant be not himself the vendor, or unless an express stipulation shall have been made at the time of the sale or of the agreement

to

to submit to inspection : and such agreement to submit to inspection shall imply a warranty as well that the Flour or Meal is of the quality for which it is sold as that all the requirements of this Act have been complied with as to such Flour or Meal and the barrels or half barrels in which it is contained.

XIII. And be it enacted, that it shall be the duty of the Inspector or Assistant Inspector at the request of the buyer or seller of any Flour or Meal or of any person interested therein, to ascertain by examination the weight of all the casks which he may suspect not to contain the full weight required by this Act, and if they do not contain such full weight, he shall cause the same to be filled up by the proprietor or persons requiring such Flour or Meal to be inspected so as to contain the weight of Flour or Meal required by this Act and shall, when required, certify the expense thereby incurred ; and every Inspector or Assistant Inspector who shall neglect or refuse to examine and weigh such Flour and to cause the said casks to be weighed in the manner required by this Act ; shall for every such neglect or refusal forfeit the sum of twenty pounds, currency.

Inspector's
duty.

XIV. And be it enacted, that all the said brand marks shall be neat and legible and it shall be the duty of each of the said Inspectors of Flour and Meal, to govern himself so far as may be possible by one uniform standard of quality for each description of Flour and Meal, and to brand or mark, within a space not exceeding fourteen inches long by eight inches broad, on every Barrel and half Barrel of Flour and Meal inspected by them all brands and marks required by this Act under a penalty of five pounds, currency, for each barrel or half barrel inspected and not branded, or inspected and marked otherwise than is required by this Act.

Uniform
standard of
quality.

XV. And be it enacted, that if any dispute shall arise between any Inspector appointed under this Act, and the proprietor or possessor of any Flour or Meal by him inspected, with regard to the quality or condition thereof, or relating in any respect to the same, upon application by either of the parties in difference to any one of Her Majesty's Justices assigned to keep the Peace within the District in which such Inspector or Assistant Inspector shall reside, the said Justice of the Peace shall issue a summons to three persons of skill and integrity, one whereof to be named by the Inspector, another by the proprietor or possessor of the Flour or Meal, and the third by the Justice of the Peace (who failing the attendance of either of the parties in difference is hereby authorized and required to name for him) requiring the said three persons immediately to examine the said Flour and Meal, and report their opinion of the quality and condition thereof under Oath, (which Oath the said Justice is hereby authorized and required to administer) and their determination, or that of a majority of them, made in writing shall be final

Appeal from
Inspector's de-
cision.

final and conclusive, whether approving or disapproving the judgment of the Inspector or Assistant Inspector, who shall immediately attend and conform himself thereto, and brand or paint or cause to be branded or painted each and every barrel or half barrel of the qualities or condition directed by the determination aforesaid, and if the opinion of the Inspector or Assistant Inspector be thereby confirmed, the reasonable costs and charges of re-examination being ascertained and awarded by the said Justice of the Peace, shall be paid by the said proprietor or possessor of the Flour or Meal, and if otherwise by the Inspector.

Costs of reference.

Neglect of duty by Inspector.

XVI. And be it enacted, that any Inspector or Assistant Inspector so nominated or appointed, who shall refuse or neglect on application to him made personally or by writing, left at his Dwelling House, Store, Office or Warehouse on any lawful day between sun rise and sun set by any proprietor or possessor of Flour or Meal (such Inspector or Assistant Inspector not being at the time of such application employed in inspecting Flour or Meal elsewhere) immediately or within two hours thereafter to proceed to such inspection shall for every such neglect or refusal forfeit and pay to such person so applying, on conviction thereof before any one Justice of the Peace, on the Oath of one credible witness, other than the informer the sum of five pounds, currency, over and above all the damages occasioned by such refusal or neglect to the party complaining.

Penalty.

Adulteration of Flour or Meal:

XVII. And be it enacted, that if, upon the inspection of any barrel or half barrel of Flour or Meal, the Inspector or Assistant Inspector, respectively, shall discover any foreign substance mixed or blended therewith, or packed therein, it shall be the duty of such Inspector or Assistant Inspector and he is hereby authorised, enjoined and required immediately to seize and detain the same, and to make report thereon to any one of Her Majesty's Justices of the Peace under Oath, and such Justice may if he shall see fit authorise the detention of the same in some safe place until the suit to be instituted for the penalty thereby incurred shall be determined, and each and every person, who shall or may hereafter wilfully and fraudulently mix or blend any Flour or Meal, by them packed for sale or exportation with any foreign matter shall in every such case be liable to a penalty not exceeding twenty pounds, currency; but no prosecution suit or action for the recovery of any such penalty shall be commenced after the end of one month, from the seizure and report so made, as aforesaid, by the Inspector or Assistant Inspector; and if such penalty be so recovered, the Flour or Meal shall thereupon be forfeited to and belong to the Corporation of the place.

Seizure:

£20 penalty:

Forfeiture of Flour &c. to Corporation.

Deficient measure.

XVIII. And be it enacted, that every manufacturer or packer of Flour or Meal, who shall undermark the tare of any barrel or half barrel or shall put therein a less quantity of Flour or Meal than is branded thereon shall incur a penalty

penalty of twenty shillings, currency, for every barrel or half barrel so undermarked or deficient. Provided always, that such penalty shall not be recovered when and so often as the deficiency of weight shall appear to have been occasioned by some accident unknown to such manufacturer or packer, and which happened after the packing of the barrel or half barrel.

Penalty, 20 shillings.

XIX. And be it enacted, that if any person shall knowingly offer for sale any barrel or half barrel of Flour or Meal, upon which the tare shall be undermarked or in which there shall be a less quantity of Flour or Meal, than is branded thereon, he shall forfeit the sum of twenty shillings, currency, for every cask so undermarked or deficient, without prejudice to the Civil remedy of any party aggrieved for such other damage as he shall in that behalf sustain.

Offering for sale deficient measure.

XX. And be it enacted, that no Inspector or Assistant Inspector to be appointed in pursuance of this Act, shall directly or indirectly trade or deal in Flour or Meal, or be concerned in any such trade nor purchase any Flour or Meal of any description, otherwise than for the use and consumption of his family, under the penalty of fifty pounds, currency, for each and every offence, and of being immediately removed from the office, and of being disqualified from holding such office in future.

Inspectors not to trade in flour &c.

XXI. And be it enacted, that in branding or marking the different qualities or descriptions of Flour, the same shall be designated as follows, viz: that of a very superior quality by the words "extra superfine" that of the second quality by the word "superfine" that of the third quality by the word "Fine" that of the fourth quality by the word "Fine middling" that of the fifth quality by the word "Middling" that of the sixth quality by the word "Ship stuff" or "Pollards" and the quality called *Farine entière* by the letters E. N. T., by which latter description of Flour shall be understood the whole produce of the wheat when ground excepting the coarse Bran and Pollard; and when the wheat from which Flour of any of the qualities had been manufactured was previously kiln dried the same shall be branded or marked by the Packer on each and every barrel or half barrel either at length or by the letters "Kiln D" and all barrels or hogsheads in which Indian Meal shall be packed, shall be branded by the Packer "Indian Meal" and each barrel in which Indian Meal shall be so packed shall contain one hundred and sixty eight pounds avoirdupois weight of the said Meal; and each cask of Rye Flour shall be branded "Rye Flour" and the particular quality thereof shall be designated and branded in the manner hereinbefore provided for Wheat Flour.

Brands to be used.

XXII. And be it enacted, that it shall not hereafter be lawful within this Province to pack flour in barrels for sale of any other than the following weight namely

Weight of barrels, and half barrels.

ly half barrels containing ninety eight pounds net, or barrels containing one hundred and ninety six pounds net, avoirdupois weight, under the penalty of two shillings for each and every barrel or half barrel offered for sale or inspection or exported, and with regard to which the requirements of this section have not been complied with.

Branding
instruments.

XXIII. And be it enacted, that from and after the passing of this Act each and every manufacturer and packer of Flour and Meal in this Province shall provide himself with iron or metal brands or other instruments or materials by which he shall brand, paint or mark, or cause to be branded, painted or marked the initials of his christian name, and his surname at full length, and the place of packing; the quality and weight of the Flour or Meal therein contained, and the tare of the cask on one end of each, and every barrel or half barrel of Flour or Meal packed for sale in a plain and distinguishable manner before delivery thereof under the penalty of two shillings for each and every barrel or half barrel of Flour or Meal packed in this Province and so delivered or offered for sale, inspection or exportation with such brands or marks.

Materials of
barrels.

XXIV. And be it enacted, that all Flour to be hereafter packed in this Province for sale, shall be packed in good and strong barrels or half barrels of seasoned oak or ash timber, and made as nearly straight as may be, and the staves of such barrels shall be of the length of twenty seven inches from croe to croe, and of half barrels of the length of twenty two inches from croe to croe with heads of the same; the diameter of the heads of the barrels shall be from sixteen and a half inches to seventeen inches, and of half barrels from thirteen and a half to fourteen inches, and such barrels and half barrels shall be well seasoned and bound with at least ten wooden hoops, of which three shall be at each end, with a lining hoop within the chimes, the whole well secured by nails, under the penalty of two shillings for each and every cask offered for sale or exported, which shall not be one of the foregoing description of barrels or half barrels.

Effacing
brands or using
counterfeit
brands;

XXV. And be it enacted, that if any manufacturer or packer of Flour or Meal, or any person or persons whomsoever shall with a fraudulent view or intention efface, or cause to be effaced or obliterated from any barrel or half barrel of Flour or Meal having undergone inspection, all or any of the Inspectors marks, or shall counterfeit any such mark or marks, or impress or brand any mark or marks, purporting to be the mark or marks of the Inspector or of any manufacturer or packer, either with the proper marking Tools of such Inspector, manufacturer or packer, or with counterfeit representations thereof on any barrel or half barrel of Flour or Meal, or shall empty, or partially empty any barrel or half barrel of Flour or Meal marked after inspection, in order to put into the same barrel

or

or half barrel other Flour or Meal, or shall use for the purpose of packing any Flour or Meal any old barrel or half barrel, without destroying the old brand marks before offering the same for sale, or (not being an Inspector or Assistant Inspector, appointed under this Act) shall brand or mark any Flour or Meal with the Inspector's marks, and if any person in the employ of any manufacturer or packer of Flour or Meal shall hire or loan out the marks of his employer to any person whatsoever or shall connive at or be privy to any fraudulent evasion of the provisions of this Act, such person or persons so offending shall for every such offence, respectively, incur a penalty of fifty pounds, currency, and any Inspector or Assistant Inspector who shall inspect or brand, or mark any Flour or Meal out of the limits for which he shall be appointed, or shall hire out his marks to any person whatsoever, or shall connive at or be privy to any fraudulent evasion of inspection of Flour or Meal, by others, shall for each such offence incur a penalty of fifty pounds, currency.

And other
Frauds.

XXVI. And be it enacted, that all and fines, penalties and forfeitures, imposed by this Act not exceeding ten pounds, currency, shall, except when it is otherwise hereinbefore provided, be recoverable by the Inspectors or by any other person or persons suing for the same, in a summary way before any two of Her Majesty's Justices of the Peace for the District, in their ordinary or other Sessions, and may in default of payment be levied by warrant of distress, to be issued by such Justices against the goods and chattels of the offender; and where the same shall exceed ten pounds, currency, they may be sued for and recovered by bill, plaint, information or civil action in any Court of competent jurisdiction, and be levied by execution as in case of debt, and the moiety of all such fines (except such as may be hereinbefore otherwise applied) when recovered, shall immediately be paid into the hands of the Treasurer of the City, Town or Place for the public uses of the Corporation thereof, and the other moiety shall belong to and be paid to the person who shall sue for the same: Provided always that if any Officer of such Corporation be the prosecutor the whole penalty shall belong to the Corporation for the uses aforesaid.

Penalties,
how recover-
able.

XXVII. And be it enacted, that if any action or suit, not otherwise provided for, be brought or commenced against any person or persons for any thing done in pursuance of this Act, or contrary to the provisions thereof, such action or suit shall be commenced within six months next after the matter or thing done, or omitted to be 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 thereon; and if afterwards judgment shall be given for the Defendant or Defendants, or the Plaintiff or Plaintiffs, be non suit or discontinue his or their action after the Defendant or Defendants shall have

Limitation of
actions.

have appeared, then such Defendant or Defendants shall have treble costs awarded 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.

Commence-
ment of Act
1st. Jan. 1842.

XXVIII. And be it enacted, that the foregoing enactments of this Act shall have force and effect upon, from and after the first day of January, in the year of our Lord one thousand eight hundred and forty two and not before.

Termination
of Act 1st. Jan.
1848.

XXIX. And be it enacted, that this Act shall continue in force until the first day of January, one thousand eight hundred and forty eight and from thence until the end of the then next ensuing Session of the Provincial Legislature and no longer.

C A P. X C.

An Act to Incorporate the Montreal Board of Trade.

18th September, 1841.—Presented for Her Majesty's Assent and reserved "for the signification of Her Majesty's pleasure thereon."

19th March, 1842.—The Royal Assent signified by the Proclamation of His Excellency SIR CHARLES BAGOT, Governor General.

Preamble.

WHEREAS John Thomas Brondgeest, Thomas Cringan, Robert Armour, John M. Tobin, James Logan, and others hereinafter named, Merchants, resident and carrying on trade in the City of Montreal, have by their Petition to the Legislature, represented that they have associated themselves together for some time past for the purpose of promoting such measures as they might upon due consideration deem calculated to advance and render prosperous the lawful trade and commerce of this Province and of the said City of Montreal more especially, and have further represented that having already experienced the good effects of their said association, and being convinced that the advantages arising from it would be greatly extended and increased if they and their associates and successors were incorporated, and if certain powers were conferred on them, they pray the Legislature so to incorporate them, and grant them such powers: and whereas it is expedient to grant the prayer of their said Petition; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the said J. T. Brondgeest, Thomas Cringan, Robert Armour, John M. Tobin, James Logan, with the Honorable Peter McGill, the Honorable Austin Cuillier, the Honorable Adam Ferrie, J. B. Greenshield, James Henderson,

derson, Harrison Stephens, Orlin Bostwick, Joseph Shuter, Theodore Hart, E. T. S. Maitland, S. Bagg, S. Hort, G. Rhynas, A. Edmonstone, J. Scott, John Glass, J. W. Dunscomb, James Millar, Thomas Kay, J. Mathewson, J. G. McKenzie, H. L. Routh, J. E. Mills, D. Ross, John Frothingham, John Black, D. Torrance and William Cowan, J. A. Perkins, A. Lymon, R. H. Perkins, A. H. Vass, A. J. Phillips, Joseph McKay, Jean Bruneau, W. Smith, R. Froste, S. S. Ward, T. B. Anderson, J. Cuthbertson, W. Bradbury, Struthers Strang, John Moore, H. Jones, J. Scott, J. T. Barrett, H. Vennor, D. Mack, John Molson, D. McPherson, Chas. Brooke, J. Dougall, F. H. Heward, D. Murray, C. Dorwin, H. Corse, J. Rhodes the younger, G. W. Warner, N. Hall, M. Ogden, W. C. Ogden, R. Latham, C. Carlton, Jos. Vallée, J. M. Blackwood, A. Peddie, J. Millar, T. McAdam, A. H. Armour, J. D. Gibb, J. Gibb, A. McIntosh, S. Greenshields, J. Peck, William Thomson, E. C. Tuttle, B. Ansell, J. D. Bernard, John Carter, J. R. Orr, John Keller, J. Gauthier, Manna Buck, François St. Jean, Nicolous W. J. M. Kurczyn, J. Dyde, A. Gilmour, H. Mathewson, T. Musson, W. McFarlane, Wm. Cormack, Nathan Benjamin, F. Farish, W. Creelman, A. Furniss, J. C. Cushing, J. Teasdale, J. Smith, Js. Dougall, Js. Jackson, J. Pratt, and such other persons, being inhabitants of and using trade and commerce within the said City of Montreal, as shall be associated with the persons above named for the purposes of this Act, in the manner hereinafter provided, and their successors shall be and are hereby constituted a body politic and corporate by the name of "The Montreal Board of Trade" and may by that name sue and be sued, implead and be impleaded, answer and be answered, defend and be defended in all Courts of Law and places whatsoever, and by that name they and their successors shall have perpetual succession and may have a Common Seal, may break, change, alter, or renew the same at pleasure, and shall have power to purchase, take, receive, hold and enjoy any estate whatever, real or personal, and to alienate, sell, convey, lease, or otherwise dispose of the same or any part thereof from time to time, and as occasion may require, and other Estate real or personal to acquire instead thereof: Provided always, that the clear annual value of the real and personal Estate together held by the said Corporation, at any one time shall not exceed two thousand pounds currency, and provided also, that the said Corporation shall not have or exercise any corporate powers whatsoever except such as are expressly conferred on them by this Act, or are necessary for carrying the same into effect according to its true intent and meaning.

Incorporation.

II. And be it enacted, that the funds and property of the said Corporation shall be used and applied to and for such purposes only as may be calculated to promote and extend the just and lawful trade and commerce of this Province and of the said City of Montreal, more especially, or as may be necessary for attaining the

Application
of funds.

the objects for which the said Corporation is constituted, according to the true intent and meaning of this Act.

Place of
Meeting.

III. And be it enacted, that the usual place of meeting of the said Corporation shall be held to be the legal domicile thereof, and service at such place of any notice or process of any kind, addressed to the said Corporation, shall be held to be sufficient service of such notice or process on the Corporation.

Council of
management.

IV. And be it enacted, that for the management of the affairs and business of the said Corporation there shall be a Council to be called "The Council of the Board of Trade," which shall from and after the first Election hereinafter mentioned, consist of a President, a Vice President, a Treasurer and eight other Members of the Council, all of whom shall be Members of the said Corporation and shall have the powers and perform the duties hereinafter mentioned and assigned to the said Council.

Officers.

V. And be it enacted, that the said John Thomas Brondgeest shall be the President, the said Thomas Cringan shall be Vice President, the said John William Dunscomb the Treasurer, and the said Honorable Adam Ferric, the Honorable Austin Cuvillier, Haviland LeMesurier Routh, John Easton Mills, Edward James Snow Maitland, William Edmonstone, David Torrance, John Gordon McKenzie, John Michael Tobin, and Orlin Bostwick, the other Members of the Council until the first Election to be had under the provisions of this Act: and the Council hereby appointed shall, until the said Election, have all the powers assigned to the Council of the said Corporation by this Act.

Annual
Meeting of
Corporation.

VI. And be it enacted, that the Members of the said Corporation shall meet annually at some place within the City of Montreal (of which due notice shall be given by the Council for the time being or which shall be fixed by the By-Laws of the Corporation) on the first Monday in the month of April, and they or a majority of them shall then and there choose by separate ballot, or in such other way as shall be fixed by the By-Laws of the Corporation, elect from among the members of the Corporation, one President, one Vice President, one Treasurer and eight other Members of the Council who with the said President, Vice President, and Treasurer shall form the Council of the said Corporation, and shall hold their offices until others be elected at the next annual meeting in their stead, or until they shall be removed from office, or shall vacate the same under the provisions of any By-Laws of the Corporation: Provided always, that if the said Election shall not take place on the first Monday of April in any year, the Corporation shall not thereby be dissolved; but such Election may be had at any General Meeting of the Corporation to be called in the manner hereinafter provided, and the Members of the Council then in office shall remain so until the Election shall be had.

VII. And be it enacted, that if any Member of the said Council shall die, resign his office, or be absent for six months continuously from the said City of Montreal, it shall be lawful for the said Corporation, if they shall see fit, at any General Meeting to elect a Member of the Corporation to be a Member of the Council in the place of the Member so dying or resigning or being absent, and the Member so elected shall hold office until the next Annual Election and no longer.

Vacancies in
the Council.

VIII. And be it enacted, that at any Annual or other General Meeting of the Corporation whether for the purpose of electing Members of the Council or for any other purpose any twelve or more Members of the Corporation shall form a *Quorum* and shall be competent to do and perform all acts which either by this Act or by any by-law of the Corporation are or shall be directed to be done at any such General Meeting: and all General Meetings of the Corporation shall be held at the place then appointed by the by-laws thereof for the Annual Meeting aforesaid.

'Quorum.'

IX. And be it enacted, that each and every person then resident in the City of Montreal, and carrying on Banking, Trade or Commerce of any kind therein, and having so resided continuously for not less than two years shall be eligible to become a Member of the said Corporation: and at any General Meeting of the Corporation it shall be lawful for any Member thereof to propose any such person, as aforesaid, as a Candidate for becoming a Member of the Corporation, and if such proposition shall be seconded by any other Member of the Corporation then present, such Candidate shall be again proposed and balloted for at the next General Meeting not being less than one week after he shall be so proposed, and in the mean time the name of the person proposed and of the proposer and seconder shall be posted in a conspicuous part of the usual place of Meeting of the Corporation, and if at the Meeting at which such Candidate shall be balloted not less than three fifths of the Members present shall vote for his admission, he shall thenceforth be a Member of the Corporation, and shall have all the rights and be subject to all the obligations which the other Members possess or are subject to and be bound by all the by-laws of the Corporation.

Mode of elect-
ing Members.

X. And be it enacted, that it shall always be lawful for the Council of the said Corporation, or a majority of them, by a notice inserted at least one week in one Newspaper published in the said City of Montreal, and posted during the same time in a conspicuous part of the place where the meetings of the Corporation are then held, to call a general meeting of the Corporation for any of the purposes of this Act.

General
Meetings.

XI. And be it enacted, that each of the Members of the Council of the said Corporation

Councillor's
oath.

Councillors
oath.

Corporation whether hereby appointed or hereafter to be elected, shall, before entering upon the discharge of their duties as such, take and subscribe an oath that they will respectively, faithfully and truly perform their duty as such Members, and will in all matters connected with the discharge of such duty, do all such things and such things only as they shall truly and conscientiously believe to be adapted to promote the objects for which the said Corporation is constituted, according to the true intent and meaning of this Act: and such oath shall be administered to the President and Vice President hereby appointed, by the Mayor of the said City of Montreal, and shall remain among the records of the Corporation of the said City, and by the said President and Vice President, or either of them, to the other Members of the Council hereby appointed, or who shall be hereafter elected, and shall remain among the papers of the Corporation hereby constituted.

Powers of
Council.

XII. And be it enacted, that the said Council shall, in addition to the power hereby expressly conferred on them, have such powers as shall be assigned to them by any by-law, of the Corporation, except only the power of enacting or altering any by-law, or of admitting any Member, which shall be done in the manner provided by this Act and no other; and any five or more Members of the Council lawfully met, and of whom the President or Vice President shall be one, shall be a Quorum, and any majority of such Quorum may do all things within the powers of the Council: and at all meetings of the said Council and all General Meetings of the Corporation, the President, or in his absence the Vice President, or if both be absent, any Member of the Council then present who may be chosen for the occasion, shall preside, and shall in all cases of equality of votes upon any division have a double or casting vote.

By-laws,
Rules, & Re-
gulations.

XIII. And be it enacted, that it shall be lawful for the said Corporation or the majority of them present at any General Meeting to make and enact such by-laws, rules and regulations for the Government of the said Corporation, its Council, Officers and affairs, and for the guidance of the Board of Arbitration hereinafter mentioned as such majority shall deem meet: Provided that no such by-law be contrary to, or inconsistent with the provisions of this Act, or the laws of this Province: and such by-laws shall be binding on all Members of the Corporation, its Officers and servants, and all other persons whomsoever lawfully under its control.

Council to
prepare By-
laws, &c.

XIV. And be it enacted, that it shall be the duty of the Council hereby appointed as soon as may be after the passing of this Act, to frame such by-laws, rules and regulations as they shall consider best adapted to promote the welfare of the said Corporation and the purposes of this Act, and to submit the same for adoption

tion to a General Meeting of the Corporation called for that purpose in the manner hereinbefore provided.

XV. And be it enacted, that all subscriptions of Members due to the Corporation under any by-law, all penalties incurred under any by-law by any person bound thereby, and all other sums of money due to the Corporation shall be paid to the Treasurer thereof, and in default of payment may be recovered in any action brought by him in the name of the Corporation in any Court of Competent Civil Jurisdiction.

Subscriptions
&c. recoverable
at law.

XVI. And be it enacted, that the Meetings of the Members of the Council shall be open to all other Members of the Corporation who may attend at the same, but who shall take no part in any proceedings thereat: and minutes of the proceedings at all such Meetings and at all General Meetings of the Corporation shall be entered in Registers to be kept for that purpose by a person or persons appointed to keep the same; and the entry shall be signed by the person or officer who shall have made the same, and by the officer or person who shall have presided at the Meeting: and such Registers shall be open at all reasonable hours to any Member of the Corporation free of any charge, and also to all other persons on payment of a fee of one shilling to the officer or person having charge of the Register.

Meetings of
Council open.

XVII. And be it enacted, that at the same time and times as are hereby appointed for the Election of the Council, and in the same manner, it shall be lawful for the Members of the said Corporation to elect from their number twelve persons who shall form a Board which shall be called "The Board of Arbitration" and any three of whom shall have power to arbitrate upon and to give their award in any commercial case or difference which shall be voluntarily referred to them by the parties concerned: and wherever any such parties shall agree and bind themselves by Bond, or otherwise, to submit the matter in dispute between them to the decision of the said Board of Arbitration, such submission shall be understood to be made to any three Members of the said Board who may either by the especial order of the said Board, or by virtue of any general rule adopted by them or under any By-law of the Corporation with regard to the consideration of cases so submitted to them be appointed to hear and arbitrate upon the case, and shall be understood to bind the parties to submit to the decision of the said Board, and any such submission may be in the form of the Schedule to this Act or in other words to the same effect.

Board of ar-
bitration.

XVIII. And be it enacted, that the several Members of the said Board of Arbitration shall, before they act as such, take and subscribe before the President or Vice President of the Corporation, an oath that they will faithfully, impartially
and

Oath of arbi-
trators.

and diligently perform their duties as Members of the said Board of Arbitration, and will in all cases submitted to them give a true and just award according to the best of their Judgment and ability, without fear, favor or affection, of, or for any party or person whomsoever, and this oath shall be kept among the documents of the Corporation in the manner provided with regard to the oath taken by the Members of the Council.

Councillor
may be arbi-
trator.

XIX. And be it enacted, that any Member of the Council of the Corporation may be at the same time a Member of the said Board of Arbitration.

Powers of
arbitrators.

XX. And be it enacted, that the three Members appointed to hear any case submitted for arbitration, as aforesaid, or any two of them, shall have full power to examine into the facts of such case, and to examine on oath (which oath any one of such three Members is hereby empowered to administer) any party or witness who appearing voluntarily before them shall be willing to be so examined, and shall give their award thereupon in writing: and their decision, or that of any two of them, given by such award shall bind the parties according to the terms of the submission and the provisions of this Act.

Existing
Boards of Exa-
miners abolish-
ed.

XXI. And be it enacted, that from and after the first day of January, one thousand eight hundred and forty two, the several persons composing the Boards of Examiners to examine applicants for the offices of Inspector or Assistant Inspector for, or within the City of Montreal, of Flour and Meal, or of Beef and Pork, or of Pot and Pearl Ashes, or of any other article subject to inspection, shall cease to be Members of the said Boards, and thereafter the Members of the said Boards, respectively, shall be such persons only as shall from time to time be appointed to be such Members by the Council of the said Corporation, any law to the contrary notwithstanding: but the number, powers and duties of such Boards, and of the Members thereof, respectively, shall be in all respects the same as they now are, and they shall be sworn to the due performance of their duty in like manner: Provided always that nothing herein contained shall prevent any person who shall, under the provisions of this section, cease to be a Member of any such Board, from being re-appointed a Member thereof by the said Council, if they shall deem it expedient, nor shall any thing herein contained prevent any Member of the said Corporation, not being a Member of the Council, from being appointed a Member of any of the said Boards: but no Member of the Council shall be so appointed.

Affirmation.

XXII. And be it enacted, that any person who may by law in other cases make a solemn affirmation, instead of taking an oath, may make such solemn affirmation in

in any case where by this Act an oath is required; and any person hereby authorised to administer an oath may in such cases, as aforesaid, administer such solemn affirmation, and any person who shall wilfully swear or affirm falsely, in any case where an oath or solemn affirmation is by this Act required or authorized, shall be guilty of wilful and corrupt perjury.

XXIII. And be it enacted, that the Members of the Council and of the Board of Arbitration, shall, during the time they respectively remain in office be exempt from serving as Jurors in any case Civil or Criminal. Exemption from Jurics.

XXIV. And be it enacted, that nothing in this Act shall affect any rights of Her Majesty, Her Heirs or Successors, or of any party or person whomsoever, such rights only excepted as are herein expressly mentioned and affected. Rights of the Crown saved.

XXV. And be it enacted, that this Act shall be a Public Act, and shall be judicially noticed as such by all Judges, Justices and other persons whomsoever, without being specially pleaded. A public Act.

XXVI. And be it enacted, that this Act shall be and continue in full force and effect for ten years from the passing thereof, and from thence to the end of the then next Session of the Provincial Parliament and no longer. Duration of Act.

SCHEDULE.

Form of a submission to the award of the Board of Arbitration.

Know all men, that the undersigned _____ and the undersigned _____ (if there be more parties, that is, more separate interests, mention them) having a difference as to the respective rights of the said parties in the case hereunto subjoined, have agreed and bound themselves under a penalty of _____ Currency, to perform the award to be made by the Board of Arbitration of the Montreal Board of Trade in the case aforesaid, under the penalty aforesaid, to be paid by the party refusing to perform such award, to the party ready and willing to perform the same. Form of submission to award.

In witness whereof the said parties have hereunto interchangeably set their hands, at the City of Montreal on the _____ day of _____ 184

A. B.
C. D.
E. F.

Form

Form of the Oath to be taken by the Members of the Council.

Form of Oath
for Council-
Jors.

I swear that I will faithfully and truly perform my duty as a Member of the Council of the Montreal Board of Trade, and that I will, in all matters connected with the discharge of such duty, do all such things and such things only, as I shall truly and conscientiously believe to be adapted to promote the objects for which the said Board was constituted, according to the true intent and meaning of the Act incorporating the same.

So help me God.

Form of the Oath to be taken by the Members of the Board of Arbitration.

Arbitrator's
Oath.

I swear that I will faithfully, impartially, and diligently perform my duty as a Member of the Board of Arbitration of the Montreal Board of Trade; and I will, in all cases in which I shall Act as Arbitrator, give a true and just award according to the best of my judgment and ability, without fear, favor or affection, of or for any party or person whomsoever.

So help me God.

CAP. XCI.

An Act to regulate the taking of securities in all Offices in respect of which security ought to be given, and for avoiding the grant of all such Offices in the event of such security not being given within a time limited after the grant of such office.

18th September, 1841.—Presented for Her Majesty's Assent and reserved "for the signification of Her Majesty's pleasure thereon."

19th March, 1842.—The Royal Assent signified by the Proclamation of His Excellency SIR CHARLES BAGOT, Governor General.

Preamble.

WHEREAS it is highly expedient that provision should be made for preventing any negligence, omission or irregularity, in the giving of due securities by all persons employed in situations of Public Trust, and concerned in the Receipt and Distribution or Expenditure of public money, who are required to give security to account for public monies coming to their hands, and for ascertaining the death of any surety or sureties of any such person; 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 Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Govern-
ment*

See 14 & 15 Vic
80.

ment of Canada, and it is hereby enacted that every person who shall after the passing of this Act be appointed to any Civil Office, or Employment or commission, in any public Department within this Province, or to any such Office or Employment of public trust under the Crown, or wherein he shall be concerned in the collection, receipt, disbursement or expenditure of any public moneys, and who by reason thereof shall be required to give security with surety or sureties, or otherwise, shall within one month after notice of such appointment, if he shall then be within this Province, or within three months, if he shall then be absent from the said Province, (unless he shall sooner arrive in the said Province, and then within one month after such arrival) give, execute, and enter into a bond or bonds or other security or securities in such sum, and with such sufficient surety or sureties as shall be approved of by the Governor of this Province or by the principal officer or officers, or person or persons in the Office or Department to which he shall be appointed, for the due performance of the trust reposed in him, and for the duly accounting for of all public moneys entrusted to him or placed under his controul.

Bonds with sureties to be given by persons henceforth appointed Public Officers.

II. And be it enacted, that every person who before the passing of this Act shall have been appointed to, and shall hold any Civil Office or employment or commission in any public Department within this Province, or any such office or employment of public trust under the Crown, or wherein he shall be concerned in the collection, receipt, disbursement or expenditure of public moneys, and who by reason thereof shall have been or shall be required to give security with surety or sureties, or otherwise, and who shall not before have given such security shall within one month after the passing of this Act, if such person shall be within this Province, or within three months if he shall then be absent from the said Province (unless he shall sooner arrive in the said Province, and then within one month after such arrival) give, execute, and enter into a bond or bonds, or other security or securities, in such sum of money and with such sufficient surety or sureties as shall be approved of by the Governor of this Province, or by the principal officer or officers, or person or persons in the Office or Department to which he belongs, for the due performance of the trust reposed in him, and for the duly accounting for of all the public moneys entrusted to him or placed under his controul.

Persons holding office to give security.

III. And be it enacted, that every person who by reason of his appointment to, or holding of any Civil Office or employment or commission in any public Department, or of public trust under the Crown, in this Province, or who by reason of being concerned in the collection, receipt, disbursement or expenditure of any public moneys, shall, before the passing of this Act, have given or executed, or entered into, or shall hereafter give, or execute or enter into, any bond or bonds

Bonds &c. to be entered,

With Re-
gistrar of Pro-
vince.

bonds, or other security or securities, for the due performance of the trust reposed in him, or for the duly accounting for of public monies entrusted to him, shall cause the said bond or bonds, security or securities to be recorded at full length at the office of the Registrar of the Province, in manner hereinafter mentioned, and shall forthwith after such registration as aforesaid, deposit the said original bond or security at the office of the Inspector General of Public Provincial Accounts, and every such bond or security entered into before the passing of this Act, shall be recorded and deposited as aforesaid, if the person on whose behalf the same shall have been entered into, shall reside or be within this Province, within one month after the passing of this Act, and if absent from the said Province, within three months (unless he shall sooner arrive within the Province, and then within one month after such arrival) after the passing of this Act; and as to all such bonds and securities to be entered into after the passing of this Act, such bonds and securities shall be recorded and deposited as aforesaid, within the like periods, respectively, after entering into the same, according to the presence in or absence from the Province, as hereinbefore mentioned, of the person appointed, at the time of giving, executing or entering into such bond or other security as aforesaid.

Registrar of
Province to
keep a sepa-
rate Book for
such entries.

IV. And be it enacted, that the said Registrar of the Province shall make an entry, and likewise if required, shall give a certificate in writing under his hand and seal, of every such bond or security brought to him to be registered, as aforesaid, and therein shall mention the certain day on which such bond or security shall be so registered or entered, expressing also in what book, page, or number the same is entered; and for the purpose of entering or registering bonds or securities under the provisions of this Act, as aforesaid, the said Registrar shall provide a separate Register Book, and every page of such Register Book, and every bond or security that shall be entered therein, shall be numbered, and the day of the month and year when every such bond or security is registered, shall be entered in the margin of the said Register Book, and in the margins of the said bonds or securities, and that the said Registrar shall keep a separate alphabetical calendar of the names of the principals and sureties mentioned in such bonds or securities, with references to the book, page or number, where the bonds or securities containing such names are to be found, and the said Registrar shall duly enter and register the said bonds or securities in the same order of time in which they shall respectively come to his hands.

V. Provided always and be it enacted, that if any person who by reason of his appointment to, or holding of any such Civil Office, or Employment or Commission in any public Department, or of public trust, or who by reason of being concerned in the collection, receipt, the disbursement or expenditure of any public money.

money, is required or bound to give any such security, or register and deposit any such bond or security, as aforesaid, shall neglect to give such security and to cause such bond or security to be duly registered and deposited in manner aforesaid, and within the period specified by this Act, he shall forfeit and be deprived of the appointment, office, employment, or commission, in respect whereof such security ought to have been given, and such bond or security registered and deposited as aforesaid, and every such appointment, office, employment or commission, shall from and after the period specified in this Act for registering and depositing such bond or security, be wholly void and of none effect : Provided always that such avoidance shall not annul or make void any Act or order or other matter or thing done by such person during the time he actually held such appointment office employment or commission: Provided always that no such forfeiture shall take place by reason of any such bond or security not being registered or deposited under this Act, in which the proper sureties shall have been given, and bond made out, and where the failure of registry and deposit shall have arisen from the loss of such bond or security in the transmission thereof from a distance : Provided that in every such case a new bond or security specifying the reason of such delay shall be made out and signed, registered and deposited within the like period after the person giving such security shall have received notice of the loss, regard being had to the place where he shall then be, as is required by this Act for the registry thereof, if such loss had not arisen.

Forfeiture of
Commission
upon non-com-
pliance.

Provisocs.

VI. And be it enacted, that every such person as aforesaid who shall have given any bond or bonds, or other security or securities, with surety or sureties for the due execution of the trust reposed in him, or for the duly accounting for of public moneys, coming to his hands, shall give notice in writing to the Chief Secretary of the Province, or to the principal officer or officers, or person or persons, of the department to which he belongs, of the death, bankruptcy, insolvency or residence out of the Province, of any surety or sureties, or person or persons bound for or with him in any such security or securities, within one calendar month after the same shall have come to his knowledge, if he shall then be or reside in this Province, or within three months if he shall be beyond this Province, (unless he shall sooner arrive in the said Province, and then within one month after such return) and any person who shall neglect to give such notice within such period as aforesaid, shall forfeit one fourth part of the sum for which the surety so dead or bankrupt, or insolvent or resident out of the Province, shall have become security, to the use of Her Majesty Her Heirs and Successors, to be recovered in any court of competent jurisdiction, by action of debt, bill, plaint or information at the suit of the Crown, and every such person who shall upon the death, bankruptcy, insolvency or residence out of the Province of any surety, neglect to give the security of another surety to be approved in such manner as such surety dy-

Death, bank-
ruptcy or de-
parture of any
surety to be no-
tified, and new
security exe-
cuted.

ing

ing or becoming bankrupt, insolvent, or resident out of the Province was approved within such period from his having given notice of the death, bankruptcy, or insolvency or residence out of the Province of the former surety as is by this Act limited for giving, registering and depositing the original security, and to register and deposit the bond or security of such new surety within such period from his having given the security of such new surety as is by this Act limited for the enregistering and depositing of the original bond or security, the same regard being had to the place in which such persons may then be, shall forfeit his appointment, office, employment or commission in like manner and under and subject to such provisions as aforesaid.

Where the neglect is not wilful the Governor may extend the time &c.

VII. Provided always and be it enacted, that it shall be lawful for the Governor of this Province, by and with the advice and consent of the Executive Council, to remit any forfeiture or penalty in any case in which the failure of giving any security, or registering and depositing any bond or security under this Act, shall not have arisen from any wilful neglect of the person bound to give, register or deposit such security, and if it shall appear to the Governor of this Province, that the period limited by this Act for giving the security for such new surety as aforesaid, is in consequence of particular accidents, casualties or circumstances insufficient, or that by reason of the distance or loss of letters or illness, or the refusal of any surety to give the security, or of such surety being not deemed eligible, and being rejected, or any other accident or casualty, that further time will be necessary to enable the security of such new surety to be given, it shall be lawful for the Governor of this Province, by and with the advice and consent of the Executive Council, to allow such further period for giving the security of such new surety as shall appear to be reasonable and proper, provided that such extended period shall in no case exceed two months beyond the period allowed by this Act, provided also that the precise period proposed to be allowed, together with special grounds for allowing the same, shall be either entered in the book in which the original security shall have been registered, or endorsed on the back of the original bond or other security itself, and the person required to give the security of such new surety shall not be subject to any forfeiture or penalty for not giving the same, within the time limited by this Act, if he gives it within such extended period so allowed as aforesaid.

Proviso.

VIII. Provided always and be it enacted, that where the securities of the principal and sureties are executed at different times, whether the same are taken in one and the same bond, deed or other instrument, or in different ones, the period limited for registering and depositing such securities shall be estimated from the time of the execution thereof, by the person who shall have been the last to execute any such bond or other instrument.

IX.

IX. Provided always and be it enacted, that no neglect, omission or irregularity in giving or renewing the bonds or other securities or registering the same, within the periods or in the manner prescribed by this Act, shall be construed to vacate or make void any such bond or other security, or to discharge any surety from the obligations of any such bond or security.

Irregularity
not to make
void bonds.

X. Provided also and be it enacted; that all bonds or other securities required to be registered and deposited, shall be registered and deposited by the proper officer, notwithstanding the period prescribed for registering and depositing the same shall have expired; but no such registering and depositing of any such bond or other instrument or security shall be deemed or construed to waive any forfeiture or penalty, or to exempt the person on whose behalf the same shall have been registered and deposited, from any forfeiture or penalty under any of the provisions of this Act.

Registrar's
duty.

XI. And be it enacted, that all and every the provisions of this Act shall be held and construed to relate to all bonds and covenants now given and entered into, and hereafter to be given and entered into, by the Sheriffs of the respective Districts of that portion of the Province heretofore called Upper Canada, and the said bonds and covenants shall be registered in the office of the Registrar of the Province and deposited in the office of the Inspector General of Public Provincial Accounts, in the manner hereinbefore mentioned, and each and every Sheriff shall be held and constrained to observe the same formalities in furnishing security, giving notice of death, bankruptcy, insolvency or removal from the Province of any of his sureties, and enregistering and depositing of his bonds and securities as any other person hereinbefore mentioned, and shall be liable to all the penalties and forfeitures hereinbefore recited, any law, usage or custom to the contrary notwithstanding.

Act to apply to
existing Bonds
&c.

XII. And whereas, great inconveniences have been experienced by the several Sheriffs of this Province under the terms and conditions imposed upon them by the sixth clause of an Act of the Legislature of the late Province of Upper Canada, passed in the third year of His late Majesty's Reign, intituled *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*, by reason of accidental neglect or omission to comply with those terms and conditions; Be it enacted, that from and after the passing of this Act, the sixth and nineteenth clauses of the said hereinbefore recited Act shall be and they are hereby repealed.

6th & 19th
Sections of 3d
W. 4. c. 9.
repealed.

XIII. And whereas it is desirable to establish a degree of uniformity throughout

Uniform practice established throughout the Province.

out this Province, in carrying into effect the objects of this Act; Be it enacted, that each and every Collector, or Comptroller of the Customs now holding office as such at any of the Inland Ports, in that part of this Province heretofore called Lower Canada, and now required pursuant to the provisions of an Act of the Legislature of the said last mentioned Province, passed in the sixth year of the Reign of His late Majesty King William the Fourth, intituled *An Act to regulate and establish the salaries of the Officers of the Customs at the Inland Ports in this Province, and for other purposes therein mentioned*, which said Act was continued by an Ordinance of the Special Council of the said late Province of Lower Canada, passed in the third year of Her Majesty's Reign, intituled *An Ordinance further to continue for a limited time certain Acts therein mentioned*, and each and every Sheriff or Coroner, now holding office as such in the part of the Province last aforesaid, and now required pursuant to the provisions of an Act of the Legislature of the said last mentioned Province, passed in the sixth year of the Reign of His late Majesty King William the Fourth, intituled *An Act for making certain regulations respecting the Office of Sheriff*, which said Act was continued and made perpetual by an Ordinance of the Special Council of the said late Province of Lower Canada, passed in the third year of Her Majesty's Reign, intituled *An Ordinance to render permanent certain Acts therein mentioned*, shall within one month from and after the passing of this Act, if he shall then be within this Province, or within three months, if he shall then be absent from this Province, unless he shall sooner arrive in the said Province, and then within one month, after such arrival, enregister one copy of the bonds or acts of suretyship, required by such acts for the due fulfilment of the duties of his office, with the Registrar of the Province, and subsequently deposit the same with the Inspector General of Public Provincial Accounts, in the manner hereinbefore provided in reference to other bonds or securities, and shall in like manner give notice of the death, bankruptcy, insolvency or residence out of the Province, of any of his sureties, and be liable to all the penalties and forfeitures, provisions and regulations as are hereinbefore provided for the bonds or securities of other public Officers within this Province, any thing in the said Acts to the contrary notwithstanding, and each and every such Collector or Comptroller, Sheriff or Coroner, who may hereafter be appointed to Office, within that part of this Province, heretofore called Lower Canada, shall be held and constrained to observe the same formalities, in furnishing security and other matters as any other person hereinbefore mentioned, and so much of the provisions of the said hereinbefore recited Acts, as are repugnant to or inconsistent with the requirements of this Act, shall be and each and every of them is hereby repealed: Provided always, that nothing herein mentioned shall extend or be construed to extend to repeal such portions of the said hereinbefore recited Acts, as relate to the transmission, deposit or recording of the duplicate copy of such bond or act of suretyship to or in the office of the Prothonotary or Clerk of the Court of King's Bench, or Provincial

vincial Court of the District for which such Sheriff or Coroner shall respectively have been appointed, or in which such Collector or Comptroller shall respectively perform the duties of his office.

XIV. And be it enacted, that as soon as a certain Ordinance of the Special Council of the late Province of Lower Canada, passed in the fourth year of Her Majesty's Reign, intituled *An Ordinance for the better regulation of the office of Sheriff in this Province*, the operation of which has been delayed by the tenth section of a certain Ordinance, passed in the same year, intituled *An Ordinance to amend two certain Ordinances therein mentioned relative to the administration of Justice in this Province and to make other and further provision on the same subject*, and also another certain Ordinance of the said Special Council, passed in the same year, intituled *An Ordinance to prescribe and regulate the registering of titles to lands, tenements, and hereditaments, real or immoveable Estates, and of charges and incumbrances on the same, and for the alteration and improvement of the Law in certain particulars in relation to the alienation and hypothecation of real Estates and the rights and interest acquired therein*, shall have force and effect, each and every Sheriff, under Sheriff, Registrar or Deputy Registrar shall be held and constrained to deposit a duplicate copy of each and every bond by him entered into in pursuance of the said hereinbefore recited Ordinances, in the manner, within the periods, with the formalities, and subject to the penalties in case of neglect, in furnishing such security and other matters as any other person hereinbefore mentioned, and so much of the provisions of the said hereinbefore recited Ordinances as are repugnant to, or inconsistent with the requirements of this Act, shall be and each and every of them is hereby repealed.

Duplicate
Bonds.

XV. And be it enacted, that the Registrar of the Province shall cause to be prepared for the information of the Provincial Legislature, within fifteen days after the opening of each and every session thereof, a detailed statement of all bonds or securities so registered at his office since the commencement of this Act, or of any changes or entries that may have been made in reference to the names and residences of such sureties, and of the amounts in which they shall be severally liable since the period of the previous return submitted to the Provincial Legislature.

Statement of
Bonds &c. to
be laid before
Legislature.

XVI. And be it enacted, that nothing in this Act shall extend or be construed to extend to any District Treasurers or any other officer or officers having the control or management of moneys levied and applied for municipal or local purposes.

Exemption.

XVII. And be it enacted, that the words "Governor of this Province," where-soever they occur in the foregoing enactments, shall be understood as comprehending

Interpretation
Clause.

hending the Governor, Lieutenant Governor, or person authorized to execute the office or functions of Governor of this Province.

CAP. XCII.

An Act to Incorporate the Quebec Board of Trade.

18th September, 1841.—Presented for Her Majesty's Assent and reserved "for the signification of Her Majesty's pleasure thereon."

19th March, 1842.—The Royal Assent signified by the Proclamation of His Excellency SIR CHARLES BAGOT, Governor General.

Preamble.

WHEREAS the Honorable William Walker, the Honorable George Pemberton, James Dean, Henry W. Welch and others, hereinafter named, Merchants, resident and carrying on trade in the City of Quebec, have by their petition to the Legislature represented, that they have associated themselves together for some time past for the purpose of promoting such measures as they might upon due consideration deem calculated to advance and render prosperous the lawful trade and commerce of this Province, and of the said City of Quebec more especially, and have further represented that having already experienced the good effects of their said association, and being convinced that the advantages arising from it would be greatly extended and increased if they and their associates and successors were incorporated, and if certain powers were conferred on them, they pray the Legislature so to incorporate them and grant them such powers: and whereas it is expedient to grant the prayer of their said petition;—Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the said Honorable William Walker, Honorable George Pemberton, James Dean, Henry W. Welch, James Bell Forsyth, John Bonner, Henry J. Noad, J. W. Leavcraft, James Gibb, Peter Langlois Jr., Willam Chapman, Thomas Froste, William Price, A. Joseph, Edward Ryan, John P. Anderson, Thomas Curry, John Thomson, R. F. Maitland, John Gordon, Charles A. Holt, Thomas H. Oliver, Edward Burstall, Adam Burns, David Gilmour, George Burns Symes, Honorable J. M. Fraser, William K. Baird, R. Peniston, Charles Langevin, Michael Stevenson, Andrew Paterson, Richard Wainwright, Henry LeMesurier, H. J. Caldwell, Pierre Pelletier, Thomas Ruston, Honorable Willian Sheppard, H. N. Jones, Henry Pemberton, William Atkinson, Alex. D. Bell, Hugh Murray, G. H. Parke, William Stevenson, J. J. Lowndes, Robert Wood, Robert Chalmers, George Wm. Usborne, James Gillespie, Thomas Paton, David Burnet, and such

Names of the present members of the Quebec Board of Trade.

The said persons and their associates and

such other persons being inhabitants of and using trade and Commerce within the said City of Quebec, as shall be associated with the persons above named for the purposes of this Act, in the manner hereinafter provided, and their Successors, shall be and are hereby constituted a body politic and corporate, by the name of "The Quebec Board of Trade" and may by that name sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, in all Courts of Law and places whatsoever, and by that name they and their Successors shall have perpetual succession, and may have a common seal, and may break, change, alter or renew the same at pleasure, and shall have power to purchase take, receive, hold, and enjoy any estate whatever real or personal, and to alienate, sell, convey, lease or otherwise dispose of the same or any part thereof from time to time, and as occasion may require, and other estate real or personal to acquire instead thereof: Provided always, that the clear annual value of the real and personal estate together held by the said Corporation, at any one time shall not exceed two thousand pounds, currency: and provided also, that the said Corporation shall not have or exercise any corporate powers whatsoever except such as are expressly conferred on them by this Act, or are necessary for carrying the same into effect according to its true intent and meaning.

Successors shall be a body corporate by the name of "The Quebec Board of Trade." Corporate powers.

Proviso. The clear annual value of the Estates held by the Corporation shall not exceed £2,000.

No corporate powers to be exercised except such as are expressly given.

II. And be it enacted, that the funds and property of the said Corporation shall be used and applied to and for such purposes only as may be calculated to promote and extend the just and lawful Trade and Commerce of this Province, and of the said City of Quebec more especially, or as may be necessary for attaining the objects for which the said Corporation is constituted, according to the true intent and meaning of this Act.

Purposes to which the funds of the Corporation may be applied.

III. And be it enacted, that the usual place of meeting of the said Corporation shall be held to be the legal domicile thereof, and service at such place, of any notice or process of any kind addressed to the said Corporation shall be held to be sufficient service of such notice or process on the Corporation.

What shall be held to be the legal domicile of the Corporation.

IV. And be it enacted, that for the management of the affairs and business of the said Corporation, there shall be a Council to be called the "Council of the Board of Trade" which shall from and after the first Election hereinafter mentioned, consist of a President, a Vice President, a Treasurer and ten other Members of the Council, all of whom shall be Members of the said Corporation, and shall have the powers and perform the duties hereinafter mentioned and assigned to the said Council.

The affairs and business of the Corporation shall be managed by a Council. Name of the Council. Its composition.

V. And be it enacted, that the said Honorable William Walker shall be the President, the said Honorable George Pemberton shall be Vice President, the said Henry J. Noad the Treasurer, and the said James Dean, Henry W. Welch, James Bell

The first members of the said Council named and appointed.

Time during which they shall continue in office.

Bell Forsyth, John Bonner, J. W. Leaycraft, James Gibb, Peter Langlois Junr. William Chapman, Thomas Froste, and William Price, the other Members of the Council, until the first Election to be had under the provisions of this Act; and the Council hereby appointed shall until the said Election, have all the powers assigned to the Council of the said Corporation by this Act.

Annual Meeting of the Corporation.

Time and place of such Meeting.

President, Vice-President and the other Members of the Council to be elected at such Meeting.

Proviso. The Corporation shall not be dissolved if such Election do not take place on the day appointed but it may be had on a future day.

How vacancies in the Council occasioned by the death, absence etc. of any Member shall be filled.

Quorum at annual or general Meetings of the Corporation.

Place of holding such Meeting.

What persons shall be eligible to be

VI. And be it enacted, that the Members of the said Corporation shall meet annually at some place within the City of Quebec (of which due notice shall be given by the Council for the time being, or which shall be fixed by the by-laws of the Corporation) on the first Monday in the month of April, and they or a majority of them shall then and there choose by separate ballot, or in such other way as shall be fixed by the by-laws of the Corporation, elect from among the Members of the Corporation, one President, one Vice President, one Treasurer and ten other Members of the Council who with the said President, Vice President and Treasurer shall form the Council of the said Corporation, and shall hold their offices until others be elected at the next annual meeting in their stead or until they shall be removed from office, or shall vacate the same under the provisions of any by-laws of the Corporation: Provided always, that if the said Election shall not take place on the first Monday of April in any year, the Corporation shall not thereby be dissolved, but such Election may be had at any General Meeting of the Corporation to be called in the manner hereinafter provided, and the Members of the Council then in office shall remain so until the Election shall be had.

VII. And be it enacted, that if any Member of the said Council shall die, resign his office, or be absent for six months continuously from the said City of Quebec it shall be lawful for the said Corporation if they shall see fit, at any General Meeting to elect a Member of the Corporation to be a Member of the Council in the place of the Member so dying or resigning or being absent, and the Member so elected shall hold office until the next annual Election and no longer.

VIII. And be it enacted, that at any annual or other General Meeting of the Corporation, whether for the purpose of electing Members of the Council or for any other purpose, any twelve or more Members of the Corporation shall form a *Quorum*, and shall be competent to do and perform all Acts which either by this Act or by any by-law of the Corporation are or shall be directed to be done at any such General Meeting: and all General Meetings of the Corporation shall be held at the place then appointed by the by-laws thereof for the annual meeting aforesaid.

IX. And be it enacted, that each and every person then resident in the City of Quebec and carrying on Banking, Trade or Commerce of any kind therein, and having

having so resided continuously for not less than two years, shall be eligible to become a Member of the said Corporation; and at any General Meeting of the Corporation it shall be lawful for any Member thereof to propose any such person as aforesaid, as a Candidate for becoming a Member of the Corporation, and if such proposition shall be seconded by any other Member of the Corporation then present, such Candidate shall be again proposed and balloted for at the next General Meeting, not being less than one week after he shall be so proposed, and in the mean time the name of the person proposed and of the proposer and seconder shall be posted in a conspicuous part of the usual place of Meeting of the Corporation; and if at the Meeting at which such Candidate shall be balloted for, not less than three fifths of the Members present shall vote for his admission, he shall thenceforth be a Member of the Corporation, and shall have all the rights and be subject to all the obligations which the other Members possess or are subject to, and shall be bound by all the by-laws of the Corporation.

Members of the Corporation.

Mode of proposing Members.

Mode of Electing Members.

Three fifths of the Members present must vote for the Candidate before he can be admitted as Member.

X. And be it enacted, that it shall always be lawful for the Council of the said Corporation or a majority of them, by a notice inserted at least one week in one newspaper published in the said City of Quebec, and posted during the same time in a conspicuous part of the place where the meetings of the Corporation are then held, to call a general Meeting of the Corporation for any of the purposes of this Act.

How extraordinary General Meetings of the Corporation may be called.

XI. And be it enacted, that each of the Members of the Council of the said Corporation, whether hereby appointed or hereafter to be elected, shall before entering upon the discharge of their duties as such, take and subscribe an oath that they will respectively, faithfully and truly perform their duty as such Members, and will in all matters connected with the discharge of such duty, do all such things, and such things only as they shall truly and conscientiously believe to be adapted to promote the objects for which the said Corporation is constituted, according to the true intent and meaning of this Act; and such oath shall be administered to the President and Vice President hereby appointed, by the Mayor of the said City of Quebec, and shall remain among the records of the Corporation of the said City, and by the said President and Vice President or either of them, to the other Members of the Council hereby appointed, or who shall be hereafter elected, and shall remain among the papers of the Corporation hereby constituted.

Members of the Council to take an oath of Office.

Nature of the oath

By whom the oath shall be administered.

And how recorded.

XII. And be it enacted, that the said Council shall, in addition to the power hereby expressly conferred upon them, have such powers as shall be assigned to them by any by-law of the Corporation, except only the power of enacting or altering any by-law, or of admitting any member, which shall be done in the man-

Council to have such further powers as shall be conferred on them by any by-laws.

NER Exceptions as to such powers.

Quorum of the Council.

Who shall preside at Meetings of the Council and General Meetings of the Corporation.

By laws of the Corporation how to be made.

For what purposes.

And on whom to be binding.

The Council shall frame Rules and Regulations and submit them to a General Meeting of the Corporation for consideration.

Subscriptions and other monies due to the Corporation how to be paid or recovered.

Meetings of the Council to be open to all Members of the Corporation.

Minutes of the proceedings at meetings either of the Council or of the Corporation shall be kept.

ner provided by this Act and no other; and any five or more Members of the Council lawfully met, and of whom the President or Vice President shall be one, shall be a quorum, and any majority of such quorum may do all things within the powers of the Council; and at all meetings of the said Council and all general meetings of the Corporation, the President, or in his absence the Vice President, or if both be absent, any Member of the Council then present who may be chosen for the occasion, shall preside, and shall in all cases of equality of votes upon any division have a double or casting vote.

XIII. And be it enacted, that it shall be lawful for the said Corporation or a majority of them present at any general meeting, to make and enact such by-laws, rules and regulations for the government of the said Corporation, its Council, officers and affairs, and for the guidance of the Board of Arbitration hereinafter mentioned, as such majority shall deem meet: Provided that no such by-law be contrary to or inconsistent with the provisions of this Act, or the laws of this Province; and such by-laws shall be binding on all Members of the Corporation, its officers and servants, and all other persons, whomsoever lawfully under its control.

XIV. And be it enacted, that it shall be the duty of the Council hereby appointed, so soon as may be after the passing of this Act, to frame such by-laws, rules and regulations as they shall consider best adapted to promote the welfare of the said Corporation and the purposes of this Act, and to submit the same for adoption to a general meeting of the Corporation called for that purpose in the manner hereinbefore provided.

XV. And be it enacted, that all subscriptions of Members due to the Corporation under any by-law by any person bound thereby, and all other sums of money due to the Corporation, shall be paid to the Treasurer thereof, and in default of payment may be recovered in any action brought by him in the name of the Corporation in any Court of competent Civil Jurisdiction.

XVI. And be it enacted, that the meetings of the Members of the Council shall be open to all other Members of the Corporation who may attend at the same, but who shall take no part in any proceedings thereat; and minutes of the proceedings at all such meetings and at all general meetings of the Corporation, shall be entered in Registers to be kept for that purpose, by a person or persons appointed to keep the same; and the entry shall be signed by the person or officer who shall have made the same, and by the officer or person who shall have presided at the meeting; and such Registers shall be open at all seasonable hours to any Member of the Corporation free of any charge, and also to all other persons on

on payment of a fee of one shilling, currency, to the officer or person having charge of the Register.

XVII. And be it enacted, that at the same time and times as are hereby appointed for the Election of the Council, and in the same manner, it shall be lawful for the Members of the said Corporation to elect from their number twelve persons who shall form a Board, which shall be called the "Board of Arbitration;" and any three of whom shall have power to arbitrate upon and to give their award in any commercial case or difference which shall be voluntarily referred to them by the parties concerned; and wherever any such parties shall agree and bind themselves by bond or otherwise to submit the matter in dispute between them to the decision of the said Board of Arbitration, such submission shall be understood to be made to any three Members of the said Board, who may either by the especial order of the said Board or by virtue of any general rule adopted by them or under any by-law of the Corporation with regard to the consideration of cases so submitted to them, be appointed to hear and arbitrate upon the case, and shall be understood to bind the parties to submit to the decision of the said Board; and any such submission may be in the form of the Schedule to this Act, or in other words to the same effect.

A Board of Arbitration to be elected at the same time as the members of the Council.

By whom such Board of Arbitration shall act, and in what cases.

Terms of submission to award of the Board, how to be interpreted.

Form of such submission.

XVIII. And be it enacted, that the several Members of the said Board of Arbitration shall, before they act as such, take and subscribe before the President or Vice President of the Corporation, an oath that they will faithfully, impartially, and diligently perform their duties as Members of the said Board of Arbitration, and will in all cases submitted to them give a true and just award according to the best of their judgment and ability, without fear, favour or affection of or for any party or person whomsoever; and this oath shall be kept among the documents of the Corporation in the manner provided with regard to the oath taken by the Members of the Council.

Members of the Board of Arbitration shall take an oath of office.

Nature of the Oath.

How such Oath shall be recorded.

XIX. And be it enacted, that any Member of the Council of the Corporation may be at the same time a Member of the said Board of Arbitration.

Members of the Council may be members of the Board of Arbitration.

XX. And be it enacted, that the three Members appointed to hear any case submitted for arbitration as aforesaid, or any two of them, shall have full power to examine into the facts of such case, and to examine on Oath (which Oath any one of such three Members is hereby empowered to administer) any party or witnesses who appearing voluntary before them shall be willing to be so examined, and shall give their award thereupon in writing: and their decision, or that of any two of them given by such award, shall bind the parties according to the terms of the submission, and to the provisions of this Act.

Powers of the Members of the Board when acting as Arbitrators.

Their decision shall bind the parties.

After a certain day the Board of Examiners of applicants for the office of Inspectors of articles liable to inspection in the District of Quebec shall be appointed by the Council of the Board of Trade.

Proviso.

Former members of such Boards of Examiners may be re-appointed by the said Council.

XXI. And be it enacted, that from and after the first Monday of April next, the several persons composing the Boards of Examiners to examine applicants for the offices of Inspector or Assistant Inspector, for or within the District of Quebec, of Flour and Meal, or of Beef and Pork, or of Pot and Pearl Ashes, or of any other article subject to inspection, shall cease to be Members of the said Boards; and thereafter the Members of the said Boards respectively shall be such persons only as shall from time to time be appointed to be such Members by the Council of the said Corporation, any law to the contrary notwithstanding; but the number, powers and duties of such Boards and of the Members thereof, respectively, shall be in all respects the same as they now are, and they shall be sworn to the due performance of their duty in like manner: Provided always, that nothing herein contained shall prevent any person who shall under the provisions of this section cease to be a Member of any such Board, from being reappointed a Member thereof by the said Council if they shall deem it expedient, nor shall any thing herein contained prevent any Member of the said Corporation, not being a Member of the Council, from being appointed a Member of any of the said Boards; but no Member of the Council shall be so appointed.

Certain classes of persons may make an affirmation instead of taking an oath where an oath is required by this Act.

XXII. And be it enacted, that any person who may by law in other cases, make a solemn affirmation instead of taking an Oath, may make such solemn affirmation in any case where by this Act an Oath is required; and any person hereby authorized to administer an Oath may in such case as aforesaid, administer such solemn affirmation; and any person who shall wilfully swear or affirm falsely in any case where an Oath or solemn affirmation is by this Act required or authorized, shall be guilty of wilful and corrupt perjury.

Act to endure for 10 years.

XXIII. And be it enacted, that this Act shall be and continue in full force and effect for ten years from the passing thereof, and from thence to the end of the then next Session of the Provincial Parliament. and no longer.

Rights of the Crown and other parties saved, except when expressly mentioned.

XXIV. And be it enacted, that nothing in this Act shall affect any rights of Her Majesty, Her Heirs or Successors, or of any party or person whomsoever, such rights only excepted as are herein expressly mentioned and affected.

Public Act.

XXV. And be it enacted, that this Act, shall be a Public Act, and shall be judicially noticed as such by all Judges, Justices and other persons whomsoever without being specially pleaded.

SCHEDULE.

SCHEDULE.

Form of a submission to the award of the Board of Arbitration.

Know all men that the undersigned _____ and the undersigned _____
 (if there be more parties, that is more separate interests, mention them) having a dif-
 ference as to the respective rights of the said parties in the case hereunto subjoin-
 ed, have agreed and bound themselves under a penalty of _____ currency,
 to perform the award to be made by the Board of Trade in the case aforesaid,
 under the penalty aforesaid to be paid by the party refusing to perform such
 award, to the party ready and willing to perform the same.

In witness whereof the said parties have hereunto interchangeably set their
 hands, at the City of Quebec on the _____ day of _____

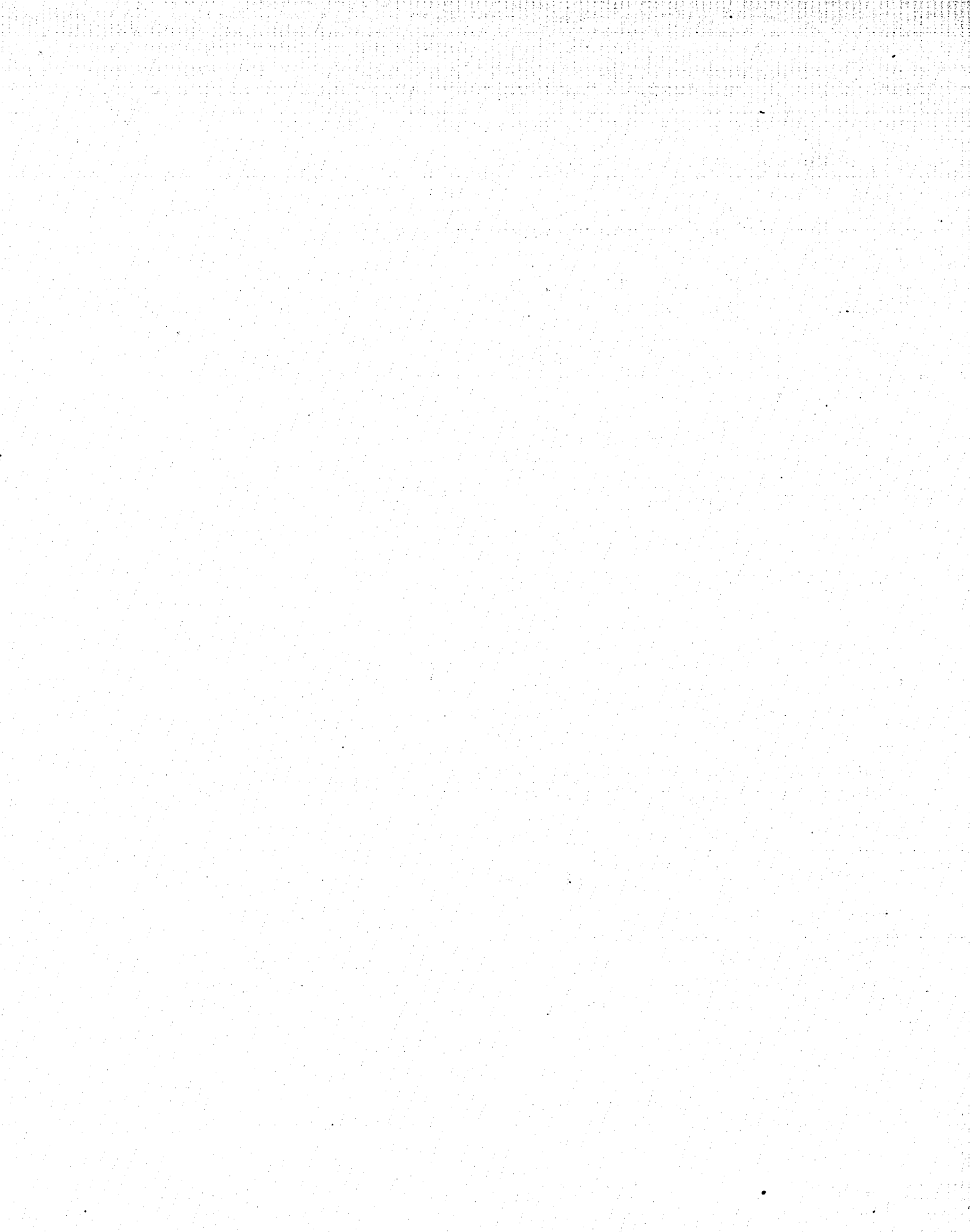
A. B.
 C. D.
 E. F.

Form of the oath to be taken by the Members of the Council.

I swear that I will faithfully and truly perform my duty as a Member of the
 Council of the Quebec Board of Trade, and that I will, in all matters connected
 with the discharge of such duty, do all such things and such things only as I shall
 truly and conscientiously believe to be adapted to promote the objects for which
 the said Board was constituted, according to the true intent and meaning of the
 Act incorporating the same.—So help me God.

Form of oath to be taken by the Members of the Board of Arbitration.

I swear that I will faithfully, impartially and diligently perform my duty as a
 Member of the Board of Arbitration of the Quebec Board of Trade : and that I
 will, in all cases in which I shall Act as Arbitrator, give a true and just award
 according to the best of my judgment and ability, without fear, favor or affection
 of or for any party or person whomsoever.—So help me God.



PROVINCIAL STATUTES

OF

CANADA.

ENACTED by Her Most Excellent Majesty, our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, QUEEN, Defender of the Faith, &c., by and with the advice and consent of the Legislative Council and Assembly of the said Province, constituted and assembled by virtue of and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the Third and Fourth year of Her Majesty's Reign, intituled "*An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada.*"

VOL. I. CONTINUED.
(Reserved Acts.)



KINGSTON :

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

Anno Domini, 1842.



PROVINCIAL STATUTES

OF

CANADA.

ANNO REGNI QUARTO ET QUINTO

VICTORIÆ,

DEI GRATIA, BRITANNIARUM REGINÆ.

HIS EXCELLENCY THE RIGHT HONORABLE

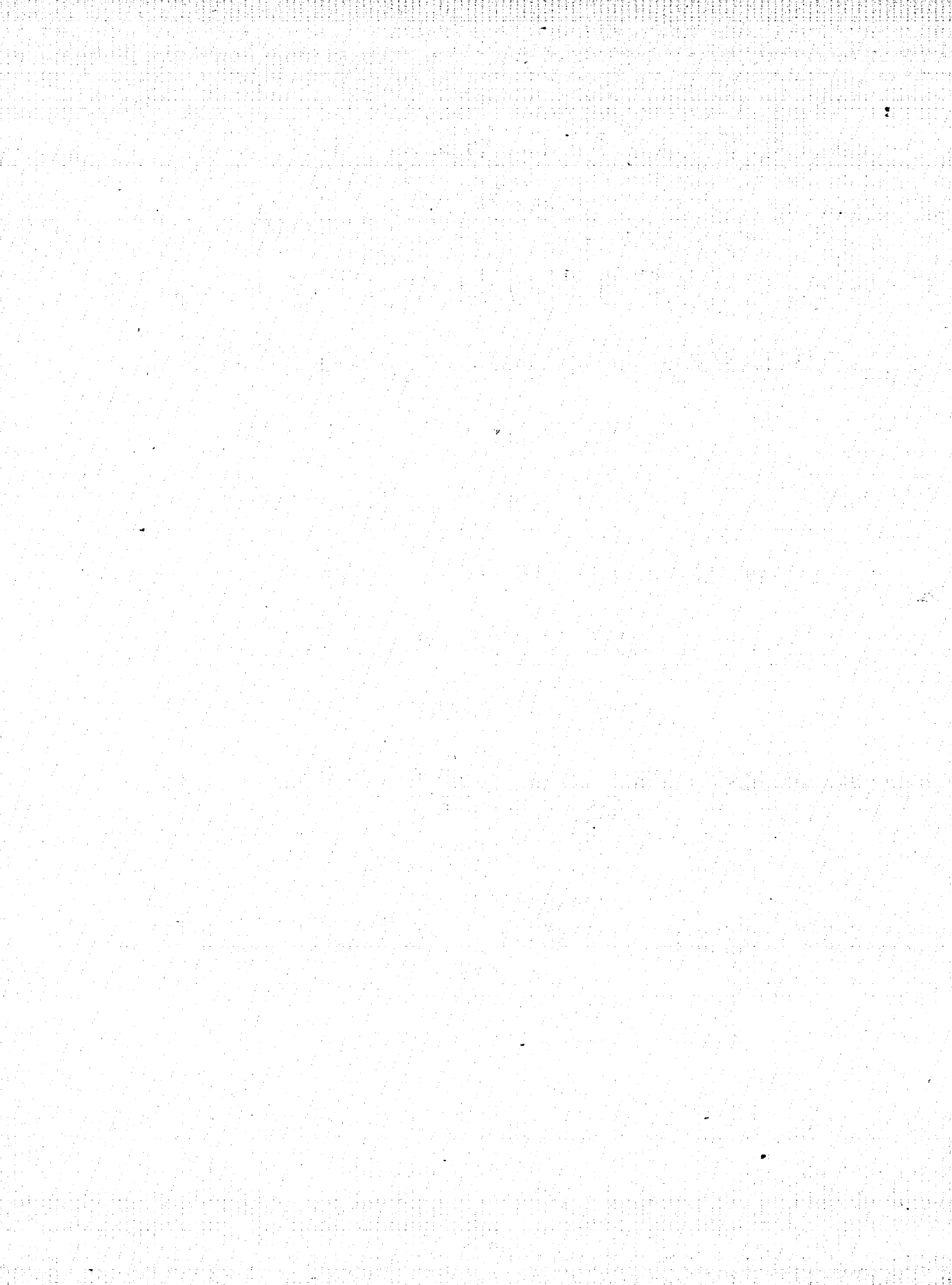
CHARLES, BARON SYDENHAM,

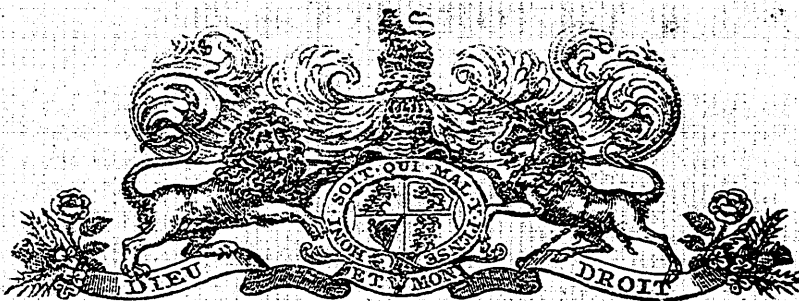
GOVERNOR GENERAL.

**Being the FIRST Session of the FIRST Provincial Parliament
of CANADA.**

(RESERVED ACTS

**To which the ROYAL ASSENT was subsequently promulgated by His Excellency
SIR CHARLES BAGOT, G. C. B. &c. &c. &c. GOVERNOR GENERAL.)**





ANNO QUARTO & QUINTO

VICTORIÆ REGINÆ.

C A P. XCIII.

An Act to Regulate the Currency of this Province.

18th September 1841.—Presented for Her Majesty's Assent and reserved "for the signification of Her Majesty's pleasure thereon."

11th March, 1842.—Assented by Her Majesty, in Her Privy Council.

27th April, 1842.—The Royal Assent signified by the Proclamation of His Excellency SIR CHARLES BAGOT, Governor General.

WHEREAS by the several Acts now in force within the respective portions of this Province, heretofore called Upper Canada and Lower Canada, the relative value of the Gold and Silver Coin therein current by Law has not been accurately established; and whereas the comparative value of the pound Sterling and of the pound in Halifax Currency is inaccurately described, and it has therefore become expedient that a just proportionate value be affixed to the pound Sterling, so as to determine its exact value in the Gold and Silver Coins current in this Province; and whereas it is also expedient to repeal all the existing Laws now in force in either Province, relating to the value of such Coins, which have been found to be based upon erroneous principles, and to give to the said Coins a fictitious value: Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that from and after the passing of

Preamble.

Certain Acts
repealed.

48 Geo. 3. L.
C.

59 Geo. 3. L.
C.

1st sect. 10
and 11 Geo. 4.
L. C.

2 Vict. L. C.

36 Geo. 3. U.
C.

49 Geo. 3. U.
C.

7 Geo. 4. U.
C.

11 Geo. 4. U.
C.

6 Will. 4. U.
C.

3 Vict. U. C.

of this Act, an Act of the Legislature of the late Province of Lower Canada, passed in the forty-eighth year of the Reign of His late Majesty King George the Third, intituled *An Act for better regulating the weight and rates at which certain Coins shall pass current in this Province; for preventing the falsifying, counterfeiting, or impairing of the same, and for repealing the Act and Ordinance therein mentioned*, and also another Act of the said Legislature, passed in the fifty-ninth year of the Reign of His late Majesty King George the Third, intituled *An Act to amend an Act passed in the forty-eighth year of His Majesty's Reign, intituled 'An Act for better regulating the weight and rates at which certain Coins shall pass current in this Province; for preventing the falsifying, counterfeiting, and impairing of the same, and for repealing the Act and Ordinance therein mentioned*, and also the first Section of another Act of the said Legislature, passed in the tenth and eleventh years of the Reign of His late Majesty King George the Fourth, intituled *An Act to ascertain the rate at which certain Coins therein mentioned shall pass current in this Province, and for other purposes*, and also an Ordinance of the Governor and Special Council of the said late Province of Lower Canada, passed in the second year of Her Majesty's Reign, intituled *An Ordinance to regulate the Currency of this Province*, and also an Act of the Legislature of the late Province of Upper Canada, passed in the thirty-sixth year of the Reign of His late Majesty King George the Third, intituled *An Act for the better regulation of certain Coins current in this Province*, and also another Act of the said Legislature, passed in the forty-ninth year of the Reign of His said late Majesty King George the Third, 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 Coins in the Province of Lower Canada*, and also a certain other Act of the said Legislature, passed in the seventh year of the Reign of His late Majesty 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 of the said Legislature, passed in the eleventh year of the Reign of His late Majesty George the Fourth, intituled *An Act for the better regulation of the Currency*, and also another Act of the said Legislature, 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*, and also another Act of the said Legislature, passed in the third year of Her Majesty's Reign, intituled *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*,

since, in relation to the Gold and Silver Coins 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, and all other Acts or parts of Acts relating in any manner to the value of Gold, Silver and Copper Coin current by Law in either of the said Sections of this Province, or to the amount thereof, respectively, to be paid in payment of debts and received as a legal tender, or in any manner relating to the Currency, and to the provisions of this Act, shall be and are hereby repealed.

And all other Acts relating to the Currency, and in anywise contrary to this Act.

II. And be it enacted, that the Pound Currency shall be such that the Pound Sterling as represented by the British Sovereign of the weight and fineness now fixed by the laws of the United Kingdom of Great Britain and Ireland, shall be equal to, and any such British Sovereign shall be a legal tender for one pound four shillings and four pence, currency.

The £ Currency to be such that £1 4s. 4d. currency shall be equal to the £ Sterling represented by the Sovereign.

III. And be it enacted, that nothing in this Act shall affect the meaning to be affixed to the words " Sterling," " Sterling Money of Great Britain," or other words of like import in any law in force in this Province, or any part thereof, when this Act shall come into force, or in any contract or agreement then made therein, but any such law, contract, or agreement, shall be construed according to the intention of the Legislature, or of the parties who made the same; but in any law, contract, or agreement made in this Province after this Act shall be in force, the Pound Sterling shall be understood to have the value in Currency hereby assigned to the British Sovereign, of the lawful weight and fineness aforesaid.

The meaning of the word " Sterling" defined.

In past acts or transactions.

For the future.

IV. And be it enacted, that the Eagle of the United States of America, coined before the first day of July one thousand eight hundred and thirty-four, and weighing eleven pennyweights, six grains troy, shall pass and be a legal tender for two pounds thirteen shillings and four pence Currency; and the Eagle of the United States aforesaid, coined after the day last mentioned, and before the commencement of the year one thousand eight hundred and forty one, and weighing ten pennyweights eighteen grains troy, shall pass and be a legal tender for two pounds ten shillings currency.

Value of the Eagle coined before 1st July 1834.

Of the Eagle coined after that day.

V. And be it enacted, that the Gold Coins of Great Britain and Ireland, or of the United States, coined before the day last aforesaid, being multiples or divisions of those hereinbefore mentioned, and of proportionate weight, shall for proportionate sums pass current, and be a legal tender to any amount by tale, so long as such Coins shall not want more than two grains of the weight hereby assigned to them, respectively, deducting one half-penny currency for each quarter of a grain any such Coin shall want of such weight: Provided always, that in any one payment,

Value at which the multiples and divisions of the Gold Coins of Great Britain or of the United States, coined before a certain day, shall pass current by tale.

Proviso.

In payment exceeding £50, such coin may be paid or received by weight, at 94s 10d. per oz. troy.

ment above the sum of Fifty Pounds the payer may pay, or the receiver may insist on receiving the said British Gold Coins, or Gold Coins of the United States, aforesaid, coined before the first day of July, 1834, by weight, at the rate of ninety four shillings and ten pence, currency, per ounce troy; and in like manner any sums tendered or to be received in the Gold Coin of the United States of America, coined since the day last aforesaid, may be weighed in bulk as aforesaid, and shall be a legal tender at the rate of ninety three shillings, currency, per ounce troy, when offered in sums of not less than Fifty Pounds currency.

Value of the French forty franc piece, and its divisions.

VI. And be it enacted, that the Gold Coin of France of forty francs, and its multiples or divisions, coined before the passing of this Act, may be weighed in bulk as aforesaid, and shall be a legal tender at the rate of ninety three shillings and one penny, currency, per ounce troy, when offered in sums of not less than Fifty pounds, currency.

Value of Doubloons.

That the old Doubloon of Spain or Quadruple Pistole, and the Mexican and Chilian Doubloon, and the parts thereof, respectively, coined before the passing of this Act, may be weighed in bulk, as aforesaid, and shall be a legal tender at the rate of eighty nine shillings and seven pence, currency, per ounce troy, when offered in sums of not less than Fifty pounds, currency.

Value of Gold Coins of La Plata and Columbia.

That the Gold Coins of La Plata and of Columbia, coined before the passing of this Act, may be weighed in bulk, as aforesaid, and shall be a legal tender at the rate of eighty nine shillings and five pence, currency, per ounce troy, when offered in sums of not less than Fifty pounds, currency.

Value of the Gold Coins of Portugal and Brazil.

That the Gold Coins of Portugal and of Brazil, coined before the passing of this Act, may be weighed in bulk, as aforesaid, and shall be a legal tender at the rate of ninety four shillings and six pence, currency, per ounce troy, when offered in sums of not less than Fifty pounds, currency.

Value of the Silver Dollar;

VII. And be it enacted, that the milled dollar of Spain, the dollar of the United States of America, and of the several States of Peru, Chili, Central America and the States of South America, and of Mexico, coined, respectively, before the year one thousand eight hundred and forty one, and not weighing less than seventeen pennyweights four grains troy, shall pass for five shillings and one penny, currency, each, and the half dollar of any of the same Nations, States or Governments and date hereinbefore mentioned, and of the proportionate weight shall pass for two shillings, sixpence and a half penny currency, each, and such dollar or half dollar shall be a legal tender by tale to any amount; but the other silver coins of the same nations and date, being sub-divisions of such dollars, for proportionate sums and

and of proportionate weights shall pass at the rates hereinafter mentioned, to wit, the quarter for one shilling and three pence, currency, the eighth for seven pence and one half penny, currency, and the sixteenth for three pence half penny, currency, each, and not otherwise; except that the sub-divisions of such dollars, being less than halves thereof, shall be a legal tender by tale to the amount of two pounds ten shillings, currency, and no more, at any one time, until they shall have lost one twenty-fifth part of such weight, respectively, after which they shall not be lawful money.

And of its sub-
divisions.

Subdivisions
less than
halves.

VIII. And be it enacted, that the five franc, Silver piece of France, coined before the passing of this Act, and weighing not less than sixteen pennyweights, shall be a legal tender in tale to any amount at four shillings and eight pence, currency.

Value of the
French five
franc silver
pieces.

IX. Provided always, and be it enacted, that the Governor, Lieutenant Governor, or Person administering the Government for the time being, may, by proclamation, extend all the provisions of the three sections immediately preceding this section, to any Gold or Silver Coins of the nations, weights and denominations therein mentioned or referred to, but of later date, which having been assayed at the Royal Mint shall have been found equal in fineness to those therein mentioned or referred to, respectively.

Governor, &c.
may extend
the provisions
of this and the
preceding
Section to certain
Foreign Coins.

X. And be it enacted, that all Silver Coins of the United Kingdom of Great Britain and Ireland, while lawfully current therein, shall pass in this Province at the rates following, that is to say: the British Crown at six shillings and one penny, currency: which said British Crowns and all other divisions of the Silver Coin of the United Kingdom of Great Britain and Ireland, lawfully current therein, of proportionate weight, shall, for proportionate sums, pass current and be a legal tender to the amount of two pounds ten shillings, currency, and no more: Provided always, that the holder of the notes of any person or body corporate to the amount of more than five pounds, shall not be bound to receive more than that amount in payment of such notes if presented at one time, although each or any of such notes be for a less sum.

Value of Silver
Coins of
the United
Kingdom.

Smaller Coins
to be a legal
tender to a li-
mited amount
only.

Proviso.

XI. And be it enacted, that the Copper penny of the United Kingdom aforesaid, or any other which Her Majesty may cause to be coined, if not less than five-sixths of the weight of such copper penny, shall pass for one penny, currency, and the halves and quarters thereof for proportionate sums; and such copper coin shall be a legal tender to the amount of one shilling, currency, at any one time, and no more.

Value of Cop-
per Coins.

XII.

Penalty on persons counterfeiting Coin, or attempting to pass counterfeit Coin or importing the same.

XII. And be it enacted, that if any person shall colour, gild, or case over with gold or silver, or with any wash or materials producing the colour of gold or silver, any coin of coarse gold or of coarse silver, or of base metal resembling any Coin made or declared to be current by this Act, or if any person or persons shall bring and import, or cause to be brought and imported into this Province, any forged, false, or counterfeit Gold, Silver or Copper Coin, like to any of the Gold, Silver or Copper Coin made or declared to be lawfully 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, or if any person shall utter or tender in payment to any person or persons (as being any of the Gold, Silver or Copper Coins hereby made and declared to be current money any false or counterfeit, counterfeited to any of the Gold, Silver or Copper Coins made and 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, such person shall be guilty of a misdemeanor, and on being duly convicted shall be liable to be imprisoned and kept at hard labour in the Penitentiary in the Township of Kingston for not more than four years; and if such person shall afterwards offend in like manner, he or she shall, for such second or for any subsequent offence, be deemed guilty of felony, and on being thereof duly convicted, shall be liable to the punishment by law provided for felony.

Penalty on persons counterfeiting or attempting to pass any counterfeit Bank Notes.

XIII. And be it enacted, that if any person shall form, make, cut, sink, stamp, engrave, repair or mend, or shall assist in forming, making, cutting, sinking, stamping, engraving, repairing or mending, or shall have in his or her possession, except for some known and lawful purpose, any die, plate, press, tool or instrument, paper, metal or material of any kind, used, constructed, devised, adapted or designed for the purpose of counterfeiting or imitating any coin which shall be lawfully current in this Province under the authority of this Act, or any Bank Note, Bill, Note or Writing purporting to be a Bank Note, (whether of any chartered Bank or otherwise, and whether the Bank whose note shall be intended to be counterfeited or imitated be or be not established within this Province,) in circulation in this Province, or in any one of the United States of America adjoining this Province, such person shall be guilty of a misdemeanor, and shall be liable to punishment accordingly: And the proof that such die, plate, press, tool or instrument, paper, metal or material was formed, made, cut, sunk, stamped, engraved, repaired or mended by, or was in the possession of such person for some lawful purpose shall lie upon him or her.

XIV. And be it enacted, that it shall be lawful for any one Justice of the Peace
on

on complaint made before him upon the oath of one credible person, that there is just cause to suspect that any person or persons is or are or hath or have been concerned in making, counterfeiting or imitating any such Coin, Bank Note, Bill, Note or Writing as aforesaid, by warrant under the hand of such Justice of the Peace, to cause the dwelling house, room, work-shop, out-house or other buildings, yard, garden, ground or other place belonging to such suspected person or persons, or where such suspected person or persons shall be suspected to carry on any such making, counterfeiting or imitating, to be searched for any such counterfeit Coin, Bank Notes, Bills, Notes or Writings : And if any such, or any such die, plate, press, tool or instrument, paper, metal or material, as aforesaid, shall be found in the possession or custody of any person or persons whomsoever, not having the same for some lawful purpose, it shall and may be lawful to and for any person or persons discovering the same, to seize, and he or they are hereby authorized and required to seize and carry the same forthwith before a Justice of the Peace having jurisdiction within the locality in which 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 such offence, as aforesaid, in any Court of competent jurisdiction, and the same after being so produced in evidence shall by order of the Court be defaced or destroyed, or otherwise disposed of as the Court shall direct.

Justice of the Peace may issue a warrant to search the premises of persons suspected of counterfeiting.

If plates, dies &c. are found, how disposed of.

XV. And be it enacted, that any person to whom any pretended Gold, Silver or Copper Coin shall be tendered in payment, which shall by the stamp, impression, colour, or weight thereof, afford reason to suspect that the same is false or counterfeit, may cut or break such coin, and if the same shall be counterfeit the person who tendered it shall bear the loss, otherwise the person who shall have cut or broken it shall receive it for a sum proportionate to its weight, and if any question shall arise whether such coin be counterfeit, it shall be determined by any Justice of the Peace, who, if he entertain any doubt in that behalf, may summon three skilful persons, the decision of a majority of whom shall be final.

Counterfeit coin tendered in payment may be broken.

XVI. And be it enacted, that if any false or counterfeit Coin shall be produced in any Court of Law, the Court shall order the same to be cut in pieces in open Court or in the presence of a Justice of the Peace, and then delivered to or for the lawful owner thereof.

Also if produced in any Court.

C A P. XCIV.

An Act to extend the Charter of the Quebec Bank.

18th September, 1841.—Presented for Her Majesty's Assent and reserved "for the signification of Her Majesty's pleasure thereon."

11th March, 1842.—Assented by Her Majesty, in Her Privy Council.

27th April, 1842.—The Royal Assent signified by the Proclamation of His Excellency SIR CHARLES BAGOT, Governor General.

Preamble.

WHEREAS the President and Directors of the Quebec Bank have by their Petition to the Legislature, on behalf of that Corporation, prayed that the term of the Royal Charter incorporating the said Bank be further prolonged, and it is expedient to grant the prayer of their said Petition, subject to the enactments of the Ordinance hereinafter mentioned and to the provisions of this Act; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the Ordinance of the Legislature of the late Province of Lower Canada, passed in the second year of Her Majesty's Reign, and intituled *An Ordinance to prolong the term of the Royal Charter incorporating the Quebec Bank, and to make further provision for the Government and management of the said Bank*, and the Royal Charter or Letters Patent of His late Majesty King William the Fourth, bearing date at Westminster, the thirty first day of May, in the seventh year of his Reign, and in and by the said Ordinance ratified and confirmed, shall be and the said Ordinance, and the said Royal Charter or Letters Patent are hereby continued and shall remain in force until the first day of December, one thousand eight hundred and sixty two, and the Corporation by the said Royal Charter or Letters Patent constituted by the name of "The Quebec Bank" shall be and is hereby continued until the day last mentioned, and no longer, with all, each and every the rights, powers, and authorities, in and by the said Charter or Letters Patent, or in and by the said Ordinance conferred upon or vested in the said Corporation, and subject to the provisions, enactments, limitations and restrictions in the said Charter and Ordinance contained: Provided always, that so much of the said Charter and of the said Ordinance, as may be inconsistent with or repugnant to the provisions of this Act, shall be and is hereby repealed and made wholly void.

The Royal Charter incorporating the Quebec Bank, and the Ordinance confirming the same, continued until December 1862.

Proviso.

No additional stock authorized by the Or-

II. Provided always, and be enacted, that from and after the expiration of eighteen months from the first day of November, one thousand eight hundred and forty

forty two, no new subscription shall be received for any part of the additional sum which the said Corporation is authorized by the second Section of the said Ordinance to raise and add to its Capital Stock ; and that each and every Share subscribed for as part of such additional sum shall be wholly paid up before the expiration of two years from the day last aforesaid ; any thing in the said Ordinance or Charter to the contrary notwithstanding : Provided always that the Directors of the said Corporation shall not be compelled to open Books of subscription for the whole number of Shares authorized by the said Ordinance at one and the same time, but it shall and may be lawful for the said Directors, and they are hereby authorized from time to time to limit the number of Shares for which the Books of subscription shall be open, as aforesaid, at any one time, as they in their discretion may deem most advisable.

dinance to be subscribed for after a certain time; and the whole amount subscribed for to be paid up within a certain time.

III. Provided also, and be it enacted, that the total amount of the liabilities of the said Corporation, whether on Bonds, Bills, Notes or other contracts whatsoever, shall not at any time exceed thrice the amount of its paid up Capital, with the addition of the amount of such deposits as may be then made with the Corporation for safe-keeping, in Specie or Government securities ; any thing in the said Ordinance or Charter to the contrary notwithstanding.

Amount of liabilities of the Corporation limited.

IV. Provided also, and be it enacted, that all promissory Notes or Bills of the Corporation made payable to order, or to bearer, or intended for general circulation, whether the same shall issue from the chief place or seat of business of the Corporation in Quebec, or from any of the branches or offices of discount or deposit of the Corporation in any other place in this Province, shall bear date at the place of issue, and shall be payable on demand at such place, as well as at the principal establishment of the Corporation.

Notes to be payable in specie at the place of issue.

V. Provided also, and be it enacted, that from and after the first day of November, one thousand eight hundred and forty two, any further limitation by the Legislature of the total amount of the Notes to be issued or re-issued by the said Corporation after the said day, or with regard to the value of each Note to be issued or re-issued after that time, shall not be held to be any infringement upon the privileges hereby granted.

Proviso respecting the issue and value of Notes.

VI. Provided also, and be it enacted, that a suspension by the said Corporation (either at the chief place or seat of business in the said City of Quebec, or at any of their branches or offices of discount and deposit at other places in this Province,) of payment on demand, in Specie, of the Notes or Bills of the said Corporation payable on demand, shall, if the time of suspension extend to sixty days, consecutively or at intervals, within any twelve consecutive months, operate

Suspension of specie payments beyond a certain time to forfeit the Charter of the Bank.

as

as and be, a forfeiture of its Charter, and all and every the privileges thereby or hereby granted.

Stockholders to be liable to twice the amount of their respective shares.

VII. Provided always, and be it enacted, that in the event of the property and assets of the said Corporation becoming insufficient to liquidate the liabilities and engagements or debts thereof, the shareholders of the Corporation, in their private or natural capacities, shall be liable and responsible for the deficiency, but to no greater extent than to double the amount of the paid up Capital ; that is to say ; the liability and responsibility of each shareholder shall be limited to the amount of his or her share or shares of the said paid up Capital Stock, and a sum of money equal in amount thereto : Provided also that nothing in this section contained shall be construed to alter or diminish the additional liabilities of the Directors of the said Corporation under the provisions of the said Charter or Ordinance, or of this Act.

Proviso.

Corporation not to hold any of its own Stock.

VIII. Provided also, and be it enacted, that the said Corporation shall not in its corporate capacity hold any share or shares of its own Stock, nor make any advance upon the security of any such Stock.

Discounts and advances to Directors limited.

IX. Provided also, and be it enacted, that from and after the first day of November, one thousand eight hundred and forty two, the aggregate amount of discounts and advances made by the said Corporation upon commercial paper or securities bearing the name of any Director or Officer, or the co-partnership, name or firm of any Director of the said Corporation, shall not at any one time exceed one third of the total amount of discounts or advances made by the said Corporation, at the same time.

In what the business of the Corporation shall consist.

X. Provided also, and be it enacted, that the said Corporation shall not, either directly or indirectly, hold any lands or tenements, (save and except such as by the said Charter or Ordinance, it is specially authorized to acquire and hold,) or any ships or other vessels ; nor shall the said Corporation, either directly or indirectly, lend money or make advances upon the security, mortgage or hypothecation of any lands or tenements, or of any ships or other vessels, or of any goods, wares or merchandize ; nor shall the said Corporation, either directly or indirectly, raise loans of money, or deal in the buying, selling or bartering of goods, wares, or merchandize, or engage or be engaged in any trade whatever, except as a dealer in gold and silver bullion, bills of exchange, discounting of promissory notes and negotiable securities, and in such trade generally as legitimately appertains to the Business of banking : Provided also, that the said Corporation may take and hold mortgages and hypothèques on real estates and property in this Province, by way of additional security for debts contracted to the Corporation in the course of its dealings.

XI. Provided also, and be it enacted, that besides the detailed statement of the affairs of the said Corporation by the said Charter and Ordinance required to be laid before the shareholders thereof, at their annual general meetings, the Directors shall make up and publish, on the first day in March and on the first day in September, in every year, statements of the assets and liabilities of the Corporation, in the form of the Schedule hereunto annexed, shewing under the heads specified in the said form, the average of the amount of the notes of the Corporation in circulation and other liabilities, at the termination of each month during the period to which the statement shall refer, and the average amount of specie and other assets which at the same times, were available to meet the same: and that it shall also be the duty of the directors to submit to the Governor, Lieutenant Governor or Person administering the Government of this Province, a copy of each of such half yearly statements; and if by him required to verify all or any part of the said statements, the said Directors shall verify the same by the production of the weekly or monthly balance-sheets, from which the said statements shall have been compiled; and furthermore, the said Directors shall from time to time, when required, furnish to the said Governor, Lieutenant Governor, or Person administering the Government of this Province, such further information respecting the state and proceedings of the Corporation, and of the several branches and offices of discount and deposit thereof, as such Governor, Lieutenant Governor, or Person administering the Government of this Province, may reasonably see fit to call for: And Provided also, that the weekly or monthly balance sheets, and the further information that shall be so produced and given, shall be held by the said Governor, Lieutenant Governor or Person administering the Government of this Province, as confidential documents: And Provided also, that the Directors shall not, nor shall any thing herein contained be construed to authorize them or any of them to make known the private account or accounts of any person or persons whatever having dealings with the Corporation.

Statements of the affairs of the Corporation to be published in the form of the Schedule.

Governor may require further information.

Such information to be confidential.

XII. Provided also, and be it enacted, that from and after the said first day of November, one thousand eight hundred and forty two, the total amount of the notes of the said Corporation payable to bearer or on demand, in circulation at any one time, shall not exceed the amount of its paid up Capital.

After the 1st Nov. 1842, the total amount of notes in circulation shall be limited.

XIII. And be enacted, that the several public notices by this Act required to be given, shall be given by advertisement in two or more of the newspapers published in the City of Quebec, whereof the Quebec Gazette, or such other Gazette as shall be generally known and accredited as the Official Gazette for the publication of Official documents and notices emanating from the Civil Government of this Province, shall be one.

In what papers notices shall be published.

XIV.

Corporate powers extended to the whole Province.

Chief seat of business appointed: Branches may be established.

XIV. And be it enacted, that all the corporate powers, privileges and capacities of the said Corporation shall extend and be held to extend to and throughout the Province of Canada, and may be exercised in any part thereof, as if they had been granted by the Legislature of this Province, or were vested in the said Corporation by this Act; and that the chief place or seat of business of the said Corporation shall be in the City of Quebec aforesaid; but it shall and may be lawful for the Directors of the Corporation, to open and establish in other Cities, Towns, and places in this Province, branches or offices of discount and deposit of the said Corporation, under such rules and regulations for the good and faithful management of the same as to the said Directors shall, from time to time, seem meet, and shall not be repugnant to any Law of this Province, to the Charter or Ordinance aforesaid, to this Act, or the By-laws of the said Corporation.

No Bank Officer to act as proxy.

XV. And be it enacted, that neither the Cashier nor any other Officer of the said Bank shall hold any proxy for the choice of Directors.

Bank not to hold other bank stock.

XVI. And be it enacted, that nothing in this Act shall authorize or be construed to authorize the said Corporation to hold any Stock, share or interest in any other chartered Bank in this Province, except the same shall be taken *bonâ fide* and for the payment of real and *bonâ fide* debts.

Offices of discounts considered Branch Banks.

XVII. And be it enacted, that each and every office of discount and deposite established, or hereafter to be established by the said Corporation, and under the management or direction of a local Board of Directors, shall be considered and held to be a Branch Bank, and subject to the restrictions as to the issuing and redemption of notes provided in this Act.

Power of the Legislature to alter this Act.

XVIII. And be it enacted, that nothing herein contained shall be taken or construed to prevent the Legislature of this Province, at any time hereafter, from making such provisions as to the issuing of notes or the amount or description of notes which may be issued, or as to any other provisions or restrictions respecting the transaction of business by the said Bank, as may from time to time be deemed necessary or proper to be applied generally to other Banks in the Province.

Interest to be taken or allowed the Bank.

XIX. And be it enacted, that it shall and may be lawful for the said Corporation to allow and pay interest, (but not exceeding the legal rate of interest in this Province,) upon monies deposited in the Bank; and also it shall and may be lawful for the Corporation, in discounting promissory notes or other negotiable securities, to receive or retain the discount thereon, at the time of the discounting or negotiating the same; any law or usage to the contrary notwithstanding.

XX.

XX. And be it enacted, that if any Officer, Cashier, Manager, Clerk or Servant of the said Corporation shall secrete, embezzle or abscond with any bond, obligation, bill obligatory or of credit, or other bill or note, or with any security for money, or any money or effects intrusted to him as such Officer, Cashier, Manager, Clerk or Servant, whether the same belong to the said Corporation, or belonging to any other person or persons, body politic or corporate, or institution or institutions, be lodged and deposited with the said Corporation, the Officer, Cashier, Manager, Clerk or Servant so offending, and being thereof convicted in due form of law, shall be deemed guilty of felony.

Officers of the Bank embezzling Bills, &c.

XXI. And be it enacted, that if any person or persons shall forge or counterfeit the Common Seal of the said Corporation, or shall forge, or counterfeit, or alter, any bond, obligation, bill obligatory or of credit, or other bill or note of the said Corporation, or any endorsement or endorsements thereon, with an intention to defraud the said Corporation, or any person or persons, body or bodies politic or corporate, or institution or institutions, whomsoever and whatsoever; or shall offer or pass any forged, counterfeit or altered bond, obligation, bill obligatory or of credit, or other bill or note of the said Corporation, or endorsement or endorsements thereon, or shall demand the money therein mentioned, knowing the same to be forged, counterfeit or altered, every such person, for every such offence, upon conviction thereof in due form of law, shall be deemed and adjudged to be guilty of felony.

Punishment of persons forging Bonds, &c. of the Corporation.

XXII. And be it enacted, that if any person shall engrave, form, make, or mend any plate or plates, paper, rolling-press, or other tool, instrument or material, devised, adapted or designed for stamping, forging, or making any false or counterfeit Bill of Exchange, promissory note, undertaking or order, for the payment of money, purporting to be the Bill of Exchange, promissory note, undertaking, or order of the said Corporation, or of any of the officers or persons engaged in the management of the affairs of the said Corporation, in the name or on the behalf thereof, or shall have in his possession any such plate or plates, engraven in any part, or any such paper, rolling-press, or other tool, instrument or material, devised, adapted or designed as aforesaid, with the intent to use and employ the same, or to cause or permit the same to be used and employed in forging and making any such false and counterfeit Bills of Exchange, promissory notes, undertakings or orders, every person so offending shall be deemed and taken to be guilty of felony, and the proof that such plate, paper, rolling press or other tool, instrument or material, as aforesaid, was formed, made, engraved or mended by or was in the possession of such person for some lawful purpose shall lie upon him or her.

Punishment of persons engraving plates &c.

XXIII.

Persons convicted under this Act how punished.

XXIII. And be it enacted, that every person convicted of felony under this Act shall be punished by imprisonment at hard labor in the Provincial Penitentiary for any term not less than seven years, or by imprisonment in any other Gaol or place of confinement for any term not exceeding two years.

Power of searching for Counterfeit Bills, plates, tools, &c.

XXIV. And be it enacted, that it shall and may be lawful to and 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 are, or have been concerned in making or counterfeiting any such false bills of exchange, promissory notes, undertakings or orders as aforesaid, by warrant under the hand of such Justice, to cause the dwelling-house, room, workshop, outhouse 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 of carrying on any such making or counterfeiting, to be searched; and if any such false bills of exchange, promissory notes, undertakings or orders, or any such plates, rolling-presses, or other tools, instruments or materials, shall be found in the custody or possession 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 whomsoever discovering the same, to seize, and he and they are hereby authorized and required to seize such false or counterfeit bills of exchange, promissory notes, undertakings or orders, and such plates, rolling-presses or other tools, instruments or materials, and to carry the same forthwith before a Justice of the Peace of the County or District, (or if more convenient, of the adjoining County or District,) in which 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, in some Court of Justice, proper for the determination thereof, and the same, after being so produced in evidence, shall, by order of the Court, be defaced or destroyed, or otherwise disposed of as such Court shall direct.

Rights not specially affected to be saved.

XXV. And be it enacted, that nothing in this Act contained shall in any manner derogate from or affect, or be construed to derogate from or affect the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, or of any body or bodies politic or corporate, except in so far as the same may be specially derogated from or affected by the provisions of this Act.

Public Act.

XXVI. And be it enacted, that this Act shall be held and taken to be a public Act, and shall be judicially taken notice of, and have the effect of a public Act, without being specially pleaded.

SCHEDULE.

FORM OR SCHEDULE.

Referred to in the foregoing Act.

RETURN of the average amount of Liabilities and assets of the Quebec Bank, during the period from		to					
		18					
		Month ending					
LIABILITIES.		30th Sept 18	31st Oct. 18	30th Nov. 18	31st Dec. 18	31st Jan. 18	28th Feb. 18
Promissory Notes in circulation not bearing interest	£						
Bills of Exchange in circulation not bearing interest	£						
Bills and Notes in circulation bearing interest,	£						
Balance due to other Banks,	£						
Cash deposits, not bearing interest,	£						
Cash deposits, bearing interest,	£						
Total average Liabilities,	£						
ASSETS.							
Coin and Bullion,	£						
Landed or other Property of the Bank,	£						
Government Securities,	£						
Promissory Notes or Bills of other Banks,	£						
Balances due from other Banks,	£						
Notes and Bills discounted, or other Debts due to the Bank, not included under the foregoing heads,	£						
Total average Assets,	£						

CAP. XCV.

An Act to permit the business of the Bank of Upper Canada to be carried on in Toronto as usual.

18th September 1841.—Presented for Her Majesty's Assent and reserved "for the signification of Her Majesty's pleasure thereon."

11th March, 1842.—Assented by Her Majesty, in Her Privy Council.

27th April, 1842.—The Royal Assent signified by the Proclamation of His Excellency SIR CHARLES BAGOT, Governor General.

WHEREAS by an Act of the Parliament of that part of the Province of Canada, formerly called Upper Canada, the Royal assent to which was announced

Preamble.

ced

ced by Proclamation, bearing date the twenty first day of April, in the year of our Lord one thousand eight hundred and twenty one, and in the second year of the reign of His late Majesty King George the Fourth, intituled *An Act to incorporate sundry persons under the style and title of the President, Directors and Company of the Bank of Upper Canada*, it is among other things enacted, that the said Bank shall be established and the buildings necessary for the accommodation thereof erected, purchased or leased, and the business thereof at all times thereafter transacted at such place at the seat of Government of the said Province, as the Directors or a majority of them might appoint; and whereas the President, Directors and Company of the said Bank of Upper Canada, have by their petition set forth that the said Bank is now established at the City of Toronto, at which place they are desirous that its principal place of business shall remain, and that doubts might arise as to the construction of the said enactment, and whether the removal of the said Institution to any place which might be established as the seat of the Provincial Government other than the said City of Toronto, might not be legally necessary; and whereas, it is expedient to allow the said Bank of Upper Canada to continue at the City of Toronto and to remove the said doubts;—Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to Re-write the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that so much of the twenty-first section of the Act first above cited, as enacts that the said Bank shall be established, and the buildings necessary for the accommodation thereof erected, purchased or leased, and the business thereof at all times thereafter transacted at such place at the seat of Government of the said Province, as the Directors or a majority of them may appoint, shall be, and the same is hereby repealed.

So much of the Act above cited as requires that the Bank of Upper Canada be kept at the seat of Government repealed.

Bank to be kept at Toronto.

II. And be it declared and enacted, that the said Bank shall and may remain and be established at the said City of Toronto, at such place as the Directors or the majority of them may appoint.

Things done by the said Bank at Toronto, declared to have been validly done.

III. And be it enacted, that notwithstanding the assembling of the Legislature and the administration of the Government at any other place in the Province of Canada than the said City of Toronto, all business transacted or things done by the said Bank at the said City, but otherwise in conformity to the said Act, is and are hereby declared to have been validly and legally transacted and done.

CAP. XCVI.

An Act to Incorporate sundry persons under the style and title of the President, Directors, and Company of the Bank of the Niagara District.

18th September, 1841.—Presented for Her Majesty's Assent and reserved "for the signification of Her Majesty's pleasure thereon."

11th March, 1842.—Assented by Her Majesty, in Her Privy Council.

27th April, 1842.—The Royal Assent signified by the Proclamation of his Excellency SIR CHARLES BAGOT, Governor General.

WHEREAS, the establishment of a Bank at Saint Catherines, in the Niagara District, will conduce to the prosperity and advantage of Commerce and Agriculture, as well in the Province at large as in said District; and whereas George Rykert and others, by their Petition presented to the Legislature, have prayed for the privilege of being incorporated: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to Re-write the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that George Adams, George Rykert, Jacob Keefer, Chauncey Beadle, Thomas Merritt, Frederick Lewis Converse, Henry Mittleberger, John Clark, James Beamer Clendenan, Roland McDonald, William C. Chase, Elias Smith Adams, Thomas Burns, James R. Benson, A. R. Boomer, and all such persons as shall hereafter become Stockholders of the said Bank, shall be, and are hereby ordained, constituted, and declared to be, from time to time, and until the first day of June, which will be in the year of our Lord one thousand eight hundred and sixty two, a body corporate and politic in fact and in name, by the style and title of "The President, Directors, and Company of the Bank of the Niagara District."

Preamble.

Certain persons constituted a body corporate under the name "of the President, Directors and Company of the Bank of the Niagara District."

II. And be it enacted, that a Share in the Stock of the said Bank shall be Twelve Pounds Ten Shillings, or the equivalent thereof in specie, and the number of Shares shall not exceed Eight Thousand; and that the books of subscription shall be opened at the same time, in St. Catherines, Hamilton, London, Brantford, Cobourg, Kingston, Brockville, and in the cities of Toronto, Montreal, and Quebec, within three months after the passing of this Act, by such person, and under such regulations as the Commissioners hereinafter appointed shall direct.

Number and value of the shares in the said bank.

Books of subscription to be opened at certain places.

III.

A certain proportion of the stock subscribed for by each person to be paid in immediately.

And the remainder by instalments.

Proviso: the whole stock to be subscribed for, and fifty per cent paid in before the Bank shall commence business.

Share to be forfeited on which the instalments are not paid when called for.

Proviso.

The case of the subscriptions exceeding the amount of the stock, provided for.

III. And be it enacted, that it shall and may be lawful for any persons, Her Majesty's Subjects or Foreigners, to subscribe for such and so many shares as they may think fit ; and that the shares respectively subscribed shall be payable in gold or silver, that is to say, ten per centum on the amount of stock subscribed by any person, shall be deposited, at the time of subscribing, with the agent appointed to open the books of such bank, or in some chartered Bank within the Province, to be called for by the Directors hereinafter appointed by virtue of this Act, as soon as they may deem expedient ; and the remainder shall be payable in such instalments as a majority of the stockholders, at a meeting to be expressly convened at Saint Catherines for that purpose, shall agree upon, provided no instalment shall exceed ten per centum upon the Capital Stock, or be called for or become payable in less than thirty days after public notice shall have been given in the Official Gazette of this Province, and in one or more of the several Newspapers published in the Niagara District to that effect, and Executors, Administrators and Curators paying instalments on the shares of deceased shareholders shall be and they are respectively indemnified for paying the same : Provided always, that the whole amount of the Capital Stock shall be subscribed for, and fifty per centum thereon shall be actually paid in, before the Bank shall commence business ; that the whole amount of the said Capital Stock shall be subscribed for within eighteen months from the passing of this Act, and that the whole amount of the capital so subscribed, shall be called in and paid within two years from the passing of this Act ; And Provided further, that if any Stockholder as aforesaid, shall refuse or neglect to pay to the said Directors, the instalment due upon any share held by him at the time when he shall be bound by law so to do, such Stockholder as aforesaid shall forfeit such share as aforesaid, with the amount previously paid thereon, and the said share may be sold by the said Directors, and the sum arising therefrom, together with the amount previously paid thereon, shall be accounted for and divided in like manner as other monies of the Bank : Provided however, that before the actual sale of any shares so forfeited, the said Directors, if they shall deem it expedient, may, notwithstanding such forfeiture, allow such Stockholder to pay up all instalments due upon any share held by him, and upon such payment, to retain and hold the same, as if no such forfeiture had taken place.

IV. Provided also, and be it enacted, that if the total amount of subscriptions within the period aforesaid shall exceed the Capital Stock limited by this Act, then and in such case the shares of each subscriber above ten shares shall, as nearly as may be, be proportionably reduced until the total number of shares be brought down to the limits aforesaid, if by so doing there will still be allowed to every subscriber as many as ten shares, but if there should be within the period aforesaid so many subscribers as not to allow to each subscriber ten shares, then the said shares

shares shall be apportioned and divided, so as to allow to each and every subscriber as nearly as may be, an equal number of the said shares; and that William Hamilton Merritt, Henry Mittleberger and Jacob Keefer shall be Commissioners to reduce or apportion and divide the said shares according to the provisions of this Act; And Provided nevertheless that the said limitation in respect to persons subscribing to the said Capital Stock, shall not extend or be construed to extend, to prevent the acquisition of a greater number of shares than eighty by purchase, after the said Bank shall have commenced its operations.

Commissioners in such case. Their duty.

Proviso.

V. And be it enacted, that the whole amount of Stock, Estate and Property which the said Corporation shall be authorized to hold including the Capital Stock or Shares before mentioned, shall not exceed in value one hundred thousand pounds, besides such surplus funds and profits as may from time to time be on hand undivided.

Capital Stock not to exceed £100,000.

VI. And be it enacted, that as soon as twenty five thousand pounds shall have been subscribed for, it shall and may be lawful for such subscribers or the majority of them, to call a meeting at some place to be named at Saint Catharines aforesaid, for the purpose of proceeding to the election of the number of Directors hereinafter mentioned: And such election shall then and there be made by a majority of shares voted in manner hereinafter prescribed in respect of the annual elections of Directors, and the persons then and there chosen shall be the first Directors, and be capable of serving until the expiration of the first Monday of the month of June next after they shall have been so chosen, and who shall, as soon as the whole amount of the Capital Stock aforesaid shall have been subscribed for, and a deposit amounting to fifty thousand pounds, or fifty per cent on the whole Capital Stock aforesaid, shall be paid to the said Directors, commence the business and operations of the said bank: Provided always, that no such meeting of the said subscribers shall take place until a notice is published in the Official Gazette of this Province, and in not less than one newspaper in the said Niagara District, nor at the distance of less than thirty days from the time of such notification.

Directors to be elected when £25,000 is subscribed for.

And when the whole Stock is subscribed for and £50,000 paid in, the Directors may commence the business of the bank.

Proviso.

VII. And be it enacted, that the Stock, Property, Affairs and Concerns of the said Corporation, shall be managed and conducted by seven Directors, one of whom to be the President, and one Vice President, who, excepting as hereinbefore provided for, shall hold their offices for one year; to end the first Monday in June in each year; which Directors shall be Stockholders, and shall be subjects of Her Majesty, residing in this Province, and be elected on the first Monday in June, in every year, at such time of the day, and at such place in Saint Catharines, as the majority of the Directors for the time being shall appoint; and public

Power and number of the Directors.

Election of Directors.

Notice of election.

notice shall be given by the said Directors in the different newspapers mentioned in this Act, of such time and place, not more than sixty, nor less than thirty days previous to the time of holding the said election, and the said election shall be held and made by such of the said Stockholders of the said bank as shall attend for that purpose, in their own proper persons or by proxy; and all elections for Directors shall be by ballot, and the seven persons who shall have the greatest number of votes at any election, shall be the Directors, except as is hereinafter directed: And if it should happen at any Election that two or more persons have an equal number of votes, in such manner that a greater number of persons than seven, shall by plurality of votes appear to be chosen as directors, then the said Stockholders hereinbefore authorized to hold such election shall proceed to ballot a second time, and by plurality of votes determine 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 soon as may be after the said election, shall proceed in like manner to elect by ballot, one of their number to be their President, also one to be their Vice President, who in the absence of the President, shall be competent to transact all the business relating to the duties of the President, and four of the Directors who shall be chosen for any year, excepting the President, shall be ineligible to the Office of Director for one year after the expiration of the time for which they shall be chosen Directors; and in case a greater number than three of the Directors exclusive of the President who served for the last year, shall appear to be elected, then the election of such persons above the said number, and who shall have the fewest votes, shall be considered void, and such other of the Stockholders as shall be eligible and shall have the next greatest number of votes, shall be considered as elected in room of such last described persons, and who are hereby declared ineligible as aforesaid; and the President for the time being, shall always be eligible to the office of Director, but Stockholders not residing within the Province shall be ineligible; and if any Director shall move out of the said Province, his office shall be considered vacant; and if any vacancy or vacancies should at any time happen among the Directors by death, resignation or removal from the said Province, such vacancy or vacancies shall be filled for the remainder of the year in which they may happen, by a special election for that purpose, to be held in the same manner as hereinbefore directed respecting annual elections, at such time and place at Saint Catherines aforesaid, as the remainder of the Directors or the major part of them shall appoint: Provided always, that no person shall be eligible to be a Director, who shall not be a Stockholder to the amount of at least twenty shares, or who shall not be a natural born or naturalized subject of Her Majesty.

VIII. And be it enacted, that each Stockholder shall be entitled to a number of votes proportioned to the number of shares which he shall have held in his name at

Manner of electing them.

Case of equality of votes for two persons.

Directors to elect a President and Vice President.

Four of the Directors to be ineligible for the next year after that for which they serve.

Presidential ways eligible.

Vacancies in the office of Director how occasioned, and how to be filled up.

Directors must hold at least twenty shares of stock.

Number of votes to which each Stock-

at

at least three months prior to the time of voting, according to the following ratios, that is to say : at the rate of one vote for each share not exceeding four, five votes for six shares, six votes for eight shares, seven votes for ten shares, and one vote for every five shares above ten : Provided always that no person, copartnership or body politic, shall be entitled to more than fifteen votes at any such election : And provided also, and it is hereby enacted, that no shareholder who shall not be a natural born or naturalized subject of Her Majesty, or who shall be a subject of any foreign Prince or State shall either in person or by proxy vote at any meeting whatever of the Shareholders of the said Corporation, or shall assist in calling any meeting of the Shareholders, any thing in this Act to the contrary notwithstanding.

holder is entitled.

Limitations.

IX. And be it enacted, that neither the Cashier nor any other Officer of the said Bank shall hold any proxy for the choice of Directors.

X. And be it enacted, that the Directors for the time being or a major part of them shall have power to make and subscribe such rules and regulations as to them shall appear needful and proper touching the management and disposition of the Stock, Property, Estate and Effects of the said Corporation, and touching the duties and conduct of the officers, clerks and servants employed therein, and all such other matters as appertain to the business of a Bank, 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, or to the provisions of this Act, and shall be binding on all members and officers of the Corporation and persons under its control after they shall have been submitted to a general meeting of the Stockholders and approved by a majority of the Stockholders present thereat.

XI. And be it enacted, that it shall be the duty of the Directors to make half yearly dividends of so much of the profits of the said bank, as to them or the majority of them shall appear advisable, and that once in every three years and oftener, if thereunto required by a majority of the votes of the Stockholders, to be given agreeably to the ratios hereinbefore established, at a general meeting to be called for that purpose, an exact and particular statement shall be made out of the debts which shall have remained unpaid after the expiration of the original credit, for a period of treble the time of that credit, and of the surplus profits, if any, after deducting losses and dividends : Provided always, that no dividend shall in any case be made except out of the clear surplus profits of the said Bank, and so that the Capital Stock of the Corporation shall not be impaired or lessened by the payment of such dividend ; and if any dividend shall at any time be made contrary to the provisions of this section, each and every Director (including the President

Dividends, how to be made.

General accounts of the affairs of the Bank, when to be made.

No Dividend to be made except out of the clear profits.

Penalty.

sident and Vice President,) who shall have consented to the making of such dividend, shall be for ever after ineligible for the office of Director.

Total liabilities of the bank not to exceed three times the amount of its stock.

Penalty on Directors consenting to any excess.

XII. And be it enacted, that the total amount of the Debts which the said Corporation shall at any time owe, whether by Bond, Bill, Note or otherwise contracted, over and above the monies then actually deposited in the Bank, shall not exceed three times the sum of the Capital Stock subscribed and actually paid into the Bank, and in case of such excess, the Directors under whose administration it shall happen, shall be liable for the same in their natural and private capacities; but this shall not be construed to exempt the said Corporation, or any estate, real or personal, which they may hold as a body corporate, from being also liable for and chargeable with the said excess; but such of the said Directors who may have been absent when the said excess was contracted, or who may have dissented from the resolution or act, whereby the same was so contracted, may, respectively, exonerate themselves from being so liable, by giving immediate notice of the fact, and of their absence or dissent, to the Stockholders at a general meeting, which they shall have the power to call for that purpose.

No note to be for less than 20s.

XIII. And be it enacted, that it shall not be lawful for the said Corporation to issue any Note or Bill under the value of five shillings of lawful money of this Province of Canada: Provided always that the total amount of the Notes of the said Bank being for a less sum than one pound currency, each, which shall be issued and in circulation at any one time shall not exceed one fourth of the amount of the Capital of the said Bank then paid in.

XIV. And be it enacted, that all promissory Notes of the said Corporation payable on demand or to bearer shall bear date at the place of issue, and shall be payable on demand at such place in lawful current coin of this Province.

What real property the bank may hold.

Property mortgaged to the bank.

In what thing the bank may deal.

Proviso.

XV. And be it enacted, that the lands, tenements, and hereditaments which it shall be lawful for the said Corporation to hold, shall be only such as shall be requisite for its immediate accommodations 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 the said Corporation shall not directly or indirectly deal or trade in buying or selling any goods, wares or merchandize, or commodities whatsoever; and further that it shall not in its corporate capacity, purchase or hold any of its own stock: Provided that nothing herein contained shall in any wise be construed to hinder the said Corporation from dealing in Bonds, Public Securities, Bills of Exchange or Promissory Notes or in buying or selling Bullion, Gold, or Silver.

XVI.

XVI. And be it enacted, that the said Corporation shall not advance money on the security of any lands, real property or ships or be engaged in any trade or dealing except as hereinbefore mentioned but shall confine its operations to discounting commercial paper and negotiable securities, and to other legitimate banking business.

Bank not to loan money on the pledge of its stock.

XVII. And be it further enacted, that nothing in this Act shall authorize or be construed to authorize the said Corporation to hold any stock, share or interest in any other chartered Bank in this Province, except the same shall be taken *bonâ fide* and for the payment of a real *bonâ fide* debt.

XVIII. Provided always, and be it enacted, that it shall not be lawful for the said Corporation to advance any money by way of loan, on the pledge of any share or shares of its Capital Stock; and if any loan shall be made in contravention of this section, such pledge, and the act, instrument, or writing, (if any) whereby the same shall have been attempted to be made, shall be utterly null and void, and the Corporation shall have no remedy either in law or in equity for the recovery of the loan so made.

XIX. And be it enacted, that the total amount of all the Notes of the said Corporation issued and in circulation, shall at no time exceed the amount of the Capital Stock actually paid in; and if any excessive issue shall take place in contravention of this section, this Act shall cease and determine from the time when such excessive issue shall occur; and in such case the President, Vice President, and each of the Directors, who shall know that such excessive issue has occurred or has been authorized, and shall not, within forty-eight hours after he shall have acquired such knowledge, give public notice thereof in one of the Newspapers published in the Niagara District, shall be personally and jointly and severally responsible and liable for all debts, claims and demands due by the said Corporation.

The notes of the Bank in circulation never to exceed the amount of its stock.

Penalty.

XX. And be it enacted, that nothing herein contained shall be taken or construed to prevent the Legislature of this Province, at any time hereafter from making such provisions as to the issuing of notes, or the amount or description of notes which may be issued, or as to any other provisions or restrictions respecting the transaction of business by the said Bank, as may from time to time be deemed necessary or proper to be applied generally to other Banks in the Province.

XXI. And be it enacted, that the shares of the said Capital Stock shall be transferable, and may be from time to time transferred by the respective persons subscribing the same, either in person or by proxy: Provided always that such transfer

Manner in which stock shall be transferable.

transfer be entered or registered in a book or books to be kept for that purpose by the Directors.

Modes in which obligations, bills, &c. of the Bank shall be assignable.

XXII. And be it enacted, that the Bills, obligatory and of credit, under the Seal of the said Corporation, which shall be made to any person, shall be assignable by endorsement thereupon under the hand or hands of such person and of his assignee, and so as absolutely to transfer and vest the property thereof in each assignee successively, and to enable such assignee to bring and maintain an action thereupon in his own name; and Bills and Notes which may be issued by order of the said Corporation, signed by the President, and countersigned by the Principal Cashier or Treasurer, promising the payment of money to any person or order, or to bearer, though not under the Seal of the said Corporation, shall be binding and obligatory upon the same, in like manner and with the like force and effect as upon any private person, if issued by him in his private or natural capacity, and shall be assignable or negotiable in like manner as if they were so issued by such private person.

Officers and Clerks of the Bank to give security.

XXIII. And be it enacted, that every Cashier and Clerk before he enters into the duties of his office, shall give bond with two or more sureties in such sum as may be satisfactory to the Directors, with conditions for the faithful discharge of his duty.

XXIV. And be it enacted, that it shall and may be lawful for the said Corporation to allow and pay interest (but not exceeding the legal rate of interest in this Province) upon monies deposited in the Bank, and also it shall and may be lawful for the Corporation in discounting promissory notes or other negotiable securities to receive or retain the discount thereon at the time of the discounting or negotiating the same, any law or usage to the contrary notwithstanding.

No Directors except the President to receive any emolument.

XXV. And be it enacted, that the Directors, excepting the President, shall not be entitled to any emolument for their services; and that five Directors shall constitute a Board for the transaction of business, of whom the President, or in his absence the Vice President, shall be one, except in case of sickness or absence of both the President and Vice President, in which case the Directors present may choose a Chairman for the said meeting.

Where the Bank shall be established.

XXVI. And be it enacted, that the said Bank shall be established, and the buildings necessary for the accommodation thereof erected, purchased or leased, and the business thereof at all times thereafter transacted, at such place at Saint Catharines, in the District of Niagara aforesaid, as the Directors or the majority of them may appoint: Provided always, that as soon as it may be deemed expedient

dient, branches of the said bank and offices of deposit and discount may be authorized by the said Directors or the majority of them, in any other part of this Province, under such rules and regulations as the said Directors or the major part of them may think proper, not repugnant to the general rule of the said Corporation, or the provisions of this Act, or to the Laws of this Province.

Branches may be established in other places.

XXVII. And be it further enacted, that each and every office of discount and deposit, established or hereafter to be established by the said Corporation and under the management or direction of a local board of Directors, shall be considered and held to be a Branch Bank, and subject to the restrictions as to the issuing and redemption of notes provided in this Act.

XXVIII. And be it enacted, that if at any time after the passing of this Act, the said President, Directors and Company shall refuse, on demand being made at their Banking House, or at any branch established under this Act, or wherever such bills, notes or evidences of debt may be payable, if made payable at any particular place, during the regular hours of doing business, to redeem in specie or other lawful money their said bills, notes or other evidences of debt issued by the said Company, the said President, Directors and Company shall, on pain of forfeiture of their charter, wholly discontinue and close their said banking operations, either by way of discount or otherwise, until such time as the President, Directors and Company shall resume the redemption of their bills, notes or other evidences of debt, in specie or money being a legal tender, at the rate at which it shall be offered by the said Corporation.

If at any time the Bank shall fail to redeem its liabilities in specie, it shall cease its banking operations until it resumes specie payment.

XXIX. And be it enacted, that any such suspension of specie payments by the said Corporation, either at the chief place or seat of business in the said Town or village of St. Catherines, or at any Branch of the said Bank in this Province, for sixty days either consecutively or at intervals in any one year shall operate the forfeiture of the charter hereby granted, and of all the rights and privileges conferred on the said Corporation by this Act.

XXX. And be it enacted, that it shall be the duty of the Directors or Cashier of the Bank, to allow, during the hours of business, the names of the Stockholders in the said Bank, with the amount of Stock respectively owned by them, to be taken by any Stockholder who may require the same.

Any Stockholders may take a list of the names of all the Stockholders.

XXXI. And be it enacted, that it shall be the duty of the President or Vice President and Cashier of the said Bank for the time being, to make a return under oath to the Provincial Parliament once in each year, if required, either by the Legislative Council or Legislative Assembly; and they shall also, when required

President and Cashier to make a yearly return, (on oath to the Legislature, of

by

the affairs of
the Bank.

by the Governor of this Province, cause a half yearly return in the form of the Schedule A, shewing under the heads specified in the said form, the average of the amount of the notes of the Corporation in circulation and its other liabilities at the termination of each week or month to which the statement refers, and the average amount of specie and other assets that were available to meet the same, and such returns shall be published in the Official Gazette of this Province, and in one newspaper in the District in which the Bank shall be established, and further that they shall at all times, when required by the Governor of this Province, for the time being, furnish him with a return; which shall contain a full and true account of—The Capital Stock paid in—Bills in circulation of five dollars and upwards not bearing interest—Bills in circulation under five dollars not bearing interest—Bills and notes in circulations bearing interest—Balance due to other Banks—Cash deposited including all sums whatsoever due from the Bank not bearing interest—(its bills in circulation and balances due to other Banks excepted)—Cash deposited bearing interest—Total amount due from the Bank.—And of the Resources of the Bank—The Gold, Silver and other coined metals in the Banking House—Real Estate—Bills of other banks—Balances due from other banks—Amount of all debts due, including notes, bills of exchange, and all Stock and funded debts of every description, excepting the balances due from other banks—Total amount of the resources of the bank—Rate and amount of the last dividend—Amount of reserved profits at the time of declaring the last dividend—Amount of debts due to the bank and not paid, and considered doubtful.

And to the
Governor
whenever re-
quired by him.

What such
return shall
show.

Liabilities.

Resources.

XXXII. And be it enacted, that copies of the said half yearly statements shall be furnished to the Governor of this Province, and the said Corporation shall, if called upon by him, verify the same by the production as confidential documents of the weekly or monthly balance sheets from which they are compiled, and shall likewise on the requisition of the Lords Commissioners of Her Majesty's Treasury furnish in like manner such other information respecting its affairs as their Lordships shall see fit to call for.

The Direc-
tors shall re-
quire the indor-
sers on bills dis-
counted for
Stockholders,
in the same
manner as on
those discount-
ed for other
persons.

XXXIII. And be it enacted, that the Directors of the said Bank shall not, upon pain of forfeiture of their charter, loan or advance any money or bills of the said Bank to any Stockholder, upon the credit of the Stock, which such Stockholder may hold in the said Bank, but shall require from the said Stockholder endorsers in all respects as safe and substantial as would be required from any applicants for discounts, not being Stockholders.

Each Stock-
holder to be li-
able for the
debts of the
Bank to twice

XXXIV. And whereas it is expedient to afford additional security to the public against the failure of Banks in this Province, by rendering the holders of Stock in such Banks personally liable to a certain extent beyond the amount of Stock subscribed;

scribed ;—Be it therefore further enacted, that the Shareholders of the said Bank, shall be respectively liable for the engagements of the Company to the extent of twice the amount of their subscribed shares.

the amount of his stock.

XXXV. And be it enacted, that the sum for which such Stockholder shall be so liable beyond the amount of the original or first value of the Stock by them respectively held, shall be called in by instalments in the same manner as such Bank may have been authorized to call in Stock originally subscribed ; and in case any Stockholder shall neglect, or refuse to pay the amount which may be so called, the Directors of the Bank shall be and they are hereby authorized to sue and prosecute in its corporate name, in any of the Courts of Law in this Province for such instalment : Provided always that such sum or sums of money which may be so called in, shall only be applied towards the payment of such debts or claims as may be outstanding against such Bank : And provided also, that nothing herein contained shall extend, or be construed to extend to authorize such Directors to call in or demand any sum from the Stockholders, over and above a sum sufficient to discharge such debts and claims as may be outstanding, as aforesaid.

Directors may call in the sums for which Stockholders shall be liable beyond the amount of their stock.

But only for the purpose of discharging the debts of the Bank.

XXXVI. And be it enacted, that the amount of paper discounted, on which the names of Directors or Officers of the Bank shall appear as drawers, acceptors or endorsers, shall not exceed one-third part of the whole discounts of the Bank.

XXXVII. And be it enacted, that it shall not be lawful for the Corporation hereby constituted at any time whatever, directly or indirectly, to advance or lend to or for the use of, or account of any foreign Prince, Power or State, any sum or sums of money or any securities for money, and if such unlawful advance or loan be made, then and from thenceforth the said Corporation shall be dissolved, and all the powers, authorities, rights, privileges and advantages hereby granted, shall cease and determine, anything in this Act to the contrary notwithstanding.

Amount of paper discounted for Directors or Officers of the Bank limited.

XXXVIII. And be it enacted, that in case of the failure or insolvency of the said Bank ; or in case the Stockholders shall neglect or refuse to appoint Directors within three months after the time when by law the same should be appointed, or if such Directors shall neglect or refuse to call in the several sums for which the Stockholders are so liable, as aforesaid, in the manner aforesaid, it shall and may be lawful for the Governor of this Province to name and appoint five Commissioners to manage the affairs of the said Bank, who shall have and exercise all the power of Directors in the settlement of the affairs of the said Bank, but shall not be authorized to carry on business of Banking, except the calling in so much of the several sums for which the respective Stockholders may be liable, as shall

In case of failure or insolvency of the Bank, or if the Stockholders shall neglect to appoint Directors, the Governor may appoint Commissioners to manage its affairs for certain purposes only.

shall be sufficient to discharge the sum or sums which may be due by such Bank, together with the necessary expenses attending such management.

XXXIX. And be it enacted, that no by-law of the said Corporation shall be repugnant to the laws of this Province or to the provisions of this Act.

Money paid by any subscriber for stock which he shall not afterwards obtain, to be refunded to him.

XL. And be it enacted, that in the event of the shares of any Subscriber or Stockholder being reduced by the Commissioners appointed as aforesaid, to reduce or apportion and divide the same, the Commissioners shall refund to the Subscriber or Stockholder, any amount he shall have paid over and above ten per centum upon the number of shares which the said Commission shall set apart to him, at the place at which the said ten per centum upon the shares originally subscribed, was paid upon being requested so to do.

The Commissioners named in this Act, shall have the control of the books of such subscription until the whole stock is subscribed for and ten per cent paid in.

If this be not done in two years the money paid shall be returned to the subscribers.

XLI. And be it enacted, that the agents to be appointed to open the books of subscription as hereinbefore provided, shall be under the direction and control of the said Commissioners hereinbefore appointed, until the said Capital Stock shall be entirely subscribed for, and ten per centum thereon actually paid; then, and from thenceforth, all matters and things connected with said Bank shall be under the control and direction of a Board of Directors, to be elected as hereinbefore provided; and in case the Capital Stock of the said Bank shall not be subscribed for within eighteen months, and paid in within two years after the passing of this Act, then it shall be the duty of the said Commissioners, and they are hereby required to refund to any Subscriber or Stockholder, upon being requested so to do, any amount he may have paid at the time of subscribing, and this Act shall cease and determine.

Officers of the Bank embezzling Bills, &c.

XLII. And be it enacted, that if any Officer, Cashier, Manager, Clerk or Servant of the Corporation, hereby constituted, shall secrete, embezzle or abscond with any bond, obligation, bill, obligatory or of credit, or other bill or note or with any security for money or any money or effects intrusted to him as such Officer, Cashier, Manager, Clerk or Servant, whether the same belong to the said Corporation, or belonging to any other person or persons, body or bodies politic or corporate or institution or institutions, be lodged and deposited with the said Corporation, the Officer, Cashier, Manager, Clerk or Servant so offending, and being thereof convicted in due form of law, shall be deemed guilty of felony.

Punishment of persons forging Bond, &c. of the Corporation.

XLIII. And be it enacted, that if any person or persons shall forge or counterfeit the Common Seal of the Corporation hereby constituted, or shall forge or counterfeit, or alter any bond, obligation, bill obligatory or of credit, or other bill or note of the said Corporation, or any endorsement or endorsements thereon, with
an

an intention to defraud the said Corporation, or any person or persons, body or bodies politic or corporate, or institution or institutions whomsoever and whatsoever; or shall offer or pass any forged, counterfeit or altered bond, obligation, bill obligatory or of credit, or other bill or note of the said Corporation, or endorsement or endorsements thereon, or shall demand the money therein mentioned, knowing the same to be forged, counterfeit or altered, every such person, for every such offence, upon conviction thereof in due form of law, shall be deemed and adjudged to be guilty of felony.

XLIV. And be it enacted, that if any person shall engrave, form, make, or mend any plate or plates, paper, rolling-press, or other tool, instrument or material devised, adapted or designed for stamping, forging, or making any false or counterfeit Bill of Exchange, promissory note, undertaking or order for the payment of money, purporting to be the Bill of Exchange, promissory note, undertaking or order of the said Corporation, or of any of the officers or persons engaged in the management of the affairs of the said Corporation in the name or on the behalf thereof, or shall have in his possession any such plate or plates, engraven in any part, or any such paper, rolling-press, or other tool, instrument or material devised, adapted or designed as aforesaid, with the intent to use and employ the same, or to cause or permit the same to be used and employed in forging and making any such false and counterfeit Bills of Exchange, promissory notes, undertakings or orders, every person so offending shall be deemed and taken to be guilty of felony; and the proof that such plate, paper, rolling press or other tool, instrument or material, as aforesaid, was formed, made, engraved or mended by or was in the possession of such person for some lawful purpose shall lie upon him or her.

Punishment of persons engraving plates &c.

XLV. And be it enacted, that every person convicted of felony under this Act shall be punished by imprisonment at hard labor in the Provincial Penitentiary for any term not less than seven years or by imprisonment in any other Gaol or place of confinement for any term not exceeding two years.

XLVI. And be it enacted, that it shall and may be lawful to and 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 are, or have been concerned in making or counterfeiting any such false bills of exchange, promissory notes, undertakings or orders as aforesaid, by warrant under the hand of such Justice, to cause the dwelling-house, room, workshop, outhouse 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 of carrying on any such making or counterfeiting, to be searched; and if any such false bills of exchange, promissory notes, undertakings or orders, or any such plates,

Power of searching for Counterfeit Bills, plates, tools &c.

rolling-presses, or other tools, instruments or materials, shall be found in the custody or possession 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 whomsoever discovering the same, to seize and he and they are hereby authorized and required to seize such false or counterfeit bills of exchange, promissory notes, undertakings or orders, and such plates, rolling-presses or other tools, instruments or materials, and to carry the same forthwith before a Justice of the Peace of the County or District, (or if more convenient, of the adjoining County or District,) in which 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, in some Court of Justice, proper for the determination thereof, and the same, after being so produced in evidence, shall, by order of the Court, be defaced or destroyed, or otherwise disposed of as such Court shall direct.

Rights not
specially af-
fected to be
saved.

XLVII. And be it enacted, that nothing in this Act contained shall in any manner derogate from, or affect, or be construed to derogate from or affect the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, or of any body or bodies politic or corporate, except in so far as the same may be specially derogated from or affected by the provisions of this Act.

Public Act.

XLVIII. And be it enacted, that this Act shall be held and taken to be a public Act, and shall be judicially taken notice of, and have the effect of a public Act, without being specially pleaded.

FORM OR SCHEDULE. A.

Referred to in the foregoing Act.

RETURN of the average amount of Liabilities and assets of the Bank of the Niagara District, during the period from to 18

LIABILITIES.	Month ending					
	30th Sept 18	31st Oct. 18	30th Nov. 18	31st Dec. 18	31st Jan. 18	28th Feb. 18
Promissory Notes in circulation not bearing interest	£					
Bills of Exchange in circulation not bearing interest	£					
Bills and Notes in circulation bearing interest	£					
Balance due to other Banks	£					
Cash deposits, not bearing interest	£					
Cash deposits, bearing interest	£					
Total average Liabilities	£					
ASSETS.						
Coin and Bullion	£					
Landed or other Property of the Bank	£					
Government Securities	£					
Promissory Notes or Bills of other Banks	£					
Balances due from other Banks	£					
Notes and Bills discounted, or other Debts due to the Bank, not included under the foregoing heads	£					
Total average Assets	£					

CAP. XCVII.

An Act to extend the Charter of "The City Bank" and to increase the Capital Stock thereof.

18th September, 1841.—Presented for Her Majesty's Assent and reserved "for the signification of Her Majesty's pleasure thereon."

11th March, 1842.—Assented by Her Majesty, in Her Privy Council.

27th April, 1842.—The Royal Assent signified by the Proclamation of His Excellency SIR CHARLES BAGOT, Governor General.

WHEREAS under and by virtue of an Act of the Parliament of that part of the Province called Lower Canada, passed in the third year of the Reign of His Preamble.

Act of L. C.
establishing
the City Bank
cited.

Royal Char-
ter.

Union Act
cited.

Corporation
established.

Name.

His late Majesty, King William the Fourth, and intituled *An Act to incorporate certain persons therein mentioned, under the name of "The City Bank" to be established at Montreal*, the persons therein named, and others their respective Heirs, Executors, Curators, Administrators and Assigns, were duly ordained, constituted and declared to be a Corporation, Body Corporate and Politic, by the name of "The City Bank" which said Corporation was subsequently continued by Letters Patent of His said Majesty, King William the Fourth, bearing date at the Palace of Westminster, the thirty first day of May, in the seventh year of the Reign of His said Majesty; And whereas under the terms of the said Letters Patent, the said City Bank was empowered to carry on the business of Banking, as a Body Corporate, for a period not exceeding twelve months after the termination of the Session of Parliament of the Province of Lower Canada, which should be first held after the same was granted; And whereas in and by an Act passed in the Parliament of Great Britain and Ireland, in the Session held in the third and fourth years of Her Majesty's Reign, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, it is among other things in effect enacted, that from and after the Re-union of the said two Provinces, there should be within the Province of Canada but one Legislative Council and one Assembly, on which Council and Assembly, the powers and authority, theretofore existing and vested in the said Parliament of Lower Canada are by the said last mentioned Act conferred; And whereas certain persons have by their petition represented that the business and interest of the said City Bank would be rendered more secure by its being enabled to increase the Capital Stock thereof from the sum of two hundred thousand pounds, current money of this Province, to the sum of three hundred thousand pounds, current money aforesaid, and by extending the duration and powers of the said City Bank as a Corporation; and whereas it is expedient to grant the prayer of the said Petition; Be it therefore enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act of the Parliament of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that John Frothingham, Stanley Bagg, John W. Dunscomb, James Henderson, William Lyman, Alexander Miller, Ferdinand McCulloch, John A. Perkins, Donald P. Ross, Samuel S. Ward and Joseph Vallée, all of the City of Montreal, in this Province, and such other persons as now are Shareholders of the Capital Stock of the Corporation, created and constituted by the Act and Letters Patent aforesaid, and their respective Heirs, Executors, Administrators and Assigns, shall continue to be and shall be a Body Corporate and Politic, in fact and in name, by and under the name, style and title of "The City Bank

Bank," and as such shall, during the continuance of this Act have all, each and every the rights, powers and authorities in and by the said Charter or Letters Patent conferred upon or vested in the said Corporation, and subject to the provisions, enactments, limitations, and restrictions in the said Charter contained: Provided always that so much of the said Charter as may be inconsistent with or repugnant to the provisions of this Act shall be and is hereby repealed and made wholly void and the said Corporation shall during the continuance of this Act have succession and a common seal, with power to break, renew, change, and alter the same at pleasure; and shall be capable of suing and being sued, and of pleading and being impleaded in all Courts of law and equity, and other places, in all manner of actions, causes, and matters whatsoever; and for the convenient management of their business, but for no other purpose, shall and may purchase, acquire, and hold real or immoveable estates and property, not exceeding the yearly value of two thousand pounds, current money of this Province; and may sell, alienate and dispose of the same, and purchase, acquire and hold others in their stead, not exceeding in the whole the yearly value aforesaid.

Corporate
powers.

II. And be it enacted, that it shall be lawful for the Stockholders of the said City Bank, to raise and contribute among themselves, or by the admission of new subscribers a further sum of one hundred thousand pounds, in addition to the present Capital Stock of the said City Bank, which said additional sum of one hundred thousand pounds, currency, shall be divided into four thousand shares of twenty five pounds each; and every person subscribing for, or taking any share or shares in the said additional Capital Stock of one hundred thousand pounds, shall have the same rights and be subject to the same rules and liabilities as the original Subscribers and Shareholders in the said City Bank.

Capital Stock
of the Corpora-
tion may be in-
creased by an
addition of
£100,000.

III. And be it enacted, that the Books of Subscription for the Capital Stock, authorized to be added to the Capital Stock of the said Corporation, shall be opened by such persons, at such times and places, and under such regulations as to the Directors of the said Corporation shall seem meet; and the shares of Capital Stock thereupon subscribed for, shall be paid in and by such instalments, and at such times and places as the said Directors shall appoint; and Executors, Administrators and Curators paying instalments upon the shares of deceased shareholders, shall be, and they are hereby respectively indemnified for paying the same: Provided always, that no share or shares shall be held to be lawfully subscribed for unless a sum equal to ten pounds per centum on the amount subscribed for, be actually paid at the time of subscribing.

Subscription
for new Stock.

IV. And be it enacted, that if any Shareholder or Shareholders shall refuse or neglect to pay any or either of the instalments upon his, her or their shares of the said Capital

Instalments
on new Stock
how to be paid
up.

Capital Stock, at the time or times required by public notice as aforesaid, such Shareholder or Shareholders shall incur a forfeiture to the use of the said Corporation of a sum of money equal to ten pounds per centum on the amount of such shares; and moreover, it shall be lawful for the Directors of the said Corporation (without any previous formality, other than thirty days of public notice of their intention,) to sell at public auction the said shares or so many of the said shares as shall, after deducting the reasonable expenses of the same, yield a sum of money sufficient to pay the unpaid instalments due on the remainder of the said shares and the amount of forfeitures incurred upon the whole; and the President, or Vice President, or Cashier of the said Corporation, shall execute the transfer to the purchaser of the shares of Stock so sold, and such transfer, being accepted, shall be as valid and effectual in law as if the same had been executed by the original holder or holders of the shares of Stock thereby transferred; Provided always, that nothing in this section contained, shall be held to debar the Directors or Shareholders at a general meeting, from remitting, either in whole or in part, and conditionally or unconditionally, any forfeiture incurred by the non-payment of instalments as aforesaid.

Chief seat of business appointed: Branches may be established.

V. And be it further enacted, that the chief place or seat of business of the said Corporation, shall be in the City of Montreal aforesaid; but it shall and may be lawful for the Directors of the Corporation, to open and establish in other Cities, Towns and places in this Province, branches or offices of discount and deposit of the said Corporation, under such rules and regulations for the good and faithful management of the same as to the said Directors shall, from time to time, seem meet, and shall not be repugnant to any Law of this Province, to this Act, or to the by-laws of the said Corporation.

Election and appointment of Directors, &c.

VI. And be it further enacted, that for the management of the affairs of the said Corporation, there shall be eleven Directors, who shall be annually elected by the Shareholders of the Capital Stock of the Corporation, at a general meeting of them to be held annually on the first Monday in June, beginning on the first Monday in June in the year one thousand eight hundred and forty-two; at which meeting the Shareholders shall vote according to the rule or scale of votes hereinafter established; and the Directors elected by a majority of votes given in conformity to such rule or scale, shall be capable of serving as Directors for the ensuing twelve months; and, at their first meeting after such election, shall choose out of their number a President and a Vice President, who shall hold their offices, respectively, during the same period; and, in case of a vacancy occurring in the said number of eleven Directors, the remaining Directors shall fill the same by election from among the Shareholders, and the Director so elected shall be capable of serving as a Director, until the next annual general meeting of the Shareholders; and if the vacancy occurring in the said number of eleven Directors, shall

shall also cause the vacancy of the office of President, or of Vice President, the Directors, at their first meeting after their number shall have been completed as aforesaid, shall fill the vacant office by choice or election from among themselves, and the Director so chosen or elected, shall fill the office to which he shall be so chosen or elected, until the next general annual meeting of the shareholders; provided always, that each of the Directors shall be the holder and proprietor in his own name, of not less than twenty shares of the Capital Stock of the said Corporation, wholly paid up, and shall be a natural born, or naturalized subject of Her Majesty, and shall have resided seven years in Canada, and shall for three consecutive years have been, and be actually domiciled in the said City of Montreal, or within seven miles thereof; and provided also, that seven of the Directors in office at the period of each annual election, shall be re-elected for the next ensuing twelve months.

Qualification
of Directors.

VII. And be it enacted, that if at any time it shall happen that an election of Directors shall not be made or take effect on the day fixed by this Act, the said Corporation shall not be deemed or taken to be thereby dissolved; but it shall be lawful at any subsequent time to make such election at a general meeting of the shareholders to be duly called for that purpose.

Corporation
not dissolved
by failure to
elect on the
day appointed.

VIII. And be it further enacted, that the books, correspondence and funds of the Corporation, shall at all times be subject to the inspection of the Directors; but no shareholder, not being a Director, shall inspect or be allowed to inspect the account or accounts of any person or persons dealing with the Corporation.

Power of
inspecting ac-
counts, &c.
by the Direc-
tors.

IX. And be it enacted, that at all meetings of the Directors of the said Corporation, not less than five of them shall constitute a board or quorum for the transaction of business; and at the said meetings the President, or in his absence, the Vice President, or in their absence, one of the Directors present, to be chosen pro tempore, shall preside; and the President, Vice President, or President PRO TEMPORE so presiding, shall vote as a Director; and, if there be an equal division on any question, shall have a casting vote.

Quorum of
Directors.

President.

Casting votes.

X. And be it enacted, that the shareholders of the Bank, incorporated by the Letters Patent hereinbefore mentioned, who at the time of the passing of this Act shall be Directors thereof, shall be and continue to be Directors of the Bank or Corporation hereby constituted, until the first Monday in June in the year one thousand eight hundred and forty-two, being the day hereinbefore appointed for the first election of Directors; and they shall choose from among themselves, a President, and a Vice President, in the manner hereinbefore provided, and in case
of

Present Di-
rectors conti-
nued in office.

of any vacancy occurring before the said day appointed for the first election of Directors, the vacancy shall in like manner be filled up as is hereinbefore provided.

By-Laws
how made.

XI. And be it enacted, that it shall and may be lawful for the Directors of the Corporation hereby constituted, from time to time to make and enact by-laws, rules, and regulations, (the same not being repugnant to this Act, or to the laws of this Province,) for the proper management of the affairs of the said Corporation, and from time to time to alter or repeal the same, and others to make and enact in their stead: Provided always, that no by-law, rule, or regulation so made by the Directors, shall have force or effect until the same shall, after six weeks public notice, have been confirmed by the Shareholders at an annual general meeting, or at a special general meeting called for that purpose; and provided also, that the by-laws of the Bank incorporated by the Letters Patent hereinbefore mentioned, in so far as they are not repugnant to this Act, or to Law, shall be the by-laws of the aforesaid Corporation.

Existing By-
Laws.

No Directors
shall be paid
except the Pre-
sident.

XII. And be it enacted, that no Director of the Corporation hereby constituted, shall, during the period of his services, act as a private banker, nor shall any Director other than the President, be entitled to any salary or emolument for his services as a Director, but the President may be compensated for his services as President, either by an annual vote of a sum of money by the Shareholders at their annual general meetings, or by a fixed salary; and in the latter case for the purpose of securing to the Corporation the undivided attention and services of the President, it shall be lawful for the Directors, if they see fit, to choose and appoint annually from among themselves, a person duly qualified who shall be President of the Corporation and to award to him such remuneration for his services, as they in their judgment shall see fit, any thing hereinbefore contained to the contrary notwithstanding.

Directors to
appoint Offi-
cers of the
Bank.

Cashiers, &c.
to give secu-
rity.

XIII. And be it enacted, that the Directors of the said Corporation shall have power to appoint such Cashiers, Officers, Clerks, and Servants under them as shall be necessary for conducting the business of the Corporation, and to allow reasonable compensation for their services respectively; and shall also be capable of exercising such power and authority for the well governing and ordering of the affairs of the Corporation as shall be prescribed by the by-laws thereof; Provided always, that before permitting any Cashier, Officer, Clerk, or Servant of the Corporation to enter upon the duties of his Office, the Directors shall require every such Cashier, Officer, Clerk or Servant, to give bond, to the satisfaction of the Directors; that is to say: every Cashier in a sum not less than five thousand pounds, Current Money of Canada, and every other officer, Clerk, or Servant, in such

such sum of money as the Directors consider adequate to the trust to be reposed, with conditions for good and faithful behaviour.

XIV. And be it enacted, that it shall be the duty of the Directors to make half-yearly dividends of so much of the profits of the Corporation as to them shall appear advisable ; and such dividends shall be payable at such place or places as the Directors shall appoint, and of which they shall give public notice thirty days previously : Provided always, that such dividends shall not in any manner lessen or impair the Capital Stock of the Corporation.

Dividends.

Proviso.

XV. And be it enacted, that a general meeting of the Shareholders of the Corporation shall be held in the City of Montreal on the first Monday in the Month of June, in every year during the continuance of this Act, for the purpose of electing Directors in the manner hereinbefore provided, and for all other general purposes touching the affairs and the management of the affairs of the Corporation ; and at each of the said annual general meetings, the Directors shall submit a full and clear statement of the affairs of the Corporation, containing, in the one part, the amount of Capital Stock paid in, the amount of notes of the Bank in circulation ; the net profits in hand, the balances due to other Banks and Institutions, and the cash deposited in the Bank, distinguishing deposits bearing interest from those not bearing interest, and, on the other part, the amount of current coins and gold and silver bullion in the vaults of the Bank, the value of buildings and other real estate belonging to the Bank, the balances due to the Bank from other Banks and Institutions, and the amount of debts owing to the Bank, including and particularizing the amounts so owing on bills of exchange, discounted notes, mortgages, and hypothèques, and other securities ; thus exhibiting on the one hand the liabilities of, or debts due by the Bank ; and on the other hand, the assets and resources thereof ; and the said statement shall also exhibit the rate and amount of the then last dividend declared by the Directors, the amount of profits reserved at the time of declaring such dividend, and the amount of debts to the Bank overdue and not paid, with an estimate of the loss which may probably be incurred from the nonpayment of such debts.

Annual statements to be submitted to Shareholders.

XVI. And be it enacted, that the number of votes which the Shareholders of the said Corporation shall respectively be entitled to give at their meetings, shall be according to the following scale, that is to say : for one share and not more than two, one vote ; for every two shares above two and not exceeding ten, one vote ; making five votes for ten shares ; for every four shares above ten and not exceeding thirty, one vote, making ten votes for thirty shares ; for every six shares above thirty, and not exceeding sixty, one vote, making fifteen votes for sixty shares ; and for every eight shares above sixty, and not exceeding one hundred, one vote, making twenty votes for one hundred shares ; and no Shareholder shall

Number of Votes which each Stockholder shall have.

Proxy.

be entitled to give a greater number of votes than twenty ; and it shall be lawful for absent Shareholders to give their votes by proxy, such proxy being also a shareholder, and not being either a Cashier or other officer in said Bank and being provided with a written authority from his constituent or constituents, in such form as shall be established by a by-law, and which authority shall be lodged in the Bank : Provided always, that a share or shares of the Capital Stock of the said Corporation, that shall have been held for a less period than three Calendar Months immediately prior to any meeting of the Shareholders, shall not entitle the holder or holders to vote at such meeting, either in person or by Proxy : provided also, that where two or more persons are joint holders of shares, it shall be lawful that one only of such joint holders be empowered by Letter of Attorney from the other joint holder or holders, or a majority of them, to represent the said shares and vote accordingly : And provided also, and it is hereby enacted, that no Shareholder who shall not be a natural born, or naturalized subject of Her Majesty, or who shall be a subject of any Foreign Prince or State, shall, either in person or by proxy, vote at any meeting whatever of the Shareholders of the said Corporation, or shall assist in calling any meeting of the Shareholders, any thing in this Act to the contrary notwithstanding.

Proviso.

Joint owners
of stock.Aliens not to
vote.Extraordinary
general meet-
ings how cal-
led.

Malversation.

Stock to be
personal pro-
perty.

XVII. And be it enacted, that any number, not less than twenty, of the Shareholders of the said Corporation, who together, shall be proprietors of at least two hundred and fifty shares of the paid-up Capital Stock of the Corporation, by themselves or proxies ; or the Directors of the Corporation, or any seven of them, shall respectively have power at any time to call a special general meeting of the Shareholders of the Corporation, to be held at their usual place of meeting in the City of Montreal, upon giving six weeks previous public notice thereof, and specifying in such notice the object or objects of such meeting ; and if the object of any such special general meeting be to consider of the proposed removal of the President, or Vice President, or a Director or Directors of the Corporation, for mal-administration or other specified and apparently just cause, then and in such cases, the person or persons whom it shall be so proposed to remove, shall, from the day on which the notice shall first be published, be suspended from the duties of his or their office or offices, and if it be the President, or Vice President whose removal shall be proposed as aforesaid, his Office shall be filled up by the remaining Directors, (in the manner hereinbefore provided in the case of a vacancy occurring in the Office of President, or Vice President) who shall choose or elect a Director to serve as such President or Vice President, during the time such suspension shall continue or be undecided upon.

XVIII. And be it enacted, that the shares of the Capital Stock of the said Corporation, shall be held and adjudged to be personal estate, and be transmissible accordingly ; and shall be assignable and transferable at the Bank, according to the

the form of schedule A, annexed to this Act; but no assignment or transfer shall be valid and effectual unless it be made and registered in a book or books to be kept by the Directors for that purpose; nor until the person or persons making the same shall previously discharge all debts actually due by him, her, or them, to the Corporation, which may exceed in amount the remaining stock (if any) belonging to such person or persons; and no fractional part or parts of a share, or other than a whole share, shall be assignable or transferable: and when any share or shares of the said Capital Stock, shall have been sold under a writ of execution, the Sheriff by whom the writ shall have been executed shall within thirty days after the sale, leave with the Cashier of the Corporation, an attested copy of the writ, with the certificate of such Sheriff indorsed thereon, certifying to whom the sale has been made; and thereupon (but not until after all debts due by the original holder or holders of the said shares to the Corporation shall have been discharged as aforesaid,) the President, or Vice President, or Cashier of the Corporation, shall execute the transfer of the share or shares so sold, to the purchaser, and such transfer being duly accepted shall be, to all intents and purposes, as valid and effectual in Law as if it had been executed by the original holder or holders of the said shares, any Law or usage to the contrary notwithstanding.

How transferable.

XIX. And be it enacted, that the said Corporation hereby constituted shall not, either directly or indirectly, hold any lands or tenements, (save and except such as by the first section of this Act they are specially authorized to acquire and hold,) or any ships or other vessels, or any share or shares of the Capital Stock of the Corporation, nor in any Bank in this Province, nor shall the said Corporation either directly or indirectly, lend money or make advances upon the security, mortgage or hypothecation (hypothèque,) of any lands or tenements, or of any ships or other vessels; nor upon the security or pledge of any share or shares of the Capital Stock of the Corporation, or of any Goods, Wares or Merchandize, nor shall the said Corporation, either directly or indirectly, raise loans of money, or deal in the buying, selling or bartering of Goods, Wares or Merchandize, or engage or be engaged in any trade whatever, except as dealers in gold and silver bullion, bills of exchange, discounting of promissory notes and negotiable security, and in such trade generally as legitimately appertains to the business of Banking: Provided always, that the said Corporation may take and hold mortgages and hypothèque on real estates and property in this Province, by way of additional security for debts contracted to the Corporation in the course of their dealings.

In what the business of the Corporation shall consist.

XX. And be it enacted, that the aggregate amount of discounts and advances made by the said Corporation upon commercial paper or securities bearing the name of any Director or Officer, or the co-partnership, name or firm of any Director

Discounts and advances to Directors limited.

tor

tor of the said Corporation, shall not at any one time exceed one third of the total amount of discounts or advances made by the Corporation, at the same time.

Interest to be taken or allowed the Bank.

XXI. And be it enacted, that it shall and may be lawful for the said Corporation to allow and pay interest, (but not exceeding the legal rate of interest in this Province,) upon moneys deposited in the Bank; and also it shall and may be lawful for the Corporation, in discounting promissory notes or other negotiable securities, to receive or retain the discount thereon, at the time of the discounting or negotiating the same; any law or usage to the contrary notwithstanding.

How Bonds Bills, &c. of the Corporation shall be signed &c.

XXII. And be it enacted, that the bonds, obligations and bills, obligatory and of credit, of the said Corporation, under the common seal, and signed by the President or Vice-President, and countersigned by a Cashier thereof, which shall be made payable to any person or persons, shall be assignable by endorsement thereon, under the hand or hands of such person or persons, and of his, her or their assignee or assignees, and so as absolutely to transfer and vest the property thereof in the several assignees, successively, and to enable such assignee or assignees to bring and maintain an action or actions thereupon in his, her or their own name or names; and signification of any such assignment by endorsement shall not be necessary, any law or usage to the contrary notwithstanding; and bills or notes of the Corporation signed by the President or Vice President, and countersigned by a Cashier thereof, promising the payment of money to any person or persons his, her or their order, or to the bearer, though not under the seal of the Corporation, shall be binding and obligatory upon the same, in the like manner, and with the like force and effect as they would be upon any private person or persons, if issued by him, her or them, in his, her or their private or natural capacities and shall be assignable or negotiable in the like manner as if they were so issued by such private person or persons: Provided always, that nothing in this Act contained shall be held to debar the Directors of the Corporation from authorizing or deputing from time to time any Cashier or Officer of the Corporation, or any Director, other than the President or the Vice President, or any Cashier, Manager or local Director of a Branch, or office of discount and deposit of the said Corporation, to sign, and any Cashier, Accountant or Book-keeper of the said Corporation, or of any Branch, or Office of discount and deposit thereof, to countersign the bills or notes of the said Corporation intended for general circulation, and payable to order, or to bearer, on demand.

|| Bills to be payable in specie.

XXIII. And be it enacted, that the notes or bills of the said Corporation made payable to order, or to bearer, and intended for general circulation, whether the same shall issue from the chief place or seat of business of the Corporation in the City of Montreal, or from any of the branches of the Corporation, under the management

nagement of a local Board of Directors in other places in the Province, shall bear date at the place of issue and not elsewhere ; and shall be payable on demand in specie at the same place of issue.

XXIV. And be it enacted, that a suspension by the said Corporation (either at the chief place or seat of business in the said City of Montreal, or at any of their branches or offices of discount and deposit at other places in this Province,) of payment on demand, in Specie, of the Notes or Bills of the said Corporation payable on demand, shall, if the time of suspension extend to sixty days, consecutively or at intervals, within any twelve consecutive months, operate as and be, a forfeiture of this Act of Incorporation, and all and every the privileges hereby granted.

Suspension of specie payments beyond a certain time to forfeit the Charter of the Bank.

XXV. And be it enacted, that the total amount of the Notes or Bills of the said Corporation, being for a less sum than one pound, current money of Canada, each, that shall be or may have been issued and put in circulation, shall not exceed at any one time one fifth of the amount of the Capital Stock of the Corporation then paid in : Provided always, that no notes under the nominal value of five shillings shall at any time be issued or put into circulation by the Corporation, nor shall any further limitation by the Legislature of the total amount of notes to be issued be held to be any infringement of the privilege hereby granted.

Note under £1 each.

None under 5s.

XXVI. And be it enacted, that the total amount of the debts which the said Corporation shall at any time owe, whether by bond, bill, note or otherwise, shall not exceed three times the aggregate amount of the Capital Stock paid in, and the deposits made in the Bank in specie and Government securities for money, and at no one period after the passing of this Act shall the notes or bills payable on demand and to bearer exceed the amount of capital paid up of the said Corporation ; and in case of excess, the said Corporation shall forfeit this Act of Incorporation and all the privileges hereby granted ; and the Directors under whose administration the excess shall happen, shall be liable jointly and severally for the same, in their private capacities, as well to the Shareholders, as to the holders of the bonds, bills and notes of the Corporation ; and an action or actions in this behalf may be brought against them, or any of them, and the heirs, executors, administrators or curators of them, or any of them, and be prosecuted to judgment and execution according to law, but such action or actions shall not exempt the Corporation, or their lands, tenements, goods or chattels from being also liable for such excess : Provided always, that if any Director present at the time of contracting any such excess of debt do forthwith, or, if any Director absent at the time of contracting any such excess of debt, do within twenty four hours after he shall have obtained a knowledge thereof, enter on the minutes or register of proceedings of the Corporation

Liabilities of the Corporation not to exceed a certain amount.

Directors not liable for excess in certain cases.

ration, his protest against the same, and do, within eight days thereafter, publish such protest in at least two newspapers published in the City of Montreal, such Director may thereby, and not otherwise, exonerate and discharge himself, his heirs, executors, and administrators or curators from the liability aforesaid, any thing herein contained, or any law to the contrary notwithstanding : And provided always, that such publication shall not exonerate any Director from his liability as a Shareholder.

Stockholders to be liable to twice the amount of their respective shares.

XXVII. And be it enacted, that in the event of the property and assets of the Corporation hereby constituted, becoming insufficient to liquidate the liabilities and engagements or debts thereof, the Shareholders of the Corporation, in their private or natural capacities, shall be liable and responsible for the deficiency, but to no greater extent than to double the amount of the paid up Capital ; that is to say ; that the liability and responsibility of each Shareholder shall be limited to the amount of his or her share or shares of the said paid up Capital Stock, and a sum of money equal in amount thereto : Provided always, that nothing in this section contained shall be construed to alter or diminish the additional liabilities of the Directors of the Corporation hereinbefore mentioned and declared.

Statements of the affairs of the Corporation to be published in the form of the Schedule B.

XXVIII. And be it enacted, that besides the detailed statement of the affairs of the said Corporation hereinbefore required to be laid before the Shareholders thereof, at their annual general meetings, the Directors shall make up and publish, on the first days of March and September, in every year, statements of the assets and liabilities of the Corporation, in the form of the Schedule B. hereunto annexed, shewing under the heads specified in the said form, the average of the amount of the notes of the Corporation in circulation and other liabilities, at the termination of each month during the period to which the statement shall refer, and the average amount of specie and other assets that, at the same times, were available to meet the same : and it shall also be the duty of the Directors to submit to the Governor, Lieutenant Governor or Person administering the Government of this Province, a copy of each of such half yearly statements ; and if by him required to verify all or any part of the said statements, the said Directors shall verify the same by the production of the weekly or monthly balance-sheets, from which the said statements shall have been compiled ; and furthermore, the said Directors shall from time to time, when required, furnish to the said Governor, Lieutenant Governor, or Person administering the Government of this Province, such further information respecting the state and proceedings of the Corporation, and of the several branches and offices of discount and deposit thereof, as such Governor, Lieutenant Governor or Person administering the Government of this Province, may reasonably see fit to call for : Provided always, that the weekly or monthly balance sheets, and the further information that shall be so produced and given, shall

Governor may require further information.

shall be held by the said Governor, Lieutenant Governor or Person administering the Government of this Province, as being produced and given in strict confidence that he shall not divulge any part of the contents of the said weekly or monthly balance-sheets, or of the information that shall be so given: And provided also, that the Directors shall not, nor shall any thing herein contained be construed to authorize them or any of them to make known the private account or accounts of any person or persons whatever having dealings with the Corporation.

Such information not to be divulged.

Proviso.

XXIX. And be it enacted, that it shall not be lawful for the Corporation hereby constituted, at any time whatever, directly or indirectly, to advance or lend to, or for the use of or on account of any foreign Prince, Power or State, any sum or sums of money, or any securities for money: and if such unlawful advance or loan be made, then and from thenceforth the said Corporation shall be dissolved, and all the powers, authorities, rights, privileges and advantages hereby granted shall cease and determine, any thing in this Act to the contrary notwithstanding.

Corporation not to lend to any Foreign Power.

XXX. And be enacted, that the several public notices by this Act required to be given, shall be given by advertisement in two or more of the newspapers published in the City of Montreal, whereof the Montreal Gazette, or such other Gazette as shall be generally known and accredited as the Official Gazette for the publication of Official documents and notices emanating from the Civil Government of this Province, shall be one.

In what papers notices shall be published.

XXXI. And be it enacted, that if any Officer, Cashier, Manager, Clerk or Servant of the Corporation hereby constituted, shall secrete, embezzle or abscond with any bond, obligation, bill, obligatory or of credit, or other bill or note, or with any security for money, or money, or effects intrusted to him as such Officer, Cashier, Manager, Clerk or Servant, whether the same belong to the said Corporation, or belonging to any other person or persons, body or bodies politic or corporate, or institution or institutions, be lodged and deposited with the said Corporation, the Officer, Cashier, Manager, Clerk or servant so offending, and being thereof convicted in due form of law, shall be deemed guilty of felony.

Officers of the Bank embezzling Bills, &c.

XXXII. And be it enacted, that if any person or persons shall forge or counterfeit the Common Seal of the Corporation hereby constituted, or shall forge or counterfeit, or alter any bond, obligation, bill obligatory or of credit, or other bill or note of the said Corporation, or any endorsement or endorsements thereon, with an intention to defraud the said Corporation, or any person or persons, body or bodies politic or corporate, or institution or institutions whomsoever and whatsoever; or shall offer or pass any forged, counterfeit or altered bond, obligation, bill obligatory

Punishment of persons forging Bonds, &c. of the Corporation.

or

or of credit, or other bill or note of the said Corporation, or endorsement or endorsements thereon, or shall demand the money therein mentioned, knowing the same to be forged, counterfeit or altered, every such person, for every such offence, upon conviction thereof in due form of law, shall be deemed and adjudged to be guilty of felony.

Punishment
of persons en-
graving plates
&c.

XXXIII. And be it enacted, that if any person shall engrave, form, make or mend any plate or plates, paper, rolling-press or other tool, instrument or material devised, adapted or designed for stamping, forging or making any false or counterfeit Bill of Exchange, promissory note, undertaking or order, for the payment of money, purporting to be the Bill of Exchange, promissory note, undertaking or order of the said Corporation, or of any of the officers or persons engaged in the management of the affairs of the said Corporation, in the name or on the behalf thereof, or shall have in his possession any such plate or plates, engraven in any part, or any such paper, rolling-press or other tool, instrument or material, devised, adapted or designed as aforesaid, with the intent to use and employ the same, or to cause or permit the same to be used and employed in forging and making any such false and counterfeit Bills of Exchange, promissory notes, undertakings or orders, every person so offending shall be deemed and taken to be guilty of felony, and the proof that such plate, paper, rolling press or other tool, instrument or material, as aforesaid, was formed, made, engraved or mended by or was in the possession of such person for some lawful purpose shall lie upon him or her.

XXXIV. And be it enacted, that every person convicted of felony under this Act shall be punished by imprisonment at hard labor in the Provincial Penitentiary for any term not less than seven years, or by imprisonment in any other Gaol or place of confinement for any term not exceeding two years.

Power of
searching for
Counterfeit
Bills, plates,
tools, &c.

XXXV. And be it enacted, that it shall and may be lawful to, and 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 making or counterfeiting any such false bills of exchange, promissory notes, undertakings or orders as aforesaid, by warrant under the hand of such 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 of carrying on any such making or counterfeiting, to be searched; and if any such false bills of exchange, promissory notes, undertakings or orders, or any such plates, rolling-presses or other tools, instruments or materials, shall be found in the custody or possession of any person or persons whomsoever not having the same by some lawful authority, it shall and may be lawful to and for any

any person or persons whomsoever discovering the same, to seize, and he or they are hereby authorized and required to seize such false or counterfeit bills of exchange, promissory notes, undertakings or orders, and such plates, rolling-presses or other tools, instruments or materials, and to carry the same forthwith before a Justice of the Peace of the County or District, (or if more convenient, of the adjoining County or District,) in which 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, in some Court of Justice, proper for the determination thereof, and the same, after being so produced in evidence, shall, by order of the Court, be defaced or destroyed, or otherwise disposed of as such Court shall direct.

XXXVI. And be it enacted, that the bonds, obligations, bills obligatory or of credit, and other bills and notes, and the securities for money and effects of the Corporation hereinbefore mentioned, constituted by the aforesaid Act of the Parliament of Lower Canada, passed in the third year of the reign of His Majesty, King William the Fourth, which said Act was subsequently amended and continued by letters Patent of His said Majesty King William the Fourth as aforesaid, shall be held, deemed, and adjudged to be within the true intent, meaning and provision of the last four sections of this Act, any thing herein or in any law to the contrary notwithstanding.

Bills &c. of former Corporations before-mentioned to be within the meaning of the last four sections.

XXXVII. And be it enacted, that nothing in this Act contained shall in any manner derogate from or affect, or be construed to derogate from or affect, or be construed to derogate from or affect the rights of Her Majesty, her heirs and successors, or of any person or persons, or of any body or bodies politic or corporate, except in so far as the same may be specially derogated from or affected by the provisions of this Act.

Rights not specially affected to be saved. Public Act.

XXXVIII. And be it enacted, that this Act shall be held and taken to be a Public Act, and shall be judicially taken notice of, and have the effect of a Public Act, without being specially pleaded.

Public Act.

XXXIX. And be it enacted, that this Act shall be and remain in force until the first day of December which will be in the year of Our Lord, one thousand eight hundred and sixty two, and from that time until the end of the then next Session of the Parliament of this Province, and no longer.

Duration of this Act.

FORM OF SCHEDULE;

A.

Referred to in the eighteenth section of the foregoing Act.

For value received from _____ of
 I, (or we,) _____ do hereby assign
 of _____ and transfer unto the said _____
 shares, (on each of which has been paid, _____ pounds
 shillings, Currency, amounting to the sum of _____
 pounds, _____ shillings) in the
 Capital Stock of the City Bank subject to the rules and regulations of the said
 Bank.

Witness my (or our) (hand or hands) at the said Bank, this _____ day of
 in the year one thousand eight hundred and _____

(Signatures.)

I (or we) do hereby accept the foregoing assignment of _____ shares
 in the Stock of the City Bank assigned to me (or us) as above mentioned, at the
 Bank, this _____ day of _____ one thousand eight hun-
 dred and _____

(Signature.)

SCHEDULE.

FORM OR SCHEDULE. A.

Referred to in the twenty eighth section of the foregoing Act.

RETURN of the average amount of Liabilities and assets of the City Bank during the period from 1st to 18						
LIABILITIES.	Month ending					
	30th Sept 18	31st Oct. 18	30th Nov. 18	31st Dec. 18	31st Jan. 18	28th Feb. 18
Promissory Notes in circulation not bearing interest	£					
Bills of Exchange in circulation not bearing interest	£					
Bills and Notes in circulation bearing interest	£					
Balance due to other Banks	£					
Cash deposits, not bearing interest	£					
Cash deposits, bearing interest	£					
Total average Liabilities	£					
ASSETS.						
Coin and Bullion	£					
Landed or other Property of the Bank	£					
Government Securities	£					
Promissory Notes or Bills of other Banks	£					
Balances due from other Banks	£					
Notes and Bills discounted, or other Debts due to the Bank, not included under the foregoing heads	£					
Total average Assets	£					

CAP. XCVIII.

An Act to renew the Charter of the Bank of Montreal, and to Increase its Capital Stock.

18th September, 1841.—Presented for Her Majesty's Assent and reserved "for the signification of Her Majesty's pleasure thereon."

11th March, 1842.—Assented by Her Majesty, in Her Privy Council.

27th April, 1842.—The Royal Assent signified by the Proclamation of His Excellency SIR CHARLES BAGOT, Governor General.

WHEREAS, the President and Directors of the Corporation created and constituted by, under and in virtue of a certain Ordinance of the Legislature of the

Preamble.

the heretofore Province of Lower Canada, made and passed in the first year of Her Majesty's Reign, intituled *An Ordinance to Incorporate certain persons therein named, under the name of "The President, Directors and Company of the Bank of Montreal,"* have by their Petition, prayed, on behalf of the said Corporation, for a new Act of Incorporation, extending their powers and privileges and authorizing them to increase their Capital Stock; and whereas it is expedient to grant the prayer of the said Petition; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act of the Parliament of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada,* and it is hereby enacted by the authority of the same, that the Honorable Peter McGill, the Honorable Joseph Masson, Thomas B. Anderson, John Torrance, William Lunn, John Molson, James Logan, John Redpath, Joseph Shuter, James B. Green-shields, Charles Brooke, John M. Tobin and John G. McKenzie, all of the City of Montreal, in this Province, and such other persons as now are Shareholders of the Capital Stock of the Corporation, created and constituted by the Ordinance aforesaid, and their respective Heirs, Executors, Administrators and Assigns, shall be and they are hereby constituted a Body Corporate and Politic, in fact and in name, by and under the name, style and title of "The Bank of Montreal," and as such shall, during the continuance of this Act, have succession and a common seal, with power to break, renew, change, and alter the same at pleasure; and shall be capable of suing and being sued, and of pleading and being impleaded in all Courts of law and equity, and other places, in all manner of actions, causes, and matters whatsoever; and for the convenient management of their business, but for no other purpose, shall and may purchase, acquire, and hold real or immoveable estates and property, not exceeding the yearly value of two thousand pounds, current money of this Province; and may sell, alienate and dispose of the same, and purchase, acquire and hold others in their stead, not exceeding in the whole the yearly value aforesaid.

Corporation
established.

Name.

Corporate
powers.

Amount of
Stock.

II. And be it enacted, that the Capital Stock of the said Corporation hereby constituted, shall be the sum of Five Hundred Thousand Pounds, current money of Canada, divided into ten thousand shares of fifty pounds each, (the same being the paid-up Capital Stock of the Bank incorporated by the Ordinance aforesaid,) which shares are hereby vested in the present holders or proprietors thereof, according to their respective interest in the same.

Increase of
Stock provided
for.

III. And be it enacted, that it shall and may be lawful for the Corporation hereby constituted, to add to the Capital Stock thereof, the sum of Two Hundred and

and Fifty Thousand Pounds, current money of Canada, divided into Five Thousand Shares, of Fifty Pounds each: Provided, that the said fifty thousand shares be subscribed for within eighteen months, and be wholly paid up within two years, from and after the passing of this Act.

IV. And be it enacted, that the Books of Subscription for the Capital Stock, by the two preceeding sections of this Act, respectively, authorized to be added to the Capital Stock of the said Corporation, shall be opened by such persons, at such times and places, and under such regulations as to the Directors of the said Corporation shall seem meet; and the shares of Capital Stock thereupon subscribed for, shall be paid in and by such instalments, and at such times and places as the said Directors shall appoint; and Executors, Administrators and Curators paying instalments upon the shares of deceased Shareholders, shall be, and they are hereby respectively indemnified for paying the same: Provided always, that no share or shares shall be held to be lawfully subscribed for unless a sum equal to ten pounds per centum on the amount subscribed for, be actually paid at the time of subscribing.

Subscription
for new Stock.

V. And be it enacted, that if any Shareholder or Shareholders shall refuse or neglect to pay any or either of the instalments upon his, her or their shares of the said Capital Stock, at the time or times required by public notice as aforesaid, such Shareholder or Shareholders shall incur a forfeiture to the use of the said Corporation of a sum of money equal to ten pounds per centum on the amount of such shares; and moreover, it shall be lawful for the Directors of the said Corporation (without any previous formality, other than thirty days of public notice of their intention,) to sell at public auction the said shares or so many of the said shares as shall, after deducting the reasonable expenses of the same, yield a sum of money sufficient to pay the unpaid instalments due on the remainder of the said shares and the amount of forfeitures incurred upon the whole; and the President, or Vice President, or Cashier of the said Corporation, shall execute the transfer to the purchaser of the shares of Stock so sold, and such transfer, being accepted, shall be as valid and effectual in law as if the same had been executed by the original holder or holders of the shares of Stock thereby transferred: Provided always, that nothing in this section contained, shall be held to debar the Directors or Shareholders at a general meeting, from remitting, either in whole or in part, and conditionally or unconditionally, any forfeiture incurred by the non-payment of instalments as aforesaid.

Instalments
on new Stock
how to be paid
up.

VI. And be it enacted, that the chief place or seat of business of the said Corporation, shall be in the City of Montreal aforesaid; but it shall and may be lawful for the Directors of the Corporation, to open and establish in other Cities,

Chief seat of
business ap-
pointed: Bran-
ches may be es-
tablished.

Cities, Towns and places in this Province, branches or offices of discount and deposit of the said Corporation, under such rules and regulations for the good and faithful management of the same as to the said Directors shall, from time to time, seem meet, and shall not be repugnant to any Law of this Province, to this Act, or to the by-laws of the said Corporation.

Election and appointment of Directors, &c.

VII. And be it enacted, that for the management of the affairs of the said Corporation, there shall be thirteen Directors, who shall be annually elected by the Shareholders of the Capital Stock of the Corporation, at a general meeting of them to be held annually on the first Monday in June, beginning on the first Monday in June in the year one thousand eight hundred and forty-two; at which meeting the Shareholders shall vote according to the rule or scale of votes hereinafter established; and the Directors elected by a majority of votes given in conformity to such rule or scale, shall be capable of serving as Directors for the ensuing twelve months; and, at their first meeting after such election, shall choose out of their number a President and a Vice President, who shall hold their offices, respectively, during the same period; and, in case of a vacancy occurring in the said number of thirteen Directors, the remaining Directors shall fill the same by election from among the Shareholders, and the Director so elected shall be capable of serving as a Director, until the next annual general meeting of the Shareholders; and if the vacancy occurring in the said number of thirteen Directors, shall also cause the vacancy of the office of President, or of Vice President, the Directors, at their first meeting after their number shall have been completed as aforesaid, shall fill the vacant office by choice or election from among themselves, and the Director so chosen or elected, shall fill the office to which he shall be so chosen or elected, until the next general annual meeting of the Shareholders: Provided always, that each of the Directors shall be the holder and proprietor in his own name, of not less than ten shares of the Capital Stock of the said Corporation, wholly paid up, and shall be a natural born, or naturalized subject of Her Majesty, and shall have resided seven years in Canada, and shall for three consecutive years have been, and be actually domiciled in the said City of Montreal, or within seven miles thereof: And provided also, that seven of the Directors in office at the period of each annual election, shall be re-elected for the next ensuing twelve months.

Qualification of Directors.

Corporation not dissolved by failure to elect on the day appointed.

VIII. And be it enacted, that if at any time it shall happen that an election of Directors shall not be made or take effect on the day fixed by this Act, the said Corporation shall not be deemed or taken to be thereby dissolved; but it shall be lawful at any subsequent time to make such election at a general meeting of the Shareholders to be duly called for that purpose.

IX. And be it enacted, that the books, correspondence and funds of the Corporation, shall at all times be subject to the inspection of the Directors; but no Shareholder, not being a Director, shall inspect or be allowed to inspect the account or accounts of any person or persons dealing with the Corporation.

Power of inspecting accounts, &c. by the Directors.

X. And be it enacted, that at all meetings of the Directors of the said Corporation, not less than five of them shall constitute a board or quorum for the transaction of business; and at the said meetings the President, or in his absence, the Vice President, or in their absence, one of the Directors present, to be chosen *PRO TEMPORE* shall preside; and the President, Vice President, or President *pro tempore* so presiding, shall vote as a Director; and, if there be an equal division on any question, shall have a casting vote.

Quorum of Directors.

President.

Casting votes.

XI. And be it enacted, that the Shareholders of the Bank, incorporated by the Ordinance hereinbefore mentioned, who at the time of the passing of this Act shall be Directors thereof, shall be and continue to be Directors of the Bank or Corporation hereby constituted, until the first Monday in June in the year one thousand eight hundred and forty-two, being the day hereinbefore appointed for the first election of Directors; and they shall choose from among themselves, a President, and a Vice President, in the manner hereinbefore provided, and in case of any vacancy occurring before the said day appointed for the first election of Directors, the vacancy shall in like manner be filled up as is hereinbefore provided.

Present Directors continued in office.

XII. And be it enacted, that it shall and may be lawful for the Directors of the Corporation hereby constituted, from time to time to make and enact by-laws, rules, and regulations, (the same not being repugnant to this Act, or to the laws of this Province,) for the proper management of the affairs of the said Corporation, and from time to time to alter or repeal the same, and others to make and enact in their stead: Provided always, that no by-law, rule, or regulation so made by the Directors, shall have force or effect until the same shall, after six weeks public notice, have been confirmed by the Shareholders at an annual general meeting, or at a special general meeting called for that purpose; And provided also, that the by-laws of the Bank incorporated by the Ordinance hereinbefore mentioned, in so far as they are not repugnant to this Act, or to Law, shall be the by-laws of the Corporation hereby constituted, until others shall have been made and enacted and confirmed as provided for by this section.

By-Laws how made.

Existing By-Laws.

XIII. And be it enacted, that no Director of the Corporation hereby constituted, shall, during the period of his services, act as a private banker, nor shall any Director other than the President, be entitled to any salary or emolument for his services as a Director, but the President may be compensated for his services as
President,

No Directors shall be paid except the President.

President, either by an annual vote of a sum of money by the Shareholders at their annual general meetings, or by a fixed salary; and in the latter case for the purpose of securing to the Corporation the undivided attention and services of the President, it shall be lawful for the Directors, if they see fit, to choose and appoint annually from among themselves, a person duly qualified who shall be President of the Corporation and to award to him such remuneration for his services, as they in their judgment shall see fit, any thing hereinbefore contained to the contrary notwithstanding.

Directors to
appoint Officers
of the
Bank.

XIV. And be it enacted, that the Directors of the said Corporation shall have power to appoint such Cashiers, Officers, Clerks, and Servants under them as shall be necessary for conducting the business of the Corporation, and to allow reasonable compensation for their services respectively; and shall also be capable of exercising such power and authority for the well governing and ordering of the affairs of the Corporation as shall be prescribed by the by-laws thereof: Provided always, that before permitting any Cashier, Officer, Clerk, or Servant of the Corporation to enter upon the duties of his office, the Directors shall require every such Cashier, Officer, Clerk or Servant, to give bond, to the satisfaction of the Directors; that is to say: every Cashier in a sum not less than five thousand pounds, Current Money of Canada, and every other Officer, Clerk, or Servant, in such sum of money as the Directors consider adequate to the trust to be reposed, with conditions for good and faithful behaviour.

Cashiers, &c.
to give security.

Dividends.

XV. And be it enacted, that it shall be the duty of the Directors to make half-yearly dividends of so much of the profits of the Corporation as to them shall appear advisable; and such dividends shall be payable at such place or places as the Directors shall appoint, and of which they shall give public notice thirty days previously: Provided always, that such dividends shall not in any manner lessen or impair the Capital Stock of the Corporation.

Proviso.

Annual statements to be
submitted to
Shareholders.

XVI. And be it enacted, that a general meeting of the Shareholders of the Corporation shall be held in the City of Montreal on the first Monday in the month of June, in every year during the continuance of this Act, for the purpose of electing Directors in the manner hereinbefore provided, and for all other general purposes touching the affairs, and the management of the affairs of the Corporation; and at each of the said annual general meetings, the Directors shall submit a full and clear statement of the affairs of the Corporation, containing, on the one part, the amount of Capital Stock paid in, the amount of notes of the Bank in circulation, the net profits in hand, the balances due to other Banks and Institutions, and the cash deposited in the Bank, distinguishing deposits bearing interest from those not bearing interest, and, on the other part, the amount of current coins and gold and silver

silver bullion in the vaults of the Bank, the value of buildings and other real estate belonging to the Bank, the balances due to the Bank from other Banks and Institutions, and the amount of debts owing to the Bank, including and particularizing the amounts so owing on bills of exchange, discounted notes, mortgages, and hypothèques, and other securities; thus exhibiting on the one hand the liabilities of, or debts due by the Bank; and on the other hand, the assets and resources thereof; and the said statement shall also exhibit the rate and amount of the then last dividend declared by the Directors, the amount of profits reserved at the time of declaring such dividend, and the amount of debts to the Bank overdue and not paid, with an estimate of the loss which may probably be incurred from the non-payment of such debts.

XVII. And be it enacted, that the number of votes which the Shareholders of the said Corporation shall respectively be entitled to give at their meetings, shall be according to the following scale, that is to say: for one share and not more than two, one vote; for every two shares above two and not exceeding ten, one vote; making five votes for ten shares; for every four shares above ten and not exceeding thirty, one vote, making ten votes for thirty shares; for every six shares above thirty, and not exceeding sixty, one vote, making fifteen votes for sixty shares; and for every eight shares above sixty, and not exceeding one hundred, one vote, making twenty votes for one hundred shares; and no Shareholder shall be entitled to give a greater number of votes than twenty; and it shall be lawful for absent Shareholders to give their votes by proxy, such proxy being also a Shareholder, and being provided with a written authority from his constituent or constituents, in such form as shall be established by a by-law, and which authority shall be lodged in the Bank: Provided always, that a share or shares of the Capital Stock of the said Corporation, that shall have been held for a less period than three Calendar Months immediately prior to any meeting of the Shareholders, shall not entitle the holder or holders to vote at such meeting, either in person or by Proxy: Provided also, that where two or more persons are joint holders of shares, it shall be lawful that one only of such joint holders be empowered by Letter of Attorney from the other joint holder or holders, or a majority of them, to represent the said shares and vote accordingly: And provided also, and it is hereby enacted, that no Shareholder who shall not be a natural born, or naturalized subject of Her Majesty, or who shall be a subject of any Foreign Prince or State, shall, either in person or by proxy, vote at any meeting whatever of the Shareholders of the said Corporation, or shall assist in calling any meeting of the Shareholders, any thing in this Act to the contrary notwithstanding.

Number of
Votes which
each Stockholder
shall have.

Proxy.

Proviso.

Joint owners
of stock.

Aliens not to
vote.

XVIII. And be it enacted, that no Cashier Bank Clerk or other Officer of the
Bank

Bank shall either vote in person or by proxy at any meeting for the election of Directors or hold a proxy for that purpose.

Extraordinary
general meet-
ings how cal-
led.

XIX. And be it enacted, that any number, not less than twenty, of the Shareholders of the said Corporation, who together, shall be proprietors of at least five hundred and fifty shares of the paid-up Capital Stock of the Corporation, by themselves or proxies; or the Directors of the Corporation, or any seven of them, shall respectively have power at any time to call a special general meeting of the Shareholders of the Corporation, to be held at their usual place of meeting in the City of Montreal, upon giving six weeks previous public notice thereof, and specifying in such notice the object or objects of such meeting; and if the object of any such special general meeting be to consider of the proposed removal of the President, or Vice President, or a Director or Directors of the Corporation, for mal-administration or other specified and apparently just cause, then and in such cases, the person or persons whom it shall be so proposed to remove, shall, from the day on which the notice shall first be published, be suspended from the duties of his or their office or offices, and if it be the President, or Vice President whose removal shall be proposed as aforesaid, his Office shall be filled up by the remaining Directors, (in the manner hereinbefore provided in the case of a vacancy occurring in the Office of President, or Vice President) who shall choose or elect a Director to serve as such President or Vice President, during the time such suspension shall continue or be undecided upon.

Mal'versation.

Stock to be
personal prop-
erty.

XX. And be it enacted, that the shares of the Capital Stock of the said Corporation, shall be held and adjudged to be personal estate, and be transmissible accordingly; and shall be assignable and transferable at the Bank, according to the form of schedule A, annexed to this Act; but no assignment or transfer shall be valid and effectual unless it be made and registered in a book or books to be kept by the Directors for that purpose; nor until the person or persons making the same shall previously discharge all debts actually due by him, her, or them, to the Corporation, which may exceed in amount the remaining stock (if any) belonging to such person or persons; and no fractional part or parts of a share, or other than a whole share, shall be assignable or transferable: and when any share or shares of the said Capital Stock, shall have been sold under a writ of execution, the Sheriff by whom the writ shall have been executed shall within thirty days after the sale, leave with the Cashier of the Corporation, an attested copy of the writ, with the certificate of such Sheriff indorsed thereon, certifying to whom the sale has been made; and thereupon (but not until after all debts due by the original holder or holders of the said shares to the Corporation shall have been discharged as aforesaid,) the President, or Vice President, or Cashier of the Corporation, shall execute the transfer of the share or shares so sold, to the purchaser

How trans-
ferable.

chaser, and such transfer, being duly accepted shall be, to all intents and purposes, as valid and effectual in Law as if it had been executed by the original holder or holders of the said shares, any Law or usage to the contrary notwithstanding.

XXI. And be it enacted, that the said Corporation hereby constituted shall not, either directly or indirectly, hold any lands or tenements, (save and except such as by the first section of this Act they are specially authorized to acquire and hold,) or any ships or other vessels, or any share or shares of the Capital Stock of the Corporation, nor in any other Bank in this Province, nor shall the said Corporation either directly or indirectly lend money or make advances upon the security, mortgage or hypothecation (hypothèque,) of any lands or tenements, or of any ships or other vessels; nor upon the security or pledge of any share or shares of the Capital Stock of the Corporation, or of any Goods, Wares or Merchandize, nor shall the said Corporation, either directly or indirectly, raise loans of money, or deal in the buying, selling or bartering of Goods, Wares or Merchandize, or engage or be engaged in any trade whatever, except as dealers in gold and silver bullion, bills of exchange, discounting of promissory notes and negotiable security, and in such trade generally as legitimately appertains to the business of Banking: Provided always, that the said Corporation may take and hold mortgages and hypothèque on real estates and property in this Province, by way of additional security for debts contracted to the Corporation in the course of their dealings.

In what the business of the Corporation shall consist.

XXII. And be it enacted, that the aggregate amount of discounts and advances made by the said Corporation upon commercial paper or securities bearing the name of any Director or Officer, or the co-partnership, name or firm of any Director of the said Corporation, shall not at any one time exceed one third of the total amount of discounts or advances made by the Corporation, at the same time.

Discounts and advances to Directors limited.

XXIII. And be it enacted, that it shall and may be lawful for the said Corporation to allow and pay interest, (but not exceeding the legal rate of interest in this Province,) upon moneys deposited in the Bank; and also it shall and may be lawful for the Corporation, in discounting promissory notes or other negotiable securities, to receive or retain the discount thereon, at the time of the discounting or negotiating the same; any law or usage to the contrary notwithstanding.

Interest to be taken or allowed the Bank.

XXIV. And be it enacted, that the bonds, obligations and bills, obligatory and of credit, of the said Corporation, under the common seal, and signed by the President or Vice President, and countersigned by a Cashier thereof, which shall be made payable to any person or persons, shall be assignable by indorsement thereon, under the hand or hands of such person or persons, and of his, her or their assignee

How Bonds Bills, &c. of the Corporation shall be signed &c.

signee or assignees, and so as absolutely to transfer and vest the property thereof in the several assignees, successively, and to enable such assignee or assignees to bring and maintain an action or actions thereupon in his, her or their own name or names; and signification of any such assignment by indorsement shall not be necessary, any law or usage to the contrary notwithstanding; and bills or notes of the Corporation signed by the President or Vice President, and countersigned by a Cashier thereof, promising the payment of money to any person or persons his, her or their order, or to the bearer, though not under the seal of the Corporation, shall be binding and obligatory upon the same, in the like manner, and with the like force and effect as they would be upon any private person or persons, if issued by him, her or them, in his, her or their private or natural capacities and shall be assignable or negotiable in the like manner as if they were so issued by such private person or persons: Provided always, that nothing in this Act contained shall be held to debar the Directors of the Corporation from authorizing or deputing from time to time any Cashier or Officer of the Corporation, or any Director, other than the President or the Vice President, or any Cashier, Manager or local Director of a Branch, or office of discount and deposit of the said Corporation, to sign, and any Cashier, Accountant or Book-keeper of the said Corporation, or of any Branch, or Office of discount and deposit thereof, to countersign the bills or notes of the said Corporation intended for general circulation, and payable to order, or to bearer, on demand.

Bills to be payable in specie.

XXV. And be it enacted, that the notes or bills of the said Corporation made payable to order, or to bearer, and intended for general circulation, whether the same shall issue from the chief place or seat of business of the Corporation in the City of Montreal, or from any of the branches, shall bear date at the place of issue and not elsewhere; and shall be payable on demand in specie at the same place of issue; and that each and every office of discount and deposit established or hereafter to be established, under the management or direction of a local Board of Directors shall be considered and held to be a Branch Bank and subject to the restriction as to the issuing and redemption of notes provided in this Act.

Suspension of specie payments beyond a certain time to forfeit the Charter of the Bank.

XXVI. And be it enacted, that a suspension by the said Corporation (either at the chief place or seat of business in the said City of Montreal, or at any of their branches or offices of discount and deposit at other places in this Province,) of payment on demand, in Specie, of the Notes or Bills of the said Corporation payable on demand, shall, if the time of suspension extend to sixty days, consecutively or at intervals, within any twelve consecutive months, operate as and be, a forfeiture of this Act of Incorporation, and all and every the privileges hereby granted.

XXVII.

XXVII. And be it enacted, that the total amount of the Notes or Bills of the said Corporation, being for a less sum than one pound, current money of Canada, each, that shall be or may have been issued and put in circulation, shall not exceed at any one time one fifth of the amount of the Capital Stock of the Corporation then paid in: Provided always, that no notes under the nominal value of five shillings shall at any time be issued or put into circulation by the Corporation, nor shall any further limitation by the Legislature of the total amount of notes to be issued or reissued by the said Corporation be held to be any infringement upon the privilege hereby granted.

Note under
£1 each.

None under 5s.

XXVIII. And be it enacted, that the total amount of the debts which the said Corporation shall at any time owe, whether by bond, bill, note or otherwise, shall not exceed three times the aggregate amount of the Capital Stock paid in, and the deposits made in the Bank in specie and Government securities for money, and at no one period after the passing of this Act shall the notes or bills payable on demand and to bearer exceed the amount of the actually paid up Capital Stock of said Corporation; and in case of excess, the said Corporation shall forfeit this Act of Incorporation and all the privileges hereby granted; and the Directors under whose administration the excess shall happen, shall be liable jointly and severally for the same, in their private capacities, as well to the Shareholders, as to the holders of the bonds, bills and notes of the Corporation; and an action or actions in this behalf may be brought against them, or any of them, and the heirs, executors, administrators or curators of them, or any of them, and be prosecuted to judgment and execution according to law, but such action or actions shall not exempt the Corporation, or their lands, tenements, goods or chattels from being also liable for such excess: Provided always, that if any Director present at the time of contracting any such excess of debt do forthwith, or, if any Director absent at the time of contracting any such excess of debt, do within twenty four hours after he shall have obtained a knowledge thereof, enter on the minutes or register of proceedings of the Corporation, his protest against the same, and do, within eight days thereafter, publish such protest in at least two newspapers published in the City of Montreal, such Director may thereby, and not otherwise, exonerate and discharge himself, his heirs, executors, and administrators or curators from the liability aforesaid, any thing herein contained, or any law to the contrary notwithstanding: And provided always, that such publication shall not exonerate any Director from his liability as a Shareholder.

Liabilities of
the Corporation
not to exceed
a certain a-
mount.

Directors not
liable for ex-
cess in certain
cases.

XXIX. And be it enacted, that in the event of the property and assets of the Corporation hereby constituted, becoming insufficient to liquidate the liabilities and engagements or debts thereof, the Shareholders of the Corporation, in their private or natural capacities, shall be liable and responsible for the deficiency, but to no greater

Stockholders
to be liable to
twice the a-
mount of their
respective
shares.

greater extent than to double the amount of the paid up Capital ; that is to say ; that the liability and responsibility of each Shareholder shall be limited to the amount of his or her share or shares of the said paid up Capital Stock, and a sum of money equal in amount thereto : Provided always, that nothing in this section contained shall be construed to alter or diminish the additional liabilities of the Directors of the Corporation hereinbefore mentioned and declared.

The Corporation hereby constituted shall have the rights and assume the liabilities of a certain Corporation and Association.

XXX. And be it enacted, that this Act of Incorporation, and the privileges hereby granted to the said Corporation, is and are granted upon the express condition that the said Corporation, shall assume and pay, and shall be held, bound and liable to pay all and every the notes and bills in circulation, and all others the debts and liabilities of the Corporation, constituted by an Act of the Parliament of that part of this Province heretofore constituting the Province of Lower Canada, passed in the first year of the Reign of His Majesty, King George the Fourth, of blessed memory, chap. 25, intituled *An Act for incorporating certain persons therein named under the name of the 'President, Directors and Company of the Bank of Montreal'* ; and of the Association which on the first day of June, in the year one thousand eight hundred and thirty seven, when the Corporate powers of the said Corporation ceased and determined, assumed and carried on the business thereof ; and of the Corporation constituted by, and now existing in the said City of Montreal, under the Ordinance hereinbefore mentioned, enacted in the first year of Her Majesty's Reign, chap. 14, and intituled *An Ordinance to incorporate certain persons therein named under the name of 'The President, Directors and Company of the Bank of Montreal'*, respectively ; and the Corporation by this Act constituted by the name of 'The Bank of Montreal,' shall be and they are hereby empowered and authorized, in their said corporate name, to demand, sue for, recover and receive all the debts remaining due and owing to the aforesaid Corporation, whose powers ceased and determined as aforesaid, to the said association which assumed and carried on the business thereof as aforesaid, and to the Corporation now existing in the said City of Montreal as aforesaid, respectively, in like manner and as effectually as if the said debt were contracted with and had become due and owing to the said Corporation hereby constituted, any law, usage or custom to the contrary notwithstanding.

Statements of the affairs of the Corporation to be published in the form of the Schedule B.

XXXI. And be it enacted, that besides the detailed statement of the affairs of the said Corporation hereinbefore required to be laid before the Shareholders thereof, at their annual general meeting, the Directors shall make up and publish, on the first days of March and September, in every year, statements of the assets and liabilities of the Corporation, in the form of the Schedule B. hereunto annexed, shewing under the heads specified in the said form, the average of the amount of the

the notes of the Corporation in circulation and other liabilities, at the termination of each month during the period to which the statement shall refer, and the average amount of specie and other assets that, at the same times, were available to meet the same: and it shall also be the duty of the Directors to submit to the Governor, Lieutenant Governor or Person administering the Government of this Province, a copy of each of such half yearly statements; and if by him required to verify all or any part of the said statements, the said Directors shall verify the same by the production of the weekly or monthly balance-sheets, from which the said statements shall have been compiled; and furthermore, the said Directors shall from time to time, when required, furnish to the said Governor, Lieutenant Governor, or Person administering the Government of this Province, such further information respecting the state and proceedings of the Corporation, and of the several branches and offices of discount and deposit thereof, as such Governor, Lieutenant Governor or Person administering the Government of this Province, may reasonably see fit to call for: Provided always, that the weekly or monthly balance sheets, and the further information that shall be so produced and given, shall be held by the said Governor, Lieutenant Governor or Person administering the Government of this Province, as being produced and given in strict confidence that he shall not divulge any part of the contents of the said weekly or monthly balance-sheets, or of the information that shall be so given: And provided also, that the Directors shall not, nor shall any thing herein contained be construed to authorize them or any of them to make known the private account or accounts of any person or persons whatever having dealings with the Corporation.

Governor may require further information.

Such information not to be divulged.

Proviso.

XXXII. And be it enacted, that it shall not be lawful for the Corporation hereby constituted, at any time whatever, directly or indirectly, to advance or lend to, or for the use of or on account of any foreign Prince, Power or State, any sum or sums of money, or any securities for money: and if such unlawful advance or loan be made, then and from thenceforth the said Corporation shall be dissolved, and all the powers, authorities, rights, privileges and advantages hereby granted shall cease and determine, any thing in this Act to the contrary notwithstanding.

Corporation not to lend to any Foreign Power.

XXXIII. And be enacted, that the several public notices by this Act required to be given, shall be given by advertisement in two or more of the newspapers published in the City of Montreal, and the Quebec Gazette, or such other Gazette as shall be generally known and accredited as the Official Gazette for the publication of Official documents and notices emanating from the Civil Government of this Province, shall be one.

In what papers notices shall be published.

XXXIV. And be it enacted, that if any Officer, Cashier, Manager, Clerk or Servant

Officers of the Bank embezzling Bills, &c.

vant of the Corporation hereby constituted, shall secrete, embezzle or abscond with any bond, obligation, bill, obligatory or of credit, or other bill or note, or with any security for money, or money, or effects intrusted to him as such Officer, Cashier, Manager, Clerk or Servant, whether the same belong to the said Corporation, or belonging to any other person or persons, body or bodies politic or corporate, or institution or institutions, be lodged and deposited with the said Corporation, the Officer, Cashier, Manager, Clerk or servant so offending, and being thereof convicted in due form of law, shall be deemed guilty of felony.

Punishment
of persons forg-
ing Bonds, &c.
of the Corpo-
ration.

XXXV. And be it enacted, that if any person or persons shall forge or counterfeit the Common Seal of the Corporation hereby constituted, or shall forge or counterfeit, or alter any bond, obligation, bill obligatory or of credit, or other bill or note of the said Corporation, or any indorsement or indorsements thereon, with an intention to defraud the said Corporation, or any person or persons, body or bodies politic or corporate, or institution or institutions whomsoever and whatsoever; or shall offer or pass any forged, counterfeit or altered bond, obligation, bill obligatory or of credit, or other bill or note of the said Corporation, or indorsement or indorsements thereon, or shall demand the money therein mentioned, knowing the same to be forged, counterfeit or altered, every such person, for every such offence, upon conviction thereof in due form of law, shall be deemed and adjudged to be guilty of felony.

Punishment
of persons en-
graving plates
&c.

XXXVI. And be it enacted, that if any person shall engrave, form, make or mend any plate or plates, paper, rolling-press or other tool, instrument or material devised adapted or designed for stamping, forging or making any false or counterfeit Bill of Exchange, promissory note, undertaking or order, for the payment of money, purporting to be the Bill of Exchange, promissory note, undertaking or order of the said Corporation, or of any of the officers or persons engaged in the management of the affairs of the said Corporation, in the name or on the behalf thereof, or shall have in his possession any such plate or plates, engraved in any part, or any such paper, rolling-press or other tool, instrument or material, devised, adapted or designed as aforesaid, with the intent to use and employ the same, or to cause or permit the same to be used and employed in forging and making any such false and counterfeit Bills of Exchange, promissory notes, undertakings or orders, every person so offending shall be deemed and taken to be guilty of felony, and the proof that such plate, paper, rolling press or other tool, instrument or material, as aforesaid, was formed, made, engraved or mended by or was in the possession of such person for some lawful purpose shall lie upon him or her.

XXXVII. And be it enacted, that every person convicted of felony under this Act shall be punished by imprisonment at hard labor in the Provincial Penitentiary for
any

any term not less than seven years, or by imprisonment in any other Gaol or place of confinement for any term not exceeding two years.

XXXVIII. And be it enacted, that it shall and may be lawful to, and 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 making or counterfeiting any such false bills of exchange, promissory notes, undertakings or orders as aforesaid, by warrant under the hand of such Justice, to cause the dwelling-house, room, workshop, outhouse 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 of carrying on any such making or counterfeiting, to be searched; and if any such false bills of exchange, promissory notes, undertakings or orders, or any such plates, rolling-presses or other tools, instruments or materials, shall be found in the custody or possession 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 whomsoever discovering the same, to seize, and he and they are hereby authorized and required to seize such false or counterfeit bills of exchange, promissory notes, undertakings or orders, and such plates, rolling-presses or other tools, instruments or materials, and to carry the same forthwith before a Justice of the Peace of the County or District, (or if more convenient, of the adjoining County or District,) in which 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, in some Court of Justice, proper for the determination thereof, and the same, after being so produced in evidence, shall, by order of the Court, be defaced or destroyed, or otherwise disposed of as such Court shall direct.

Power of
searching for
Counterfeit
bills, plates,
tools, &c.

XXXIX. And be it enacted, that the bonds, obligations, bills obligatory or of credit, and other bills and notes, and the securities for money and effects of the Corporation hereinbefore mentioned, constituted by the aforesaid Act of the Parliament of Lower Canada, passed in the first year of the reign of His Majesty, King George the Fourth, and of the Corporation also hereinbefore mentioned, constituted by the aforesaid Ordinance, enacted by the Legislature of Lower Canada, in the first year of Her Majesty's Reign, respectively, shall be held, deemed, and adjudged to be within the true intent, meaning and provision of the last four Sections of this Act, any thing herein, or in any law to the contrary notwithstanding.

Bills &c. of
former Corpo-
rations before-
mentioned to
be within the
meaning of the
last four sec-
tions.

XL. And be it enacted, that from and after the passing of this Act, the Ordinance before mentioned of the Legislature of that part of this Province which

Property and
rights of the
said Corpora-
tion invested

in that hereby
constituted.

heretofore constituted the Province of Lower Canada, passed in the first year of Her Majesty's Reign, and intituled *An Ordinance to incorporate certain persons therein named, under the name of 'The President, Directors and Company of the Bank of Montreal,'* shall be, and the same is hereby repealed, and the Corporation by the said Ordinance constituted, and all and every its assets, property and effects and rights and interests, shall become and be, and they are hereby merged and vested in the Corporation by this Act constituted.

Rights not
specially affect-
ed to be saved.

XL. And be it enacted, that nothing in this Act contained shall in any manner derogate from or affect, or be construed to derogate from or affect the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, or of any body or bodies politic or corporate, except in so far as the same may be specially derogated from or affected by the provisions of this Act.

Public Act.

XLII. And be it enacted, that this Act shall be held and taken to be a Public Act, and shall be judicially taken notice of, and have the effect of a Public Act, without being specially pleaded.

Duration of
this Act.

XLIII. And be it enacted, that this Act shall be and remain in force until the first day of June which will be in the year of Our Lord, one thousand eight hundred and sixty two and from that time until the end of the then next Session of the Parliament of this Province, and no longer.

FORM OF SCHEDULE;

A.

Referred to in the twentieth section of the foregoing Act.

For value received from
I, (or we,) _____ do hereby assign
of _____ and transfer unto the said _____ pounds
shares, (on each of which has been paid, _____
shillings, Currency, amounting to the sum of _____
pounds, _____ shillings) in the
Capital Stock of the Bank of Montreal, subject to the rules and regulations of the
said Bank.

Witness

Witness my (or our) (hand or hands) at the said Bank, this day of
 in the year, one thousand eight hundred and

(Signatures.)

I (or we) do hereby accept the foregoing assignment of shares
 in the Stock of the Bank of Montreal, assigned to me (or us) as above-mentioned,
 at the Bank, this day of one thousand eight hun-
 dred and

(Signature.)

FORM OR SCHEDULE. B.

Referred to in the thirty-first section of the foregoing Act.

RETURN of the average amount of Liabilities and assets of the Bank of Montreal during the
 period from 1st to 18

LIABILITIES.	Month ending						
	30th Sept 18	31st Oct. 18	30th Nov. 18	31st Dec. 18	31st Jan. 18	28th Feb. 18	
Promissory Notes in circulation not bearing interest	£						
Bills of Exchange in circulation not bearing interest	£						
Bills and Notes in circulation bearing interest,	£						
Balance due to other Banks,	£						
Cash deposits, not bearing interest,	£						
Cash deposits, bearing interest,	£						
Total average Liabilities,	£						
ASSETS.							
Coin and Bullion,	£						
Landed or other Property of the Bank,	£						
Government Securities,	£						
Promissory Notes or Bills of other Banks,	£						
Balances due from other Banks,	£						
Notes and Bills discounted, or other Debts due to the Bank, not included under the foregoing heads,	£						
Total average Assets,	£						

C A P. XCIX.

An Act to authorize the Banks heretofore Chartered by Acts of the late Province of Upper or Lower Canada to Carry on their business throughout this Province.

18th September 1841.—Presented for Her Majesty's Assent and reserved "for the signification of Her Majesty's pleasure thereon."

11th March, 1842.—Assented by Her Majesty, in Her Privy Council.

27th April, 1842.—The Royal Assent signified by the Proclamation of His Excellency SIR CHARLES BAGOT, Governor General.

Preamble.

WHEREAS in consequence of the Union of the late Provinces of Upper and Lower Canada, it is desirable that the several Chartered Banking Institutions should be authorized and empowered to carry on the trade and business of Banking in either portion of 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 of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that it shall and may be lawful for the Directors of any Bank, duly incorporated, according to law, to open and establish in any cities, towns and places in any part of this Province, (whether it be in that portion of the Province formerly Upper Canada or Lower Canada,) Branches or Offices of discount or deposit of the said Bank or Corporation, under such rules and regulations for the good and faithful management of the same as to the said Directors shall from time to time seem meet, and shall not be repugnant to any laws of this Province.

Acts incorporating Banks to apply to the whole Province.

II. And be it enacted, that the several Acts incorporating any Banking Institution heretofore passed by the Legislatures of either Province of Upper or Lower Canada shall be taken and deemed to be applicable to the whole United Province of Canada.

Bank notes to be dated at place of issue and to be there redeemed.

III. Provided always, and be it further enacted, that all Promissory Notes or Bills of any Banks heretofore Incorporated by virtue of any Act or Acts of the Legislature of the late Province of Upper Canada made payable to order or bearer or intended for general circulation, whether the same shall issue from the chief place or seat of business of the Corporation in Upper Canada, or from any of the branches or offices of discount or deposit of the Corporation in any place in Lower Canada,

Canada, shall bear date at the place of issue and shall be payable on demand at such place of issue in Lower Canada, as well as at the principal establishment of the Corporation.

IV. And be it enacted, that this Act shall not take effect until the Bills passed during the present session, intituled *An Act to extend the Charter of the Quebec Bank*, also *An Act to renew the Charter of the Bank of Montreal and to increase its Capital Stock*, also *An Act to extend the Charter of the City Bank and to increase the Capital Stock thereof*, shall have received the Royal Sanction. When to take effect.

A. D. 1841

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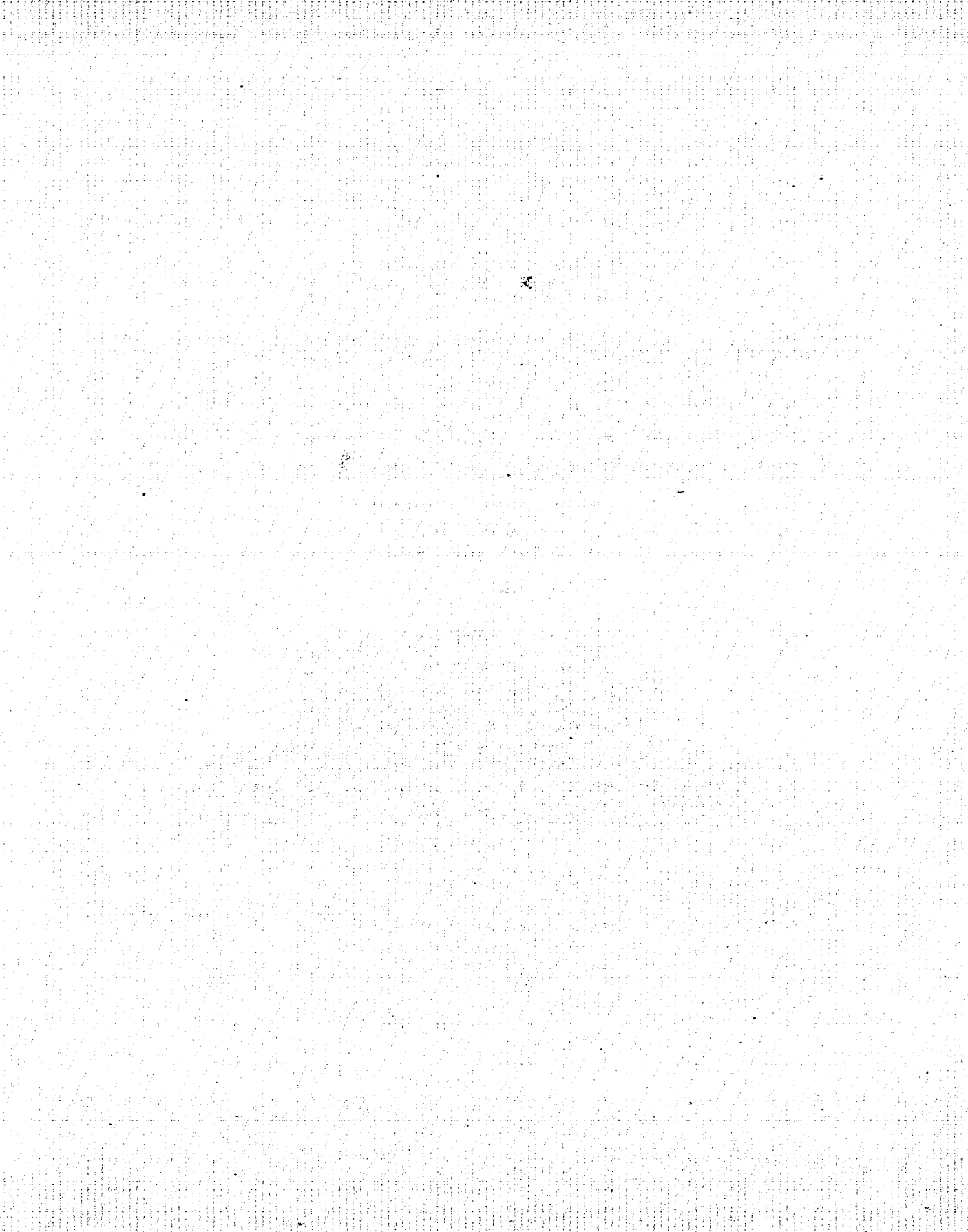
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A
PROVINCIAL STATUTE
OF
CANADA.

ENACTED by Her Most Excellent Majesty, our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, QUEEN, Defender of the Faith, &c., by and with the advice and consent of the Legislative Council and Assembly of the said Province, constituted and assembled by virtue of and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the Third and Fourth year of Her Majesty's Reign, intituled "*An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada.*"

VOL. I. CONTINUED.
(Reserved Acts.)



KINGSTON :

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

Anno Domini, 1842.



A
PROVINCIAL STATUTE
OF
CANADA.

ANNO REGNI QUARTO ET QUINTO
VICTORIÆ,

DEI GRATIA, BRITANNIARUM REGINÆ.

HIS EXCELLENCY THE RIGHT HONORABLE

CHARLES, BARON SYDENHAM,

GOVERNOR GENERAL.

Being the **FIRST** Session of the **FIRST** Provincial Parliament
of **CANADA.**

(RESERVED ACTS

To which the ROYAL ASSENT was subsequently promulgated by His Excellency
SIR CHARLES BAGOT, G. C. B. &c. &c. &c. GOVERNOR GENERAL.)





ANNO QUARTO & QUINTO

VICTORIÆ REGINÆ.

CAP. C.

An Act for the disposal of Public Lands.

18th September, 1841.—Presented for Her Majesty's Assent and reserved "for the signification of Her Majesty's pleasure thereon."

27th April, 1842.—Assented by Her Majesty, in Her Privy Council.

30th May, 1842.—The Royal Assent signified by the Proclamation of his Excellency SIR CHARLES BAGOT, Governor General.

WHEREAS it is expedient to provide by a Law applicable to all parts of this Province for the disposal of Public Lands therein; Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled *An Act to Re-unite the Provinces of Upper and Lower Canada and for the government of Canada*; And it is hereby enacted by the authority of the same, that the Act of the Parliament of the late Province of Upper Canada, passed in the second year of the Reign of Her Majesty, and intituled *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*, and the Act thereby continued be and the same are hereby repealed.

Preamble.

2 Vict. c.
1st Vict. c.
repealed.

II. And be it enacted, that except as hereinafter provided no free grant of Public Land shall be made to any person or persons whomsoever.

No free grant
of land hereaf-
ter.

III.

Claims to free grants to be determined by Governor and Council.

III. And be it enacted, that all claims to free grants of Land arising out of or under the authority of any order in Council or other regulation of the Government now in force, shall be adjudged upon and determined by the Governor of this Province, by and with the advice of the Executive Council.

Scrip to be issued for claims to land duly allowed, and to be received in payment for purchase of lands.

IV. And be it enacted, that all claims for Land under any Order in Council or other regulation of the Government now in force, heretofore allowed by competent authority, or which shall hereafter be allowed by the Governor in Council, shall be commuted for land scrip or orders for nominal sums of money, to be issued by the Commissioner of Crown Lands; and such scrip shall be received as money upon all sales of Lands of the Crown in this Province, the proceeds of the sales of which Lands are not or shall not be set apart for any specific purpose.

Scrip when and how to be issued :

V. And be it enacted, that upon payment of the fees chargeable upon any such grant of Land in cases where the grant is subject to such fees, and free of any expense where the grant is free of fees, the Commissioner of Crown Lands, in lieu of locating the claimant, shall issue to him or her scrip or orders for nominal amounts in money equal to the amount of his or her grant, calculating the value of such grant in that part of Canada formerly called Upper Canada at the price of four shillings currency per acre, and that the said scrip shall be issued in amounts not greater than five pounds in any one note, and that such notes shall be assignable by delivery.

To be assignable by delivery.

Lower Canada Militia Land scrip to be assignable by delivery and received in payment for Public Land.

VI. And be it enacted, that the Militia scrip or orders for nominal amounts in money heretofore issued in that part of this Province formerly called Lower Canada, under the authority of the Proclamation of the Governor General of that Province, bearing date the eleventh day of December in the year of our Lord one thousand eight hundred and thirty eight, shall be assignable by delivery, and shall be received in payment upon all sales of Public Land in this Province, the proceeds of which are not or shall not then be appropriated for any specific purpose, and shall be received at and for the nominal rate at which the same were issued.

Receipts to be taken for scrip issued.

VII. And be it enacted, that the Commissioner of Crown Lands shall take receipts for any such scrip which may be issued, and shall issue the said scrip to the claimant or his or her legal representative in full discharge of the claim: And such scrip may be paid by delivery upon any sale of the Public Land aforesaid: And that the receipts to be given for payments upon sales of the said Public Land shall specify the amount received in money or in the scrip aforesaid respectively.

Scrip to be received in pay-

VIII. And be it enacted, that the said Scrip shall be received for deferred payments

ments or instalments upon sales of Public Lands heretofore made as well as upon sales to be made under the authority of this Act. ment of arrears.

IX. And be it enacted, that all rights and claims to land assigned under the authority of the Acts hereby repealed, shall be exchanged for the Scrip aforesaid by the Commissioner of Crown Lands upon application of the assignee or his or her authorized agent, and such scrip shall thereafter be assignable by delivery. Scrip to be issued for claims to land under the Acts hereby repealed.

X. And be it enacted, that no assignment of any right or claim to Land assigned under the authority of the said above repealed Acts, which shall have been made by any married woman conjointly with her husband, shall be considered void or voidable by reason of the coverture of such married woman. Certain Assignments by married women declared valid.

XI. And be it enacted, that from and after the passing of this Act all unlocated rights or claims to Public Land shall be held and considered to be personal goods and chattels and not liable to be governed or adjudged upon by the Laws relating to real or landed property. Claims to public land to be personal property.

XII. Provided always and be it enacted, that nothing in this Act contained shall be held to alter the Law as respects rights to Land located, or to make the same personal property, or to alter the descent or disposition thereof, or the adjudication of claims thereto arising from assignment, devise, bequest or other disposition thereof, or the rights of the owners thereof in any respect whatsoever, or to make good any claims thereto forfeited, or held to be forfeited, by reason of the non-performance of the conditions upon which the same have been assigned or located. Proviso. as to lands located.

XIII. And be it enacted, that no new claims to Land founded upon any regulation or order of the Government, shall be allowed or entertained, unless made before the first day of January, which will be in the year of our Lord one thousand eight hundred and forty three, except where the parties originally interested and claiming shall be under the age of twenty one years on the said day. No new claim to land admitted after 1st. Jan. 1843, unless the claimant be a minor on that day.

XIV. And be it enacted, that the price of such public Lands shall from time to time be fixed and ascertained by authority of the Governor of this Province by and with the advice of the Executive Council thereof. Price of land how to be fixed from time to time.

XV. And be it enacted, that it shall and may be lawful for the Governor of this Province in Council to appoint in each Municipal District a Resident Agent for the sale of Public Lands, who shall be authorized and empowered under the direction of the Commissioner of Crown Lands to make sale of Public Lands within Governor to appoint a Resident Agent in each District for the sale of lands.

within the District for which he acts, at such prices as shall have been under the authority of this Act duly fixed and ascertained.

Duty of Agents.

XVI. And be it enacted, that every such District Agent shall keep regular accounts of sales of Land within his division, and make the said sales appear in the plans or maps in his Office.

Agents not to purchase lands.

XVII. And be it enacted that it shall not be lawful for any District Agent appointed under the authority of this Act, directly or indirectly, to purchase any Land which such District Agent shall be appointed to sell as aforesaid, and if such District Agent shall offend in the premises he shall forfeit his said Office.

Agents to receive payments for lands and to remit when over £50 in their hands; under a penalty.

XVIII. And be it enacted, that the purchase money upon the sale of such public Land or the scrip paid in therefor, shall in the first instance be paid to the District Agent who shall transmit the same to the Commissioner of Crown Lands, whenever the amount in the hands of such agent shall exceed fifty pounds, currency, deducting therefrom his percentage as hereinafter provided, and in default of such remittance, he shall be liable to be charged at the rate of fifteen pounds per cent as a penalty *per annum*, for the time he shall retain any such sum in his hands after the amount shall become remittable as aforesaid, and the District Agents, upon the receipt of any purchase monies or scrip, shall give the purchaser or purchasers a receipt for the same, specifying therein the number of the Lot or the Land purchased, or otherwise sufficiently describing the same; And such receipt shall bear date on the day on which it is actually signed, and shall authorize the purchaser to take immediate possession of the Lot so sold, and to maintain actions and suits in Law or Equity against any wrongful possessor or trespasser on such land, as fully and effectually as if the Patent deed had issued on the day of the date of such receipt.

Receipts for payments how to be made.

XIX. And be it enacted 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 shall thereupon become entitled to receive Letters Patent for the same free of further expense, and subject only to such reservations as are usually made in Letters Patent of the same description; And such Letters Patent shall be transmitted by the Commissioner of Crown Lands to the Agent for the District in which the Lands are situate, within thirty days after the purchase money shall have been paid, and the payment duly notified to the Commissioner of Crown Lands, unless by reason of any unforeseen event or unavoidable necessity, the same cannot be so 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 thereof upon demand without charge.

Letters patent to be issued free of expense within 30 days after payment of purchase money.

XX. And be it enacted, that the Commissioner of Crown Lands for the time being, and also every District Agent, shall, before entering upon the duties of his Office, give good and sufficient security to the satisfaction of the Governor of this Province, in Council, for the faithful discharge of his duty and for the due payment of all monies which shall in the course thereof come into his hands, that is to say : for the payment of such monies or scrip as shall come into the hands of any District Agent aforesaid to the Commissioner of Crown Lands, and for the payment of such monies as shall come into the hands of the Commissioner of Crown Lands, or the balance remaining unexpended in his hands, to the Receiver General of this Province.

Security to be given by Commissioner of Crown Lands and District Agents.

XXI. And be it enacted, that the District Agents shall receive such a percentage upon the amounts received by them, as well as such payment for inspection of lands and other extraordinary duties performed under the direction of the Commissioner of Crown Lands, as the Governor of this Province in Council shall direct and appoint.

District Agents how to be paid.

XXII. And be it enacted, that it shall be the duty of the Commissioner of Crown Lands to pay over once in three months to the Receiver General of this Province, all sums remaining in his hands arising from the sale of the Public Lands aforesaid, retaining a sum sufficient to meet the contingent expenses of the department, but not exceeding five hundred pounds.

Commissioner of Crown Lands to pay over balance to the Receiver General every three months.

XXIII. And be it enacted, that the accounts of the Commissioner of Crown Lands shall be rendered to the Government of this Province, for half yearly periods, and that copies of the said accounts containing the particulars of the receipts and expenditure of the office, with lists of all sales made up to the period of accounting ending next before the commencement of each Session of the Provincial Parliament, shall be laid before both Houses within ten days next after the commencement of each Session of the Legislature.

And to render detailed accounts to Government half yearly, to be submitted to the Legislature.

XXIV. And be it enacted, that it shall be the duty of the Commissioner of Crown Lands, at least thirty days before any sale shall be made under the authority of this Act, to cause printed Lists of the Lands open for sale to be exhibited in the Office of Crown Lands and in the Offices of the respective Agents in whose Districts the Lands shall respectively be for sale, specifying the prices of such Lands and the terms of payment, and copies of such printed lists shall be published in the Official Gazette, and in one public Newspaper in the Districts in which the Lands are respectively situate; and such lists shall be revised once in each year under the direction of the Commissioner of Crown Lands.

Lists of Lands for sale to be printed and exhibited.

To appear in Official Gazette and one Public News Paper.

XXV

Governor may direct sales to be made to occupant in certain cases.

XXV. And be it enacted, that it shall and may lawful for the Governor of this Province in Council, without any such publication, to direct sales of Public Land to be made at a fair valuation to any lessee or occupant, or to any individual who from the peculiar situation of the property applied for, would be liable to injury by the disposal of the Land to any other person or persons than such lessees or occupants, or other individuals interested as aforesaid.

Free grants of fifty acres may be made to actual Settlers in certain cases.

XXVI. And be it enacted, that notwithstanding any thing in this Act contained, it shall and may be lawful for the Governor of this Province, with the advice of the Executive Council, to appropriate as free grants any Public Lands in this Province to actual Settlers, upon or in the vicinity of any public roads in any new settlements which shall or may be opened through the Lands of the Crown, under such regulations respecting such settlements as shall from time to time be made and declared by the Governor of this Province in Council: Provided always that such grants shall not be made to any person or persons who shall have heretofore received any grant of Land from the Crown: And provided also that the extent of any grant so to be made shall not exceed fifty acres, nor shall any such grant be made to any other than Natural Born or Naturalized male Subjects of Her Majesty of the full age of twenty one years.

Governor and Council may appropriate Lands for Public purposes.

XXVII. And be it enacted, that it shall and may be lawful for the Governor of this Province, by and with the advice of the Executive Council, to set apart and appropriate such of the said Public Lands as shall be deemed expedient to be so set apart and appropriated for the site of market places, gaols, court houses, places of public worship, burying grounds, schools, and for other like public purposes, and at any time before the issue of Letters Patent therefor to revoke such appropriation and setting apart as may seem expedient, and to make free grants for the purposes aforesaid, the trusts and uses for which the grants shall be made being expressed in the Letters Patent granting the Lands therein specified: Provided always, that no such grant for any such purpose shall be for a greater quantity of Land than ten acres for every one of the purposes aforesaid, in any one instance in which, or for any one occasion for which Land shall be granted as aforesaid.

Proviso.

Errors in Grants of Public Lands how to be rectified.

XXVIII. And be it enacted, that in all cases in which Grants or Letters Patent for Land shall have issued for the same Land inconsistent with each other, through error or mistake; and in all cases of sales or appropriations of Land inconsistent with each other for the same Land, and in all cases wherein by reason of false survey the land supposed to be conceded shall be found wanting in the whole or in part, it shall and may be lawful for the Governor of this Province in Council to decree and order a new grant equal in extent, or equivalent to the Land lost, according

according to the discretion of the said Governor in Council: Provided always, that no such claim, on account of any error in survey, shall be entertained or granted unless the Land found wanting shall be equal to one fifth of the whole quantity described to be contained in the particular lot or parcel of Land granted or conceded: And provided also that no such claim for indemnity shall be entertained after the space of five years from the issue of the Letters Patent granting or conceding such lot or parcel of Land, or shall extend to cover the value of any improvements made by the grantees in error or mistake under any such grant.

Provide.

Provide.

XXIX. And be it enacted, that it shall and may be lawful for the Court of Chancery, in that part of this Province formerly called Upper Canada, and for the Court of King's Bench, in that part of this Province, formerly called Lower Canada, upon action, bill or plaint, to be exhibited in either of the said Courts, respecting grants of Land situate in the said parts of this Province, respectively, and upon hearing of the parties interested, or upon default of the said parties, after such notice of proceeding as the said Courts shall respectively order, in all cases wherein patents for Land have or shall have issued through fraud, or in error or mistake, to decree the same to be void; and upon the registry of such decree in the Office of the Provincial Registrar of this Province, such Patents shall be deemed void, and of none effect to all intents and purposes whatsoever, and that the practice and proceeding in Court in such cases shall be regulated by orders to be from time to time made and issued by the said Courts respectively.

Courts in Upper and Lower Canada empowered to annul patents for Land issued through mistake.

Practice of Court regulated.

XXX. And be it enacted, that it shall be the duty of Her 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 assignments made as well by the original nominee or locatee, as also by any subsequent assignee or assignees, of any such claim on Lands heretofore located in respect thereof, such assignment or assignments being first produced or 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 authorized 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 entered or registered shall be valid against any one of a previous date or execution, but not then entered or registered, except in cases of express notice; and in all cases of such assignments being duly registered, it shall and may be lawful that the patent issue in the name of such assignee or assignees: Provided always that in case the subscribing witness or witnesses to any such assignment shall be deceased

Commissioner to keep a register for assignments of claims of lands located Patent may issue in the name of the assignee.

Provide.

ceased, or shall have left the Province, it shall and may be lawful for the said Commissioner to register any such assignment upon the production of an affidavit or affidavits proving the death or absence of such witness or witnesses, and proving also the handwriting of such witness or witnesses.

Punishment
for false swear-
ing.

XXXI. And be it enacted, that any person or persons wilfully swearing falsely to the execution of any such assignment, or to the hand writing, or to the death or absence of any such witness or witnesses, shall be liable to the pains and penalties of wilful and corrupt perjury.

Governor may
direct the Com-
missioner of
Crown Lands
to pay the ba-
lance due to
the Clergy Re-
serve Fund in
Upper Canada.

XXXII. And whereas by reason of the receipt of Land rights in lieu of money in payment upon sales of Clergy Reserves in that part of the Province lately called Upper Canada, a certain sum of money is due and owing to the fund arising from the proceeds of Clergy Reserves, which under the said Act hereby repealed was to be repaid out of the proceeds of the Land of the Crown; Be it therefore enacted, that it shall and may be lawful for the Governor of this Province to direct and order the Commissioner of Crown Lands to pay over all proceeds of sales of Crown Lands, over and above the expenses attending the sale thereof, in like manner as proceeds of sales of Clergy Reserves, until the debt or sum due and owing to the Clergy Reserve Fund shall be fully discharged.