THE

REVISED STATUTES

OF

NOVA-SCOTIA.

THE

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OF

NOVA-SCOTIA.

PREPARED BY

WILLIAM YOUNG, | JONATHAN McCULLY,
JOHN W. RITCHIE, | JOSEPH WHIDDEN,

COMMISSIONERS FOR REVISING AND CONSOLIDATING THE LAWS OF THE PROVINCE, AND PUBLISHED UNDER THEIR SUPERINTENDENCE, PURSUANT TO AN ACT OF THE LEGISLATURE.

HALIFAX, N. S.:
RICHARD NUGENT, PUBLISHER.
1851.

HALIFAX, NOVA SCOTIA:
PRINTED BY RICHARD NUGENT, PRINTER TO THE HOUSE OF ASSEMBLY;
BOLLIS STREET.

PROVINCE OF NOVA-SCOTIA.

AN ACT TO REGULATE THE PUBLICATION OF THE REVISED STATUTES AND OF THE PRIVATE AND LOCAL ACTS.

Passed 7th April, 1851.

Be it enacted, &c.—1. The four commissioners who have revised and consolidated the provincial laws, shall superintend the printing and publication of the revised statutes, and the re-publication of the private and local acts.

2. The commissioners shall prepare a certificate, that such statutes and acts have been so printed and published under their superintendence, and a copy shall be printed with such statutes and acts respectively, which shall thereupon be received as authentic in all courts.

3. The commissioners are authorized to omit in the re-publication of the private and local acts, all formal enacting words not in anywise affecting the meaning thereof, such as, "*Be it enacted*," and words of a similar import; and all sections, or parts of sections, which have been repealed by subsequent enactment, and the acts or sections of acts so repealing the same, noting the date of such repeal.

WE certify that this volume, containing the revised statutes of Nova-Scotia, has been printed and published under our superintendence.

WM. YOUNG,
J. MCCULLY,
J. W RITCHIE,
JOS. WHIDDEN.

Halifax, N. S., 1st September, 1851.

PREFACE.

The public acts of the province having been revised, consolidated, and reduced into system upon the principles set forth in the subjoined reports, are now published under the authority of the legislature.

It will be observed that some extensive changes have been introduced in the course of this revision.

The new chapters prepared by the commissioners entrusted with the undertaking, and indicated in their final report, materially alter the law affecting corporations, — officers and others in possession of personal property the title to which is in dispute between third parties, — and the partition of lands held jointly or in common.

The abolition of estates tail, of joint tenancy, and of the principle of tacking mortgages, — the necessity for recording leases of land in certain cases, — the more extensive operation of the statute of limitation, — the amendment and simplification of the law for recovering amounts due by absconding debtors, — the further protection to public officers in the discharge of their duties, and the facilities afforded to magistrates in the exercise of their criminal jurisdiction, are among the important changes introduced.

In a supplement will be found certain public acts which passed subsequently to the revised statutes, but during the same session.

A second volume in course of publication contains all the local and private acts in force.

Halifax, Nova Scotia, 1st September, 1851.

COMMISSIONERS' FIRST REPORT,

Halifax, Nova-Scotia, 16th January, 1850.

TO HIS EXCELLENCY LIEUTENANT GENERAL SIR JOHN HARVEY, K.C.B.,
Lieutenant-governor of the province of Nova-Scotia, &c. &c. &c.

The report of the undersigned commissioners appointed by your excellency to consolidate and simplify the laws of the province

May it please your excellency :

The following preamble and resolutions having been passed by the house of assembly and concurred in by the legislative council at the last session, to wit :

" Whereas it has become indispensable in order to avoid litigation and simplify the administration of the law, that the statutes of this province should be amended and improved so as to render the same more intelligible :

1st. *Resolved unanimously*, That the said statutes be consolidated, simplified in their language, and republished in one uniform code.

2nd. *Resolved unanimously*, That his excellency the lieutenant-governor be respectfully requested forthwith to employ a sufficient number of competent persons, not to exceed five, for the purpose of carrying into effect the foregoing resolution without delay, so as to have the said code prepared and submitted to the executive government at least one month before the next session of the legislature, in order that the same may be submitted at the opening thereof, this house undertaking to provide for the necessary expense : such expense, however, before payment, to be previously submitted to the house.

3rd. *Resolved unanimously*, That his excellency the lieutenant-governor be also respectfully requested to convene the next session of the legislature not less than fourteen days earlier than the accustomed time, in order that such period should be exclusively devoted to the consideration and passage of such revised code." :

And your excellency having done us the honor of entrusting to our care this responsible and important duty, we held several meetings shortly after receiving the commission in order to consider and settle the general principles on which it was most advisable to proceed.

The statutes of the province having undergone no systematic revision since the origin of the legislature, nearly a century ago ; having been published successively in four volumes, reaching to the year 1834–5, and the subsequent enactments affording ample materials for a fifth : and a great variety of minds having been engaged from time to time in framing these enactments, it is not to be wondered at that every trace of simplicity and uniformity of system has long since disappeared, and that on many subjects it is next to impossible to find out the law as it is, or when it is found, to understand it. So many of the earlier statutes have been repealed or modified, that of the first volume, extending from 1758 to 1804, not more than one-fifth part is in force, and large proportions of the other volumes that were subsequently published under the authority of the legislature, have in like manner ceased to be law. Every variety of style too, is to be found in the statutes that remain in force, from the terseness and vigour which distinguish some few of the enactments, to the verbiage and interminable periods, which render it a hopeless task to find out the

meaning of too many of the others. With the knowledge of these evils, which are almost universally admitted, and of the unanimous desire of the legislature that they should no longer disfigure our provincial statutes, we had to consider how far it was possible for us to undertake and accomplish a task of no ordinary difficulty—and involving great labor and still greater responsibility. We might have contented ourselves with going over the whole of the existing laws, and having ascertained all that are actually in force, we might have pruned some excrescences—arranged them in chronological order, and presented them to the legislature. This of itself would have been an improvement, but it would have fallen far short of what the legislature obviously contemplated and we ourselves desired. It was incompatible with the order and system which ought at least to be attempted, and though it is all that has been hitherto effected in some of our sister colonies, we rejected it as wholly inadequate to our wants.

The second plan that occurred to us was to preserve the frame-work of the present laws, to expunge some of the more useless expletives and phrases, and to methodize and arrange them as much as possible without aiming at any material change; but in reducing this idea to practice, we found that it would be impossible to make even the approach to a philosophical and comprehensive arrangement, or to weed out the innumerable errors and inconsistencies which run through our provincial acts.

After full enquiry therefore, and a discussion of the whole subject-matter at several meetings, we decided on a bolder and more ambitious attempt, which we have succeeded in partly accomplishing—but are far from thinking that the acts we have prepared are not still susceptible of amendments and improvement. It will be for the wisdom of the legislature to deal with them as they shall think fit; it is our duty respectfully to present to your excellency the outlines of the plan for their information and revisal.

In the year 1836 the revised statutes of the State of Massachusetts were published in one portable and convenient volume, founded on the model which had been furnished by the State of New York in 1828, and which has been still further improved in two subsequent editions, the last published in 1846. The revision in Massachusetts set out with the repeal of an immense number of statutes, passed between the years 1790 and 1835, the titles of which occupy twenty-two closely printed pages—and arranged the whole of the state law into parts, titles, and chapters,—these last being one hundred and forty-six in all, sub-divided into numerous sections. The language throughout is plain and intelligible,—expressions of a doubtful meaning and of a technical character, not familiar to the whole people, are avoided,—and the result is, a body of law which any man of ordinary good sense can easily understand. This, as it appeared to us, was what we should aim at: and although in the details and drafting of the several chapters, the laws of New York and Massachusetts have afforded us little or no assistance, we have adhered as much as possible to the general principles, of which we approved.

A material difficulty was to be disposed of at the outset. There are a large number of what may be termed private acts in our statute book, which could not be touched without interfering with vested rights,—such as the various acts for incorporating banks, insurance and manufacturing companies, and others of the like kind. To apply any new system of phraseology or arrangement to these statutes would lead to endless questions and complaints, and therefore we have

not touched them at all, presuming that the legislature, without passing them anew, would direct them to be printed as they are in a separate volume.

Taking then, the laws of general application, we arranged them into four parts, viz: "Part 1st. Of the internal administration of the government." "Part 2nd. Of the acquisition, transmission, and enjoyment of property, real and personal. The domestic relations and other matters connected with private rights." "Part 3rd. Of courts and judicial officers, and proceedings in civil cases." "Part 4th. Of the criminal law and the administration of criminal justice."

Part 1st comprehends twenty-three titles and one hundred and five chapters; part 2nd, six titles and eighteen chapters; part 3rd, six titles and twenty-three chapters; part 4th, two titles and fourteen chapters—making one hundred and sixty chapters in all, numbered from one to one hundred and sixty for the facility of reference, and each chapter sub-divided into sections. The accompanying analysis of the whole will shew the subject matter of each chapter, and distinguish such as are ready for the action of the legislature from such as are incomplete or have been not yet undertaken.

Title first, chapter first, of the promulgation and construction of statutes, is the ground-work of the whole. We have there defined a multitude of terms, in order to avoid repetition, and with the same view have incorporated a great variety of general rules, such as the collection and appropriation of penalties, and the principles of construction applicable to the whole code. In the subsequent chapters we have made it the rule to strike out every word that was not essential to the meaning, and every direction that could be conveniently transferred to the chapter of general construction. That the laws will be greatly abbreviated and simplified by this method, will be seen at a glance. In some cases, indeed, whole pages have been compressed into a few lines, and we believe that the meaning has been, notwithstanding, conveyed. It will be incumbent on the legislature, however, to exercise a watchful care over our labors, least their intentions should have been occasionally misapprehended or unintentionally defeated.

Some difference of opinion arose among the commissioners as to the extent of their authority. Although the preamble of the resolutions contemplates the amendment and improvement of the statutes, the four commissioners who unite in this report were satisfied that the legislature did not intend to entrust them with the power of introducing any material changes, but on the contrary expected that the new code should present the law, in all essential particulars, as it was.—Many alterations, however, and modifications of the existing statutes became unavoidable in the progress of the work, but all of these have been carefully noted in the margin of the original drafts, and will be brought under the notice of the council and assembly by the commissioners who are members.

The commissioners regret that they found it totally impossible, with their other avocations, to finish the work in one year. It will require the continued labor of themselves or their successors for another year—which will be amply sufficient, however, to complete it. By far the greater part is done, as far as the commissioners can do it, or drafted, in order that it may be taken up either by ourselves or by suitable committees.

Of the titles and chapters that the commissioners report as done, and to the consideration of which the legislature may proceed immediately, if they deem it expedient, the following may be enumerated:

The whole of the criminal law, in the preparation of which the commissioners have been aided by the code adopted in New Brunswick at the last session of their legislature; the whole of the election law, with the law of controverted elections; the laws touching the appointment and salaries of public officers; the whole of the law touching counties and county officers, including sheriffs and coroners; the laws for the support of public worship; the laws of shipping and seamen, of partnership, of interest and currency and of bills of exchange; the law of wrecks; the laws touching the supreme court, its officers, pleadings and practice; the laws regulating the proceedings against absent or absconding debtors—of suits against joint debtors—the limitation and commencement of actions and arbitrations.

Of the titles and chapters which are drafted, but have not undergone our revision, may be enumerated:

The laws for the collection and preservation of the public revenue, including the casual and territorial revenue, and light house and excise duties; the laws of public highways, landings and ferries; the laws of sewers, commons, and common fields; the laws of pilotage, of harbors and harbor masters, of factors and agents, of mills and millers, of the inspection of provisions, of weights and measures; the laws for the support of the poor; the laws of fires and firewards, of lumber, of hawkers and pedlars, of stray cattle—and others, forming a general title, under the head of "municipal regulations:" the law of wills; the laws regulating the descent of real and personal property, and the settlement of the estates of deceased persons; the laws regulating the court of chancery, of escheat, marriage and divorce, and probate—of the jurisdiction of justices of the peace in civil actions, witnesses and evidence, juries and insolvent debtors, forcible entry and detainer, and the partition of lands.

Of the titles and chapters which have not yet been touched, the most prominent are as follows:

Public health—including the laws of quarantine, nuisances, and infectious diseases; immigrants and passengers; public instruction—which the commissioners have refrained from touching, as it is to occupy the attention of the legislature in the ensuing session; the law of corporations; the registry of deeds; the sale of lands for debt and the foreclosure of mortgages; the statute of frauds and perjuries; the domestic relations—including the law of marriage, of guardians and wards, masters, apprentices and servants; trespasses on real estate.

Some of the minor titles have been omitted in these enumerations, but they afford a general view of what has been accomplished, in whole or in part, and what is yet to be done.

Under these circumstances it will be for your excellency and the other two branches of the legislature to decide what it is expedient to do in the ensuing session with that portion which may be now accounted, or easily made ready for legislative action. Some plan will probably be suggested by which the labor of considering and passing the new laws may be materially lightened, and the whole of the code published in one volume in the course of the year 1851.

All of which is respectfully submitted.

WILLIAM YOUNG,
J. McCULLY,
J. W. RITCHIE,
JOS. WHIDDEN.

TO HIS EXCELLENCY LIEUTENANT GENERAL SIR JOHN HARVEY, K. C. B.,
Lieutenant-governor of the province of Nova-Scotia, &c. &c. &c.

The final report of the commissioners appointed by your excellency to consolidate and simplify the laws of the province:

May it please your excellency:

In our previous report we entered at some length into the reasons which had determined us to aim at a more extensive and thorough revision of our provincial statutes than was at first intended.

It was not without some hesitation that we adopted this course, foreseeing, as we did, the increased responsibility and labor it would impose; and we were gratified at the favorable reception with which our report, and the portions of the plan then completed, were honored by the assembly.

Of the one hundred and sixty chapters which constituted the new code, and which are now increased to one hundred and seventy, upwards of sixty were passed by the legislative council and house of assembly in the last session, and will require to pass again only *pro forma*.

About one third of the whole work has been thus far perfected by the two branches of the legislature, and the remaining chapters are now ready for legislative action.

Having found it necessary to break up the whole of the public acts, in order to simplify their language and mould them into a systematic arrangement, we have been obliged to compose every section of the revised statutes anew. By adhering to certain general rules, in order to avoid the uncertainties and confusion of the old system, and by discarding all repetition and verbiage, we have been able to compress the work within the limits of one ordinary sized octavo volume.

In our former report we stated that we were not entrusted with the power of materially changing the law, but were expected only to methodize and simplify it. To this principle we have adhered as much as possible, but we have found it necessary in certain cases to exercise a pretty large discretion: for example—we have framed a new chapter containing all the provisions that have been usually applied to corporations, and which will extend wholly or in part to every new body seeking to be invested with corporate privileges. The numerous acts for the settlement and support of the poor, and those for the regulation of public landings, and of fires and firewards, we have formed into single chapters, presuming that the different enactments which have heretofore obtained in certain townships and localities will no longer be sanctioned. The law of factor and agent has been the subject of two imperial acts, the first of which was adopted by our legislature in the year 1836; the second imperial enactment largely extended and modified the provisions of the first. After due consideration we have framed one chapter containing, as we think, the substance of both. Two or three chapters are introduced now for the first time: one of them is designed to protect parties in possession of personal property not claiming title thereto, and officers acting under civil process, from litigation in which they are not personally interested, and to transfer the responsibility to the real claimant. The partition of lands, by an

economical and effective process, forms also a new chapter. Several of the provisions in the chapter for the protection of justices of the peace and others, and in that for the registry of deeds, and in some other chapters, are greatly modified or altogether new; and we therefore invite the attention of your excellency and the executive government to these statements, that a watchful supervision may be exercised while the different chapters are passing, in order that the responsibility may be transferred from us, and rest, where it ought, upon the legislature. The modifications and changes suggested having been noted in the margin of our drafts will be submitted by the commissioners who are members of the upper and lower branches of the legislature, and be subject to approval or correction.

It is proper, however, to mention that in many instances while we conceived it to be our duty, as regards form, to assimilate the law to the new system, we have reported no alteration or amendment whatever in matters of substance, but have left the provisions of the law precisely as they were. Acts for establishing religious worship, for the settlement of the civil list, for securing salaries and pensions, and for establishing fees of all kinds, are examples.

In the repealing chapter, comprehending upwards of seven hundred and fifty acts of the legislature passed at various periods, we have included all the public statutes of general operation that are now in force; acts which are private or local, including those creating or affecting corporations, we have left unrepealed, to be collected together and re-printed in a separate volume. Besides these, there will still remain upon the statute books a very limited number of acts of a purely private character, or touching titles of public lands, which we leave unrepealed and unnoticed. The acts relating to government properties are examples of the latter kind. Acts touching naturalization, marriage and divorce of parties particularly named, are examples of the former class. Acts extending the provisions of acts expressly repealed, are repealed by a general clause applicable to that particular class of cases. Acts executed, and acts expired, are, for obvious reasons, not referred to in the repealing chapter.

Of the local acts, the most numerous are those which apply to the city of Halifax. In pursuance of a suggestion made through our chairman to his worship the mayor, we were officially informed that the city authorities had authorized their recorder forthwith to revise and consolidate these acts into one or more chapters.

In enacting the revised statutes we take the liberty of suggesting that the legislation of the ensuing session should be framed on the same model, and incorporated with the new code, so as to constitute an uniform and consistent whole, and that previously to their being published a copious index and table of contents should be prepared and added.

In the execution of the important and onerous trust committed to our charge, although we have been compelled to bestow an amount of labor and a degree of attention which none of us in the first instance anticipated, there may be some imperfections or defects to be hereafter remedied. The main advantage to be derived from the work will be that the laws which regulate social life, protect and transmit property, determine political rights, and define the punishment of offences, have been reduced to system, and clothed in simple and perspicuous language, so as to be intelligible to all who may have occasion to consult or who may choose to study them. And as the present is the first attempt of the kind in a British colony we must bespeak the indulgence of your excellency and of the pub-

lic for the imperfections it may contain, and which are, perhaps, inseparable from so extensive an undertaking.

The increased labor consequent upon the execution of the commission in a more comprehensive manner than was originally contemplated, it was soon discovered would require additional assistance; and in closing this report we deem it an act of justice to acknowledge our obligation for the valuable services rendered by James Thompson, esquire, barrister, at our request, during the progress of the work.

WILLIAM YOUNG,
J. McCULLY.
J. W. RITCHIE,
JOS. WHIDDEN.

Halifax, January 22nd, 1851.

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OF THE

SEVERAL PARTS, TITLES AND CHAPTERS

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Province of Nova Scotia.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND FIFTY-ONE.

AN ACT

FOR REVISING AND CONSOLIDATING THE GENERAL STATUTES OF NOVA-SCOTIA.

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows :

PART I.

OF THE INTERNAL ADMINISTRATION OF THE GOVERNMENT.

TITLE I.

CHAPTER 1.

OF THE PROMULGATION AND CONSTRUCTION OF STATUTES.

SECTION
1. All acts public.
2. Commencement of date.
3. Publication how evidenced.
4. Repeal or alteration the same session.
SECTION
5. Revised by express enactment only.
6. Proceedings under old acts continued under new.
7. Construction of acts: meaning of terms; general provisions.

All acts public.

1. All Acts shall be deemed public, and may be declared on, and given in evidence without being specially pleaded.

Commencement of date.

2. The clerk of the legislative council shall endorse on every act the date of its passage, and the endorsement shall be held part of the act, and shall be the date of its commencement, unless otherwise provided.

Publication how evidenced.

3. Printed copies of acts published in the royal gazette newspaper, in Halifax, or purporting to be published by the Queen's printer for the province, shall be evidence of such acts.

Repeal or alteration the same session.

4. Any act may be altered or repealed during the session in which it shall have passed.

Revised by express enactment only.

5. No act nor any portion of an act that shall be repealed, shall be revived, unless by express enactment.

Proceedings under old acts continued under new.

6. Where an act shall be repealed in whole or in part, and other provisions substituted, all persons acting under the old law shall continue to act as if appointed under the new law, until others are appointed in their stead, and all proceedings taken under the old law shall be taken up and continued under the new when not inconsistent therewith, and all penalties may be recovered and proceedings had, in relation to matters which have happened before the repeal, in the same manner as if the law were still in force.

Construction of acts; meaning of terms; general provisions.

7. In the construction of acts, the following rules shall be observed unless otherwise expressly provided for, or such construction would be inconsistent with the manifest intention of the legislature, or repugnant to the context, that is to say:

The words "Queen" or "Her Majesty" shall include her majesty, her heirs or successors.

"Governor" shall include the Governor, Lieutenant Governor or Commander in chief, or person administering the government of the Province for the time being.

"Sessions" shall denote the court of general or quarter sessions of the peace for the county or district, and "special sessions" shall denote a special sessions of the peace for the county or district.

"Justice" shall signify justice of the peace.

"Prothonotary" shall include deputy prothonotary.

"Clerk of the crown" shall include deputy clerk of the crown.

"Jail" shall mean county jail, and where imprisonment is prescribed it shall mean imprisonment in the jail or other building within the county in which debtors may be legally imprisoned.

"Warrant" shall signify warrant under hand and seal.

"Grantor" may be construed as including every person from whom any freehold estate or interest passes by deed, and "grantee" as including every person to whom any such estate or interest passes in like manner.

"Highway" or "road" shall signify a public highway or road, and may also include county bridges.

"Land," "lands," or "real estate" shall include lands, tenements, and hereditaments and all rights thereto and interest therein.

"Goods" shall mean personal property.

"Issue" as applied to the descent of estates, shall be construed to include all the lawful, lineal descendants of the ancestor.

"Representatives" shall mean executors and administrators.

"Wills" shall include codicils.

"Month" shall signify a calendar month, and "year" a calendar year; and "year" alone shall be equivalent to the expression "year of our Lord."

"Oath" shall include affirmations in cases where by law an affirmation may be substituted for an oath; and in the like cases the word "sworn" shall include the word "affirm."

"Person" may extend to bodies politic and corporate as well as to individuals.

"Folio" shall mean ninety words.

"Sureties" shall mean sufficient sureties, and "security" sufficient security.

Every word importing the singular number only may extend to several persons or things as well as to one person or thing; and every word importing the plural number only, may extend to one person or thing as well as to several persons or things; and every word importing the masculine gender, only, may extend to females as well as to males.

All words purporting to give a joint authority to three or more persons shall be construed as giving authority to a majority of such persons.

Where a penalty shall be imposed and no particular mode be prescribed for the recovery thereof, the same may be recovered in the name of any person who will sue therefor, in the same manner and with the like costs, as if it were a private debt due such person, the nature of the offence being briefly stated, and where

no particular mode of applying any penalty shall be prescribed, the same shall be paid, one-half to the person who shall have sued therefor, and the other half to the overseers of the poor for the place where the offence was committed, for the use of the poor thereof; and where a penalty, or part thereof, shall be for the use of the poor, it shall be paid to the overseers of the poor for the place where the offence was committed, for the use of the poor thereof.

The imposition of a penalty shall not relieve any person from liability to answer for special damages to a party injured. Appeals to the supreme court shall be allowed by justices of the peace, from every judgment given by them in all cases tried before them, in the same manner and on the same terms as are provided in civil suits.

Where authority to make appointments to public situations is conferred, it shall include the power to fill up vacancies caused by death, resignation, removal, or refusal to act.

Where power to make bye laws, regulations, rules or orders is conferred, it shall include the power to alter or revoke the same, and make others.

No bye law shall be enforced if repugnant to law.

When it is declared that any matter is to form a county charge, the expense shall be presented, confirmed, assessed, levied and collected with and by the same means as by law directed with regard to other monies for county purposes.

Where forms are prescribed, slight deviations therefrom not affecting the substance or calculated to mislead, shall not vitiate them.

If the day upon which an act is to be done shall fall on a Sunday, Christmas Day, or Good Friday, the same shall be performed on the day following

Justices of the peace may administer all oaths, with regard to the taking of which no particular directions are given.

Quakers or Moravians, where an oath is prescribed, may, instead of taking the same, solemnly affirm in manner used in their religion; and such affirmations shall have the like effect, and render the parties taking them liable to the like penalties, if false, as attach to an oath.

When bonds are required to be given by a public officer, they shall be taken in her majesty's name where not otherwise directed.

All officers now appointed, or hereafter to be appointed by the governor, whether by commission or otherwise, shall remain in office during pleasure only, unless otherwise expressed in their commissions or appointments.

TITLE II.

OF THE LEGISLATURE.

CHAPTER 2.

OF EXECUTIVE AND LEGISLATIVE DISABILITIES.

SECTION
1. Persons disabled to sit in the legislature.
SECTION
2. Penalty in case of offence.

Persons disabled to sit in the legislature.

1. The following persons holding the situations hereinafter mentioned within the province, by themselves or deputies, or by others in trust for them, or for their benefit, shall be incapable of being appointed to, or holding seats in the executive council, or of being appointed to, or of sitting or voting in the legislative council, or of being elected as members of, or sitting or voting in the house of assembly, viz: the judges of the supreme court, the master of the rolls, the judge of the court of vice admiralty, officers and clerks of the customs and of colonial and light duties and persons concerned in the receiving or managing of any monies to be collected under any of such departments, the postmaster general, and persons having a general control or superintendence over the department, the deputy postmaster in Halifax, and persons employed about the department there.

Penalty in case of offence.

2. The appointment, election, or return of persons disabled as hereinbefore mentioned, shall be void; and every person so disabled who shall take his seat as a member of the executive council, or shall sit or vote as a member of the legislative council or of the house of assembly, shall forfeit ten pounds for every day in which he shall so sit or vote, to be recovered in the supreme court.

CHAPTER 3.

OF THE REPRESENTATION IN GENERAL ASSEMBLY.

SECTION
1. Number of county and township members.
SECTION
2. Annapolis, Digby, Truro and Londonderry townships defined.

Number of county and township members.

1. The representation in general assembly after the termination of the present general assembly, shall be as follows:

For the counties of Halifax, Hants, Kings, Queens, Lunenburg, Colchester, Cumberland, Pictou, Sydney, Guysborough and Inverness, each two members.

For the counties of Annapolis, Digby, Yarmouth, Shelburne, Cape Breton and Richmond, each one member.

For the township of Halifax, two members.

For the townships of Newport, Windsor, Falmouth, Horton, Cornwallis, Granville, Annapolis, Digby, Clare, Yarmouth, Argyle, Shelburne, Barrington, Liverpool, Lunenburg, Truro, Londonderry, Amherst, Pictou, Sydney and Arichat, each one member.

Annapolis, Digby, Truro and Londonderry townships defined.

2. For the purposes of this chapter the township of Annapolis shall be understood as including that part of the township of Clements within the county of Annapolis; the township of Digby as including the townships of Hillsburg and Weymouth: the township of Truro as including electoral districts number one, two, three, four and five of the county of Colchester; and the township of Londonderry as including electoral districts numbers six, seven, eight, nine, ten, eleven, twelve and thirteen of the same county.

CHAPTER 4.

OF THE DURATION OF THE GENERAL ASSEMBLY.

SECTION
1. Duration of assembly not affected by Queen's death.
2. Duration of assembly limited.

Duration of assembly not affected by Queen's death.

1. No general assembly shall determine merely in consequence of the demise of her majesty.

Duration of assembly limited.

2. The general assembly shall continue four years from the time appointed by the writs for its meeting unless sooner dissolved, and no longer.

CHAPTER 5.

OF THE QUALIFICATION OF CANDIDATES AND ELECTORS, AND FRAUDS IN REGARD THERETO.

SECTION
1. Qualification of electors.
2. Registration of titles.
3. Qualification of candidates.
4. Fraudulent conveyances.
5. Penalties for fraudulent deeds, or voting thereunder.
6. Prosecutions when to be commenced.
7. Imprisonment on conviction.

Qualification of electors.

1. Every elector at the time of giving his vote shall have, within the county or township for which he shall vote, a qualification in real estate coming under one of the following classes, viz:

First—He shall have a legal and not mere equitable freehold

estate in possession by himself or his tenants in fee simple, fee tail for his own life, or for the life of another: or,

Secondly—He shall be a mortgagor or *cestui que trust* in possession by himself or his tenants: or,

Thirdly—The husband of a woman seized in dower of the real estate of a former husband where the dower has been set off and reduced into possession: or,

Fourthly—A person holding real estate within the Island of Cape Breton under a crown lease or license of occupation, granted by the former government of the Island, and which was in force at the time the island was re-annexed to this province, or under a deed purporting to be a conveyance of freehold estate made from such titles,—the estate in any case to be of the clear yearly value of forty shillings: and, if a tenant in common, joint tenant or coparcener, the individual interest to be of the clear yearly value of forty shillings, to be estimated by the value of agricultural or other produce which the land or property, bona fide and actually yields or by the annual value of the buildings thereon.

Registration of title.

2. No person shall be entitled to vote under a grant or conveyance made to himself unless the same shall have been registered six months previously to the teste of the writ for holding the election: but this provision shall not extend to a person holding by descent, devise or marriage.

Qualification of candidates.

3. A candidate shall at the time of election have a qualification which would entitle him to vote, except that it may be situate in any part of the province and the grant or conveyance thereof need not be registered.

Fraudulent conveyances.

4. Fraudulent conveyances for the purpose of qualifying voters subject to agreement for re-conveyance, shall be taken, as against the grantors as absolute, and collateral securities for defeating the estate, shall be void. And any person making the conveyance or voting by color thereof, shall forfeit twenty pounds.

Penalties for fraudulent deeds or voting thereunder.

5. If a person shall knowingly, falsely, and fraudulently prepare, make or execute, or shall knowingly, falsely and fraudulently assist in the preparing, making, or executing any conveyance of land, or of any interest in land, or in the possession thereof, in, or to which the party who shall execute, or be intended to execute, such conveyance shall have no legal or equitable title or claim, for the purpose of falsely and fraudulently creating an apparent title or interest in the land, or the possession thereof, whether with a view to create a colorable or pretended qualification to vote at an election, or for the purpose of falsely and fraudulently inducing a person to vote at an election, or for any other fraudulent purpose whatsoever, or if a person knowing a conveyance to have been so fraudulently made, shall knowingly, falsely, and fraudulently, vote, or offer to vote, at an election on any such false and fraudulent title, every such person shall for every offence forfeit twenty-five pounds.

Prosecutions when to be commenced.

6. Prosecutions under the two preceding sections shall be com-

menced within twelve months from the committing of the offence, and no prosecution under either section shall preclude a party aggrieved from prosecuting an action for damages, or prevent the recovery of a forfeiture under any other section or chapter.

Imprisonment on conviction.

7. Every judgment recovered under this chapter, in default of property of the defendant whereon to levy, and of payment by him, may be levied on his body; and the defendant shall thereupon be committed to jail, there to remain until the judgment be paid, or until he shall have continued in jail for a period proportioned to the amount of the penalty, viz:—one week for every pound of the penalty, but not in any case to exceed three months.

CHAPTER 6.

OF BRIBERY AND TREATING AT ELECTIONS.

SECTION		SECTION	
1.	Price of entertainment not recoverable.	4.	Penalty for offering bribes.
2.	Penalty for furnishing liquors.	5.	Penalty how recovered.
3.	Penalty for asking or receiving bribes.	6.	Limitation of actions.

Price of entertainment not recoverable.

1. No person shall recover from a candidate, or his agents for entertainment furnished, at the request of any of them, to other persons at an election; and if upon trial it shall appear that any part of the plaintiff's claim is for entertainment so furnished, he shall be non-suited.

Penalty for furnishing liquors.

2. If a candidate during an election shall furnish, or willingly permit to be furnished to an elector or person claiming to be an elector, any intoxicating liquors, he shall forfeit one hundred pounds.

Penalty for asking or receiving bribes.

3. If an elector, or person claiming to be an elector, shall ask or receive any money or reward for himself or any of his kindred, to vote, or abstain from voting at an election, he shall forfeit one hundred pounds.

Penalty for offering bribes.

4. If a person shall, by any gift or reward, or by a promise, agreement or security for any gift or reward, procure another to vote, or abstain from voting at an election, he shall forfeit one hundred pounds.

Penalty how recovered.

5. In an action for recovery of a forfeiture under this chapter, it shall suffice for the plaintiff to declare that the defendant is indebted to him in the amount of the forfeiture, and to allege the particular offence for which the action is brought, and that the defendant hath acted therein contrary to this chapter, without mentioning the writ for holding the election or the return thereof.

Limitation of actions.

6. Actions under this chapter must be commenced within three months after the offence.

CHAPTER 7.

OF THE MANNER OF CONDUCTING ELECTIONS.

SECTION

1. Of electoral districts.
2. Electors near Windsor or Falmouth where to vote.
3. Writs how transmitted; their contents.
4. Sheriff's duty on receiving the writ.
5. County and township elections to be conducted together.
6. Sheriff's duty on opening his court.
7. His duty at the court.
8. Proceedings if candidates' qualification disputed.
9. If qualification not verified, candidate ineligible.
10. No votes receivable unless candidates' name duly entered.
11. Hours of opening and closing polls.
12. Booths to be erected.
13. Appointment of presiding officers and poll clerks.
14. Sheriff a presiding officer.
15. Duty of presiding officer; his oath; oath of clerk.
16. Appointment of inspector, agent, clerk for candidate; his oath.
17. Electors how and where to vote.
18. Non-resident township electors where to vote.
19. Non-resident county electors where to vote.
20. Where district lines in dispute.
21. Officers may vote where acting.

SECTION

22. Voter's property to be described; manner of objecting.
23. Oaths how administered.
24. Vote expunged if oath refused.
25. Manner of voting.
26. Duty of presiding officer on close of poll.
27. Duty of clerk on close of poll.
28. Penalty for misconduct of presiding officer.
29. Penalty for not returning poll book.
30. Penalty for poll clerks' misconduct.
31. Penalty for voting in a wrong district.
32. Penalty for twice voting or personating another.
33. Sheriffs and presiding officers, conservators of the peace.
34. Poll clerk to act as presiding officer in case of death or accident.
35. Poll clerk's place how supplied in case of accident.
36. Sheriff's duty on reassembling his court; proclamation of candidate.
37. Penalty for misconduct of sheriff.
38. Demand of scrutiny.
39. Procedure where poll books not returned.
40. Warrant against presiding officer.
41. Candidate's remedy where aggrieved.
42. Judgment for penalty how enforced.
43. Penalties how recovered.
44. Sheriff's fees and charges.
45. Meaning of terms.

Of electoral districts.

1. The electoral districts and polling places shall remain as now established.

Electors near Windsor or Falmouth where to vote.

2. Electors residing in the vicinity of the townships of Windsor and Falmouth, but not in either township, shall vote for the county of Hants, at the court house, in Windsor.

Writs how transmitted; their contents.

3. When a new assembly shall be summoned, or more than one vacancy occur at or about the same time, the writs shall be so transmitted that the same may be received by the respective sheriffs as nearly as may be at the same time. There shall be at least forty days between the teste and return of writs. The writs shall in the body thereof express the day when the sheriff shall hold his court for the commencement of the election, allowance being made for enabling the sheriff to give at least ten days' notice of the election throughout the county or township; and in cases of general elections, or where more than one writ shall be required to be issued at or about the same time, the day named for holding the sheriff's court for commencing the election shall be the same in all the writs.

Sheriff's duty on receiving the writ.

4. The sheriff shall, immediately on the receipt of a writ, endorse thereon the day of receipt, and shall forthwith cause notice in writing, or by printed handbills to be posted in some of the most public places within every district in the county or township for which representatives are to be elected, which notices shall express the day when the sheriff will hold his court at the county court house, for opening the election, being the day named in the writ therefor, and also the time and place at which, in case a poll be demanded, the same will be taken, and the number of representatives to be elected, and for what places in particular under the writs then in the sheriff's hands: and the poll shall be taken in the week next following that wherein the sheriff's court for opening the election shall be appointed to be held, and on the same day of the week as the day appointed for holding such court.

County and township elections to be conducted together.

5. The election for a county, and the townships within it that return representatives, shall be conducted at the same time; and the polling for the county and townships shall, within the townships, be taken by the same presiding officers and sheriffs' poll clerks, and at the same times and polling places.

Sheriff's duty on opening his court.

6. On the day appointed for opening the election, the sheriff shall open his court at the county court house, which, in the county of Yarmouth, shall be at the court house in Yarmouth, between the hours of ten and twelve of the clock in the forenoon, and shall read his writs, and shall take the following oath, to be administered by a justice of the peace or any two freeholders of the county then present:

"I, A. B., do swear that I have not received, and will not receive, any sum of money, office or employment, or gratuity, or any bond, bill or note, or promise of gratuity whatsoever, either by myself or another, to my use or advantage, for appointing any presiding officer to take the poll, or for appointing any poll clerk, or for making any return at this election; and that I will make such appointments impartially and faithfully, and will, according to my best judgment, in all things to be done by me in the election, act impartially and according to the law."

And the sheriff shall then administer to the clerk whom he shall have appointed to assist him in the election, an oath for the faithful and impartial discharge of his duty, and shall continue the court open until four of the clock in the afternoon of that day; and on the same day, and as soon after four of the clock as the duties remaining to be performed will permit, shall finally close the court, or adjourn the same to another day, as the case may require.

His duty at the court.

7. The sheriff shall, at his court, receive the names of the candidates proposed by two freeholders of the county or township previously to four o'clock; and their names shall be, by the clerk, under the sheriff's direction, entered in the sheriff's poll book, and no candidate's name shall be entered after four o'clock, and at that hour the sheriff shall proclaim the names of candidates, and shall receive the schedules of, and administer the qualification oaths to

candidates whose qualifications may be questioned, and who shall not have previously qualified; and in the case of each election, in respect of which, previously to four o'clock, no more candidates are proposed than are required to be returned, the election shall be forthwith determined, and the sheriff shall declare the candidates proposed and who shall have qualified if thereto required, duly elected members, and shall make return of the writ accordingly; and in cases of elections where opposing candidates shall be proposed previously to four o'clock, who shall have qualified if required as directed by this chapter, and wherein a poll has been demanded, the sheriff shall then grant the poll, and make proclamation of the time and place at which the poll will be taken in the several districts, conformably with the notices before conditionally given, and shall then adjourn the court as regards the elections in which a poll shall be demanded, to some day within five days next after the day for taking the poll, then to be held at the same place.

Proceedings if candidates' qualification disputed.

8. If, at the court, an elector shall question the qualification of a candidate, the candidate, if present, shall, before the court is closed or adjourned, deliver to the sheriff a schedule containing the particulars of his qualification, and, at the foot thereof, subscribe the following oath:

"I, A. B., do swear that I am by law qualified to be elected a member of assembly, and that the foregoing schedule doth contain a full, true, and particular account, to the best of my knowledge and belief, of the property in respect whereof I claim a right to be elected, and of my title thereto, and that the same hath not been granted or conveyed to me fraudulently on purpose to qualify me to be so elected."

And if a candidate whose qualification is questioned shall not be present, there shall then be delivered to the sheriff a schedule and deposition in writing in the foregoing form, signed and sworn to by the candidate, or otherwise such schedule signed by an agent appointed by the candidate or by any two electors, and also a deposition signed and sworn to by the agent in the following form:

"I, A. B., do swear that C. D., a candidate for the [*here insert the county or township*] at the present [*or approaching*] election is, to the best of my belief, qualified to be elected a member of assembly, and that the foregoing schedule doth contain a full, true, and particular account, to the best of my belief, of the property in respect whereof the said C. D. hath a right to be elected, and of his title thereto. And that the same hath not been granted or conveyed to him fraudulently on purpose to qualify him to be so elected, to the best of my belief." The oaths to be administered by a justice of the supreme court, a justice of the peace, or the sheriff.

If qualification not verified, candidate incapable.

9. If the qualification of a candidate, when questioned, shall not, before the close or adjournment of the court, be specified and verified as in the preceding section directed, the candidate shall be incapable of being elected; nor shall his name be entered on the

poll book, or if entered the same shall be expunged at or before the close or adjournment of the court.

No votes receivable unless candidates' name duly entered.

10. No presiding officer shall receive, nor shall any poll clerk record, the name of a person as a candidate, nor shall any vote be received for him, unless his name shall have been entered as a candidate in the sheriff's poll book at the court, and shall not have been expunged; and votes entered on a poll book contrary to this provision shall, in respect of such person, be expunged and not counted by the sheriff in casting up the votes.

Hours of opening and closing polls.

11. When a poll shall have been granted it shall be opened in the different districts, at or near the polling place, at eight o'clock in the morning of the day appointed, and be kept open until five o'clock in the afternoon, when it shall finally close.

Booths to be erected.

12. The sheriff shall, prior to the polling, cause booths to be erected, or procure buildings at which the poll may be taken.

Appointment of presiding officers and poll clerks.

13. When a poll has been granted the sheriff shall, by precept under his hand, appoint a presiding officer for taking the poll in each district, who shall be then resident within the county and shall have been so for a year then next preceding, and shall thereby direct the presiding officer at the appointed time and place to take the poll within the district as well for the county as the township, if such district includes any part of a township that is to return a representative; and the sheriff shall also appoint a poll clerk for taking the votes under the direction of the presiding officer in each district, and the clerk shall prepare a poll book and enter therein, in separate columns, the names of the candidates for whom votes are to be given within the district; and the names of the candidates and the necessary information regarding them shall, before the opening of the poll, be furnished by the sheriff to the presiding officers, who shall communicate the same to the electors when required; and the sheriff shall be responsible for the conduct of his presiding officers and poll clerks.

Sheriff a presiding officer.

14. The sheriff may act as presiding officer in a district without precept and without taking the presiding officer's oath.

Duty of presiding officer, his oath; oath of clerk.

15. The presiding officer shall, at the opening of the poll, read aloud his precept and declare the names of candidates, and whether for county or township; and shall at or before the opening of the poll and before receiving a vote, take the following oath:

"I, A. B., do swear that I have not received any sum of money, office, employment or gratuity, or any bond bill or note, or any promise of gratuity, by myself or another, to my use or advantage, for making any return at this election; and that I will faithfully discharge my duty at the election to the best of my knowledge and judgment"; and that I will return to the sheriff a true and faithful account of the votes polled in this district wherein I preside."

And the poll clerk shall before or at the opening of the poll take an oath in the same form down to the asterisk with the addition of these words thereafter: "and I will faithfully record the votes received in the district where I act as poll clerk."

The sheriff, a justice of the peace, and, in their absence, any two electors, are authorized and required to administer the oaths.

Appointment of inspector, agent, clerk for candidate; his oath.

16. The presiding officer shall appoint an inspector, an agent, and a clerk, when nominated by or on behalf of a candidate, and their names shall be immediately entered in the poll book, and the clerk shall take the following oath to be administered by the presiding officer:

"I, A. B., do swear that I will take this poll fairly and impartially by entering the names and places of abode of the electors, and the names of the candidates for whom they shall vote; and also the description they may give of their property and title to vote."

Electors how and where to vote.

17. Electors for the county in which they reside shall vote for the county in the electoral district in which they reside. Electors for the township in which they reside shall vote for the township in the electoral district in which they reside. Where a county and township election shall be held at the same time, electors for both shall give their votes for both at the same time: and after once polling any of their votes shall not be permitted to give any remaining votes; and if any such remaining votes shall be entered on the poll book, they shall be expunged by the presiding officer, or, in case of his omission so to do, by the sheriff in casting up the votes. The oath to be taken by the electors in this section mentioned, when required, shall be the first oath in the schedule.

Non-resident township electors where to vote.

18. Electors for a township lying in the county in which they reside, but in which township they do not reside, shall vote for the township in the district in which their qualification lies; and the oath to be by them taken, when required, shall be the second oath in the schedule.

Non-resident county electors where to vote.

19. Electors not resident in the county shall vote in the district in which their qualification lies; and the oath to be by them taken, when required, shall be the third oath in the schedule.

Where district lines in dispute.

20. Votes given in a wrong district shall be struck out of the poll book; but where the boundary lines between districts are doubtful, the district in which an elector is reputed to reside, or, in case of non-resident electors the district in which his qualification is reputed to lie, shall be held to be the district in which he should vote.

Officers may vote where acting.

21. Presiding officers, poll clerks, candidates, and the inspectors, agents, and clerks of candidates, may poll all their votes in the district where they are acting; but the names of inspectors and agents must have been previously entered on the poll book as acting in the capacity. The oath to be taken, when required by voters under this section, shall be the fourth in the schedule. Presiding officers shall make a special return of votes given under this section for townships in which their districts are not included.

Voter's property to be described, manner of objecting.

22. An elector when questioned on behalf of a candidate, through the presiding officer, shall truly describe the property on which he votes, with the annual produce and value he derives

therefrom, and his title thereto, and the time of registry of deeds under which he votes, and the description, annual value, title and registry, shall be entered in the poll book and be conclusive on the elector: and a candidate against whom the vote is given, or his inspector or agent, may direct the vote to be marked "objected" on the poll book without requiring the elector to be sworn, or he may mark the vote "objected," and cause the elector to be sworn under the qualification oath applicable, and the oath against fraudulent conveyances and bribery, being the fifth in the schedule, or either of them.

Oaths how administered.

23. The presiding officer shall administer the oaths to be taken by electors.

Vote expunged if oath refused

24. If an elector, when required, shall not take the oaths prescribed, his vote shall be expunged.

Manner of voting

25. The presiding officer shall prevent unnecessary delay in polling, and no person shall be permitted to interrupt the polling by addressing the freeholders, or otherwise; and, for avoiding needless and factious questioning of voters, the elector shall immediately state for whom he votes; and thereupon, the candidate against whom he votes, or his inspector or agent, may require the presiding officer to put such necessary and pertinent questions as may be proper for ascertaining the elector's right to vote, and the presiding officer shall allow no other questions to be put, nor shall any questions be put, except through him, nor shall he permit the time to be unnecessarily protracted on pretence of questioning a voter, and the presiding officer shall promptly put the questions, and the poll clerk shall instantly enter in the poll book the purport of the answers, and read the same aloud to the voter. If the elector shall not promptly answer the questions his vote shall be expunged, and he shall not be allowed to poll again.

Duty of presiding officer on close of the poll.

26. The presiding officer, after the close of the poll, and before making return to his precept, shall subscribe in the poll book the following oath, to be administered by a justice of the peace or two freeholders of the district:

"I, A. B., presiding officer for the district of ——— in the county of ——— do swear that the poll clerks were duly sworn, and that to the best of my belief this poll book was truly and correctly taken under my direction, and contains a true and correct statement of the votes taken at the poll for the district held in pursuance of the sheriff's precept to me directed, and tested the —— day of ——— in the year of our Lord one thousand eight hundred and ——.

Duty of clerk on close of poll.

27. The poll clerk, after the presiding officer shall have taken the oath in the preceding section, shall enclose and seal the poll book, and deliver it to the presiding officer at the poll, who shall give a receipt therefor, and shall forthwith return the same, so sealed, with his receipt, to the sheriff.

Penalty for misconduct of presiding officer.

28. If a presiding officer shall not, when required, administer the oaths to an elector in a competent state of mind to take them, or shall allow any person to interfere, or put questions to voters,

by which time is taken up, or shall put questions other than in this chapter specified contrary to the wish of any candidate or his agent or shall wilfully protract, or permit to be protracted, the polling, or shall otherwise offend in the premises, he shall forfeit ten pounds for every offence.

Penalty for not returning poll book.

29. If a presiding officer shall not before the opening of the sheriff's court on the day to which the same was adjourned, return the poll book and his precept to the sheriff, or shall alter the poll book, he shall be liable to an action for damages at the suit of any party aggrieved, and shall also forfeit for every offence fifty pounds, and the further sum of five pounds for every day's neglect to return the poll book.

Penalty for poll clerks' misconduct.

30. If a poll clerk shall offend in the premises he shall forfeit ten pounds for every offence.

Penalty for voting in a wrong district.

31. If any elector shall knowingly vote in a wrong district, he shall for every offence forfeit five pounds.

Penalty for twice voting or personating another.

32. If a person shall vote more than once at the same election for the same county or township, or shall vote under a false name, or shall personate and vote in the name of another, or not being qualified to vote shall knowingly vote, he shall for every offence forfeit twenty pounds.

Sheriffs and presiding officers, conservators of the peace.

33. The sheriff at his courts, and the presiding officers at their polling places, shall be during the day on which the election or polling may be proceeded, conservators of the peace, and vested with the same powers for the preservation of the peace and the apprehension and committal for trial or holding to bail, or trying and convicting violators of the law and good order, as are vested in justices of the peace: and for the purpose of preserving peace and good order at the election or polling, the sheriff or presiding officer may require the assistance of all persons present to assist him, and may commit any persons for breach of the peace violating or threatening electors at, or coming to, or returning from, the election or polling, or for any violation of good order, to the custody of any person on view, for any time not exceeding twelve hours, or may, by a writing under his hand, commit to prison for a like offence for a period not extending beyond the second day thereafter, and, at the expiration thereof, may cause the offender to be brought before a justice of the peace, who shall inquire into the matter, and may fine the offender in a sum not exceeding forty shillings and costs, and commit him to jail until the fine be paid; and all persons present are enjoined to assist the officer presiding and justices in discharging such duties under pain of being guilty of a misdemeanor; and justices residing in the district, upon being notified in writing by the sheriff or presiding officer, shall attend to aid in preserving peace and order: and the justices, sheriff, and presiding officers may, when considered necessary, swear in special constables to act as peace officers, and assist in maintaining peace and order; and upon the written application of a candidate or his agent, or two electors, the sheriff or presiding officer shall swear in such special constables as may be requisite.

Poll clerk to act as presiding officer in case of death or accident

34. If a presiding officer, before the termination of the poll, shall die, or be incapable of performing, or shall not perform, his duty, the poll clerk shall act in his stead and perform his duties; but before commencing his new duties he shall appoint a poll clerk, who shall, with the new presiding officer, previously to entering upon their duties, take the oath prescribed for presiding officers and poll clerks, and they shall have the same powers and be liable to the same penalties in their new capacities as if originally appointed.

Poll clerk's place how supplied in case of accident.

35. If a poll clerk shall, before the termination of the poll, die or be incapable of performing, or shall not perform, his duty, the presiding officer shall appoint another poll clerk to act in his stead; and the new poll clerk, before entering on his duties, shall take, in manner as if originally appointed, the oath prescribed; and he shall have the same powers, and be liable to the same penalties as if originally appointed poll clerk.

Sheriff's duty on reassembling his court; proclamation of candidate

36. The sheriff shall keep the poll books unopened until the reassembling of his court on the day to which the same shall have been adjourned, and then he shall openly break the seals thereon, and cast up the votes as they appear on the poll books, adding those on the special returns, and shall then openly declare the state of the poll; and if within one hour thereafter no objection shall be made on the ground of persons having voted in a wrong district, or more than once, as hereinbefore mentioned, he shall forthwith thereafter proclaim the candidates having the majority of votes as duly elected members, and make return accordingly; but if a candidate or three freeholders for the county or township shall, within the hour, make objection that a person has polled in a wrong district, or more than once, contrary to the provisions of this chapter, and shall require the sheriff to investigate the objection, the sheriff shall not then proclaim the member chosen, but shall adjourn to the next day but one thereafter, at ten o'clock in the forenoon, at the same place, and shall then and there proceed and continue from day to day to hear evidence for or against the objections, and if it shall thereupon clearly appear that a voter has been polled in a wrong district or more than once, contrary to the provisions of this chapter, the sheriff shall expunge his vote from the poll book, and shall forthwith thereafter, having ascertained the corrected numbers of votes, proclaim the candidates having then the majority of votes as duly elected members, and shall return the evidence given on the investigation, with his writ, to be laid before the house of assembly, but no decision of the sheriff on the investigation shall conclude any candidate or freeholder who may petition the house thereon either with, or without the prosecution of a general scrutiny. Witnesses on the investigation shall be sworn by the sheriff.

Penalty for misconduct of sheriff

37. If a sheriff shall falsely and wilfully expunge a vote from the poll book, or wilfully return any person as duly elected who shall not have the majority of votes on the poll book, or shall wilfully be guilty of a violation of this chapter, he shall forfeit two hundred pounds.

Demand of scrutiny.

38. If at the final declaring of the election, a candidate, or his agent, shall publicly demand a scrutiny, the sheriff shall immediately give notice that on the day next following he will attend at a central and convenient place in the county or township, to be then named, and at an appointed hour to proceed in the scrutiny.

Procedure where poll books not returned.

39. When any of the precepts for taking the poll shall not be returned at the time to which the sheriff's court was adjourned, the sheriff shall not examine the returns made, but shall further adjourn the court to the following day, and so from day to day until the precepts and poll books shall have been all returned, and in making such adjournment the sheriff shall publicly declare the reason, and he shall in no case continue the adjournment if the house of assembly be in session, or to so late a day as shall interfere with the return of his writ in time for the then next session; but he shall in such cases complete the election and return his writ notwithstanding the deficiency of returns, and he shall in his return mention the deficiencies.

Warrant against presiding officer.

40. If a presiding officer shall not have returned his precept and poll book at the proper time, the sheriff or a candidate, or a freeholder, may make complaint thereof on oath before a justice of the peace, who shall summon the presiding officer to answer the same; and if he shall not appear and shew good cause for the delay, the justice shall, by warrant, commit him to jail until he shall make due return of his precept and proceedings thereon, together with his poll book.

Candidate's remedy where aggrieved.

41. A candidate against whom a vote shall be wrongfully polled, or against whom, or to the prejudice, or with the intent to prejudice whose interest, any act shall be wrongfully done contrary to this chapter, and for which vote or act a forfeiture is herein imposed, may, within six months from the commission of the offence, prosecute for the forfeiture, and, upon recovery, the amount, after deducting charges incurred by the candidate about the prosecution, shall be paid to the overseers of the poor for the place where the offence was committed, for the use of the poor thereof. If no prosecution shall be pending, or have been prosecuted to final judgment, then any person may prosecute for the penalty at any time after the expiration of six months and before the expiration of twelve months from the commission of the offence.

Judgment for penalty, how forced.

42. Judgments for penalties under this chapter shall be levied with costs on the goods or lands of the defendant, and for want thereof, or of payment by the defendant, may be levied on his body, and the defendant shall thereupon be committed to jail, there to remain until the judgment be paid, or until he shall have continued in jail for a period proportioned to the amount of the penalty, that is to say: one week for every pound thereof, but such imprisonment shall in no case exceed three months.

Penalties, how recovered.

43. Penalties imposed by this chapter shall be recovered with costs as follows: when the penalty shall not exceed twenty pounds,

it shall be recovered in a summary manner before two justices of the county, from whose judgment either party may appeal to the supreme court on giving good security as follows: in the case of the plaintiff for payment of the defendant's costs, and in case of the defendant for payment of the penalty and costs if judgment shall be given against the appellant; and the supreme court shall try the same, and give judgment in manner practised in summary causes. When the penalty shall exceed twenty pounds, the same shall be recoverable by action of debt in the supreme court, in which action it shall suffice for the plaintiff to set forth in his declaration that the defendant is indebted to him in the amount of the penalty sought to be recovered, and to allege the particular offence for which the action is brought, and that the defendant hath therein acted contrary to this chapter, without mentioning the writ for holding the election, or the return thereof; and on the trial parole proof of the election shall be sufficient *prima facie* evidence without producing the writ.

Sheriff's fees and charges.

44. On the return of a writ the sheriff shall be entitled to receive from the provincial treasury thirty shillings for every member returned. Where there is no contest he shall be entitled to ten shillings from every candidate; and where there shall be a contest and a poll demanded, twenty shillings from every candidate instead of ten shillings. And further, where there shall be a contest there shall be paid to the sheriff by the candidates, in just proportions, according to the number of the polling places in which each candidate is interested, the following sums: twenty shillings for providing a booth or polling place for each district, except where the polling place shall be a public building that can be had without charge, twenty shillings for every presiding officer, and ten shillings for every poll clerk, to include their travelling fees, and the fees shall be paid to the sheriff on the day of opening his court for commencing the election; and the name of no candidate shall be entered on the sheriff's poll book or returned to presiding officers who shall not have paid or tendered the sheriff the full amount due from him under this section before the adjournment of the court on that day.

Meaning of terms.

45. The word "sheriff" herein shall mean sheriff, under sheriff, or deputy sheriff; "presiding officer" shall mean the person presiding to take the poll; "district" shall mean electoral district; and "election" the election of members to serve in general assembly where the sense requires such constructions.

Schedule.—Elector's oaths.

1. You, A. B., do swear that you are by law qualified to vote for this election for the county of ——— and for the township of ——— respectively, [*or for one of them, as the case may be*], in right of the property and title which have now been taken down in the poll book, and read to you; and that you have not been polled nor have given a vote for any candidate at this election within this dis-

trict, or any other district, and that the place of your abode is at ——— in the [*town, district, or settlement, as the case may be,*] of ——— and is, according to the best of your knowledge and belief, within this electoral district.

2. You, A. B., do swear that you are by law qualified to vote for this election for the township of ——— in right of the property and title which have now been taken down in the poll book, and read to you; and that according to your best belief the said property lies in this electoral district, and that you have not been polled, nor have given a vote, for any candidate at this township election, either in this district or any other district, and that the place of your abode is within this county, but is not within the said township of ———.

3. You, A. B., do swear that you are by law qualified to vote at this election for the county of ——— and for the township of ——— respectively, [*or for one of them, as the case may be*] in right of the property and title which have now been taken down in the poll book, and read to you; and that, according to your best knowledge and belief, the said property lies in this electoral district; and that you have not been polled, nor have given a vote, for any candidate at this election, either in this district or any other district, and that the place of your abode is not within this county of ——.

4. You, A. B., do swear that you are by law qualified to vote for this election for the county of ——— and for the township of ——— respectively [*or for one of them, as the case may be*] in right of the property and title which have now been taken down in the poll book and read to you; and that you have not been polled, nor have given a vote, for any candidate at this election, within this district or any other district, and that the place of your abode is at ——— [*in the township, district, or settlement, as the case may be*] of ———.

5. You, A. B., do swear that the property in respect whereof you do claim a right to give your vote at this election for the county of ———, and for the township of ———, or for either of them, [*or for the county of ———, or for the township of ———, as the case may be*] hath not been granted or conveyed to you fraudulently on purpose to qualify you to give such vote, and that you have not received or had by yourself, or any person whomsoever in trust for you, or for your use and benefit, directly or indirectly, any sum of money, office, place, employment, gift or reward, nor any promise or security for any money, office, place, employment or gift, in order to give your vote at this election, and that you have not before been polled, nor have given a vote, for any candidate at this election, and that your place of residence is at ———.

CHAPTER 8.

OF SCRUTINIES.

SECTION
1. Sheriff's duty when scrutiny persisted in.
2. Oath of sheriff's assistant.
3. Clerk's oath.
4. Appointment of time and place for scrutiny.
5. Continuation of scrutiny.
6. Evidence, how received or rejected.
7. Duty of clerk.
8. Votes marked objected may be scrutinized.
9. Votes polled in a wrong district.
10. Competency of witnesses.
11. Witnesses, how sworn.
12. Of protests concerning evidence.
13. When deputy sheriff may hold scrutiny.
SECTION
14. If assistant shall not attend another to be appointed.
15. If clerk shall not attend another to be appointed.
16. Sheriff to return proceedings to the assembly.
17. Sheriff's fees on scrutiny.
18. Clerks' fees, by whom paid.
19. Candidates entitled to copies of minutes.
20. Manner of recovering expenses where scrutiny abandoned.
21. Penalty on sheriff for misconduct.

Sheriff's duty when scrutiny persisted in.

1. When a scrutiny shall be persisted in the sheriff shall attend at the appointed time and place with a clerk, and every candidate desiring to proceed in the scrutiny shall then, by himself or his agent, name a freeholder as sheriff's assistant.

Oath of sheriff's assistants.

2. The sheriff and his assistants shall then take an oath in the following form:

"I, A. B., do swear that I will act impartially in the holding of this scrutiny."

The oath to be administered to the sheriff by a justice of the peace, and to the assistants by the sheriff.

Clerk's oath.

3. The clerk shall take an oath in the following form:

"I, A. B., do swear that I will faithfully perform my duty at this scrutiny."

The oath to be administered by the sheriff.

Appointment of time and place for scrutiny.

4. The sheriff and assistants, after the oaths have been administered, shall appoint a time and place for proceeding with the scrutiny; the time not to be less than three days, nor more than seven days thereafter.

Continuation of scrutiny.

5. The sheriff, and his assistants and clerk shall, at the time and place appointed, proceed with the scrutiny, and shall continue the same from day to day so long as any party shall tender evidence.

Evidence how received or rejected.

6. The sheriff and his assistants shall determine upon the reception or rejection of evidence, and shall have each one voice therein, and where equally divided the sheriff shall have an additional casting voice.

Duty of clerk.

7. The clerk shall take down in writing and engross the evidence received, and shall minute and keep with the testimony, papers received.

Votes marked objected may be scrutinized.

8. No vote shall be scrutinized which shall not have been marked objected on the sheriff's poll book.

Votes polled in a wrong district.

9. The circumstance of an investigation having been had on the ground of a voter having been polled in a wrong district, or more than once, shall not prevent its being scrutinized on other grounds if marked objected.

Competency of witnesses.

10. No person shall be a witness touching his own vote.

Witnesses, how sworn.

11. Witnesses shall be sworn by the sheriff.

Of protests concerning evidence.

12. Protests in writing may, at or before the close of the scrutiny, be filed on behalf of any candidate proceeding in the scrutiny in respect of the reception or rejection of evidence; such protests to set out specifically the evidence received or rejected, and the reasons for the dissatisfaction with the decision in reference thereto.

When deputy sheriff may hold scrutiny.

13. If the sheriff shall be unable personally to hold the scrutiny, the deputy sheriff, or other person specially deputed by the sheriff, shall hold the same in the manner, and with the rights, and subject to the provisions, as the sheriff if present.

If assistant shall not attend another to be appointed.

14. If a sheriff's assistant shall not attend throughout the scrutiny, another freeholder nominated on behalf of the candidate by whom the assistant shall have been chosen, shall be sworn, and act in his place in like manner.

If clerk shall not attend another to be appointed.

15. If the clerk, shall at any time, not attend, another shall be appointed by the sheriff in his place, and be sworn, and act in like manner, and have the same rights.

Sheriff to return proceedings to the assembly.

16. The sheriff shall return to the house of assembly the engrossed copy of evidence and proceedings held at the scrutiny with a certificate annexed under his hand and the hand of his clerk, and also the original papers received at the scrutiny.

Sheriff's fees on scrutiny.

17. The sheriff shall be entitled to receive ten shillings for every day he shall be actually engaged in holding the scrutiny from every candidate proceeding therein.

Clerks' fees, by whom paid.

18. The clerk shall be entitled to receive sixpence per folio for the original minutes, and three pence per folio for the copy for the assembly: the amounts to be paid in equal proportions by the candidates proceeding in the scrutiny.

Candidate entitled to copies of minutes.

19. Every candidate proceeding in the scrutiny shall be entitled to receive from the clerk a fair copy of the minutes, upon paying therefor three pence per folio.

Manner of recovering expenses where scrutiny abandoned.

20. If a candidate who demanded the scrutiny shall, after appointing his assistant, abandon the same, or, having gone through the scrutiny, shall not petition the house of assembly against the election, and enter into the requisite recognizance and proceed in the investigation, the opposing candidate at the scrutiny may, after demand made, recover from him, by action in the supreme court for money paid, the expenses incurred for sheriff's and clerk's fees at the scrutiny, and for the engrossing of papers and necessary attendance of witnesses thereat; the expenses to be first taxed, and the just amount thereof determined on proof on affidavit, by a judge of the supreme court after reasonable notice to the opposite party, according to the rates established by the supreme court.

Penalty on sheriff for misconduct.

21. If a sheriff shall wilfully be guilty of a violation of this chapter, he shall forfeit two hundred pounds.

CHAPTER 9.

OF CONTROVERTED ELECTIONS.

SECTION

1. Qualifications of members; oath.
2. Proceedings on petition against a return.
3. Recognizance required.
4. Proceedings on undefended return.
5. Proceedings at the time, for considering petition.
6. Committee how drawn.
7. Names of members voting at election, or petitioned against, to be set aside.
8. Members how and when excused.
9. Members serving on a committee to be excused.
10. When members excused other names to be drawn.
11. Committee how struck; to be sworn; how adjourned.
12. Committee how appointed and struck in undefended cases.
13. Chairman how selected.
14. Powers and duty of committee.

SECTION

15. Committee may report specially.
16. Committee-man absenting himself.
17. Where committee reduced to less than five.
18. Disobedience to summons of committee.
19. Their power and discretion in certain cases.
20. A majority of voices shall decide.
21. Oaths how administered.
22. Effect of prorogation while a committee sitting.
23. Committee to report whether the petition was frivolous.
24. If a petition reported frivolous, expenses recoverable.
25. If opposition to a petition reported frivolous, expenses recoverable.
26. Expenses how taxed.
27. Expenses how recovered.
28. A party paying may recover a rateable contribution.
29. Explanation of the word sitting-member.

Qualifications of members; oath.

1. Every member, before he assumes his seat or shall presume to vote in the house of assembly, if required by order of the house, shall deliver to the clerk a schedule containing the particulars of his qualification, and at the foot thereof shall subscribe the following oath, to be administered by the clerk:

"I, A. B., do swear that I am by law qualified to be elected for the house of assembly, and that the foregoing schedule doth contain a full, true and particular account, to the best of my knowledge and belief, of the property in respect whereof I claim a right to be elected, and of my title thereto, and that the same hath not been conveyed or granted to me fraudulently on purpose to qualify me to be so elected."

And he shall also deliver to the clerk the title deeds or papers under which he claims title to the property in the schedule, or attested copies thereof.

Proceedings on petition against a return.

2. When a petition complaining of an undue election, or return of a member to serve in the house of assembly, shall be presented to the house, a day and hour shall be appointed by the house for taking the same into consideration, and notice in writing shall be forthwith given by the speaker to the petitioner and the sitting member, or their agents, accompanied with an order to them to attend the house at the time appointed, by themselves, their counsel or agents, and if at the time appointed none of the petitioners shall appear, either personally, or by counsel, or agent, the order for taking the petition into consideration shall be discharged, and

the petition shall not be further proceeded in. No such petition shall be received after fourteen days shall have elapsed from the time that the member whose return is complained of shall have taken his seat.

Recognizance required.

3. No proceeding shall be had on a petition unless at or before the time appointed for consideration thereof at least one of the petitioners shall enter into a recognizance to her majesty, with sureties in the sum of two hundred pounds, for the payment of the costs and expenses that may become payable by the petitioners, under any report of committee on the petition; the recognizance, in case of non-payment, to be estreated for the benefit of the parties entitled to the costs and expenses.

Proceedings on undefended return.

4. If before the day appointed for considering the petition the member whose return is complained of shall die, or accept the office of legislative councillor, or declare, under his hand, his intention not to defend his return, the speaker shall give notice thereof in writing to the sheriff of the county where the election was had, and shall also notify the same in two public newspapers, so that any of the freeholders of the county or township for which the member was returned may, if they think fit, petition the house to be admitted as parties in the room of the member, and they shall thereupon be so admitted as parties, and stand, as respects the controversy, in the place of the sitting member.

Proceedings at the time for considering the petition.

5. At the time appointed for considering the petition, and previous to reading the order of the day therefor, the speaker shall direct the sergeant-at-arms to go to the places adjacent and require the immediate attendance of members on the business of the house; and after his return the house shall be counted, and if there are less than thirty-three members present the order shall be adjourned to a particular hour on the following day, when the house shall proceed in the same manner, and so, from day to day, until there shall be in attendance thirty-three members at the reading of the order.

Committee how drawn.

6. When thirty-three members shall be present, the petitioners, their counsel or agents, and the counsel or agents of the sitting members, shall be ordered to attend at the bar, and then the door of the house shall be locked, and no member shall be suffered to enter into or depart from the house until the drawing shall be completed. The order of the day shall then be read, and the names of the members written on distinct pieces of paper, and, as nearly as may be, of equal size, and rolled up in the same manner, shall be equally divided, and put into two several boxes placed on the table, and shall be shaken together, and the clerk shall publicly draw out of the boxes alternately the pieces of paper and deliver them to the speaker to be read to the house until fifteen names of members then present be drawn.

Names of members voting at election, or petitioned against, to be set aside.

7. If the name of a member who shall have voted at the election complained of, or against whose return a petition shall be depending shall be drawn, it shall be set aside.

Members how and when excused.

8. If a member drawn shall verify, on oath, an excuse, the substance thereof shall be taken down by the clerk, in order that the same may afterwards be entered on the journals, and the opinion of the house shall be taken thereon, and if they shall resolve that the member is unable to serve, or cannot without great detriment serve on the committee, he shall be excused therefrom.

Members serving on a committee to be excused.

9. If the name of a member then serving on one election committee be drawn, he shall be excused from serving on a second.

When members excused other names to be drawn.

10. When members are set aside or excused, others shall be drawn in their place, who may in like manner be set aside or excused and others drawn in their place until the whole number of fifteen members not liable to be set aside or excused shall be complete.

Committee how struck; to be sworn; how adjourned.

11. When the drawing shall be completed the door of the house shall be unlocked, and lists of the fifteen members shall be given to each party, and they shall immediately retire with the clerk or his assistant, and each party, his counsel or agent, beginning on the part of the petitioners, shall alternately strike off one of the fifteen members until the number shall be reduced to seven; and the clerk or assistant, within one hour at farthest from the time of the lists being given, shall deliver into the house the names of the seven members then remaining. And the seven members shall be sworn at the table "well and truly to try the matter of the petition referred to them, and a true judgment to give according to the evidence," and shall be a committee to determine the election; and the house shall by order direct them to meet at a certain time, and the place of their meeting shall be in a committee room of the house, and they shall sit every day, and shall not adjourn for more than a day without leave of the house, upon special cause assigned.

Committee how appointed and struck in undefended cases.

12. If at the time appointed for considering the petition the sitting member shall not appear by himself, or his counsel or agent, the committee shall be appointed as follows: the names of fifteen members shall be drawn in manner hereinbefore prescribed, but in reducing the lists the clerk or clerk's assistant shall stand in the place of the sitting member; and the same method of reducing the number shall be followed whenever a party waives his right of striking off names.

Chairman how selected.

13. The committee shall, on meeting, select a chairman, and if in the selection the voices are equal, the member whose name was first drawn in the house shall have an additional casting vote; and the same course shall be pursued, if necessary, to elect a new chairman, on the death or necessary absence of the previous chairman.

Powers and duty of committee.

14. The committee shall have power to send for persons and papers, and shall examine witnesses on oath, and shall consider evidence and proceedings duly had on a scrutiny, and referred to them by the house, and may admit additional evidence sworn to be material, and which in their judgement ought to be received; and shall determine whether the petitioner or the sitting member, or either of them is duly returned or elected, or whether the election

is void, or whether a new writ ought to issue; and their determination shall be final, and the house on being informed thereof by the chairman of the committee, shall order the same to be entered on the journals, and give the necessary directions for carrying the determination of the committee into execution.

Committee may report specially.

15. If the committee shall come to any resolution other than the determination above mentioned, they may report the same to the house for their opinion, and the house may confirm or disagree with the resolution, and make order thereon as they may think proper.

Committee-man absenting himself.

16. No member of the committee shall absent himself therefrom without leave of the house, and the chairman shall report the name of a member so absenting himself, who shall, for his neglect, be punished or censured at the discretion of the house: and the committee shall never proceed unless five members are present.

Where committee reduced to less than five.

17. If the members of the committee shall be unavoidably reduced to less than five, and shall so continue for three days, the committee shall be dissolved and another chosen in like manner: but the evidence already taken shall be considered by the new committee.

Disobedience to summons of committee.

18. If persons summoned by the committee shall disobey the summons, or if witnesses before the committee shall prevaricate or misbehave in giving or refusing to give evidence, the chairman may, by direction of the committee, report the same to the house for the interposition of their authority or censure.

Their power and discretion in certain cases.

19. When the committee shall think it necessary to deliberate among themselves, they may, after hearing the evidence and counsel on both sides, direct the room to be cleared.

A majority of voices shall decide.

20. Decisions of the committee shall be made by a majority of voices, and if the voices be equal, including the chairman, he shall have an additional casting vote.

Oaths how administered.

21. The oaths by this chapter directed to be taken in the house shall be administered by the clerk or his assistant, and those before the committee by the chairman.

Effect of prorogation while a committee sitting.

22. If the general assembly shall be prorogued while a committee shall be sitting, the committee shall not be dissolved, but shall be thereby adjourned to twelve o'clock on the fourth day following that on which the assembly shall meet again in session, and the former proceedings of the committee shall remain in force, and the committee shall meet at the time to which it shall be so adjourned, and continue to act as if there had been no prorogation.

Committee to report whether the petition was frivolous.

23. The committee when they report their final determination to the house, shall also report whether the petition did or did not appear to them frivolous or vexatious, and also whether the opposition thereto did or did not appear to them frivolous or vexatious.

If a petition reported frivolous expenses recoverable.

24. When a petition shall be reported frivolous or vexatious, the sitting member shall be entitled to recover from the petitioners, or any of them, the expenses of opposing the same.

If opposition to a petition reported frivolous expenses recoverable.

25. When the opposition to a petition shall be reported frivolous or vexatious, the petitioners shall be entitled to recover from the sitting member the expenses of prosecuting such petition.

Expenses how taxed.

26. The expenses of prosecuting or opposing a petition shall include witnesses' fees as well as other costs and expenses, and shall be ascertained as follows:—The speaker, on application, shall direct them to be taxed by the clerk of the house and a master in chancery, who shall tax the same and report the amount to the speaker, who, on the approval of the house, or of such part thereof as the house may allow, shall, on application, deliver to the parties a certificate under his hand expressing the amount of the expenses allowed; and the persons appointed to tax the expenses and report the amount shall be entitled to such fees, to be paid by the parties for whom the bill is taxed, and included therein, as may be fixed by resolution of the house.

Expenses how recovered.

27. The parties entitled to expenses, or their representatives, may demand the amount certified from any of the persons liable therefor, and on non-payment may recover the same by action of debt in the supreme court, wherein it shall be sufficient for the plaintiffs to declare that the defendants are indebted to them in the amount certified by virtue of this chapter; and the certificate signed by the speaker shall have the effect of a warrant to confess judgment, and the court shall on motion, and the production of the certificate, enter judgment for the plaintiffs for the amount specified in the certificate in like manner as if the defendants had signed a warrant to confess judgment in the action for that amount.

A party paying may recover a rateable contribution

28. Where the expenses shall have been recovered from any person, he may recover in like manner from others, liable to the payment of the same expenses, a proportionable share thereof, according to the number liable.

Explanation of the word sitting member

29. The word 'sitting member,' when used in this chapter, shall also comprehend parties admitted to oppose a petition.

CHAPTER 10.

OF VACATING SEATS.

SECTION

1. Seats how vacated.
2. Offices which vacate seats.
3. Vacancies how supplied.
4. Speaker's seat as speaker and member how vacated.

Seats how vacated.

1. Any member of the house of assembly may, by written notice to the speaker, vacate his seat.

Offices which vacate seats.

2. If any member shall accept of any of the following offices, his seat shall become vacant, but he may be re-elected, that is to

say: the offices of attorney general, solicitor general, provincial secretary, receiver general, financial secretary, commissioner of crown lands, surveyor general.

Vacancies how supplied.

3. Whenever a seat shall become vacant, the speaker shall require that a writ may be issued to supply the vacancy.

Speaker's seat as speaker and member how vacated.

4. The speaker may vacate his seat as speaker and member, either by a declaration to that effect in the house, if in session, or by written notice to any two members, in which case the house, if in session, or otherwise the two members, shall require that a writ be issued to supply the vacancy.

TITLE III.

OF THE PUBLIC REVENUE.

CHAPTER 11.

OF THE CASUAL AND TERRITORIAL REVENUE.

SECTION
1. Casual and territorial revenue where paid.
2. Of what it consists.
3. Transfer of mines and minerals.
4. Management provided for.
5. Collection provided for.
6. Proceeds of crown lands where payable.
7. Duration of chapter.

Casual and territorial revenue where paid.

1. The proceeds of all the casual and territorial revenues of the crown in the province, as hereafter designated, shall be paid into the provincial treasury.

Of what it consists.

2. The several casual and territorial revenues of the crown and the monies and funds, and other rights which are placed at the disposal of the general assembly for the use of the province, under and by virtue of this chapter, are declared to be—all rents sums of money, returns, profits and emoluments, arising, reserved, due, owing, or in any manner whatsoever which shall have heretofore accrued and shall be in hand, or shall be hereafter to be received in respect of any lease, demise, sale, grant, transfer or occupation of any of the crown lands, mines, minerals or royalties of her majesty within the province, whether in the Island of Cape Breton or in any other part of the province, of whatsoever nature or description; and also all fees and payments, and commutation therefor, at the office of the secretary of the province, received or payable, in respect of any writings, licenses, instruments, commissions or patents there made or issued, and on which fees were heretofore payable for the lieutenant governor and secretary of the province; and lastly, all fines, penalties and forfeitures, under any law of the province imposed and applicable for the use of her majesty.

Transfer of mines and minerals.

3. All the right and title of her majesty, whether in reversion or otherwise, of, in, to, and out of, all mines of gold, silver, iron, coal, iron-stone, lime-stone, slate-stone, slate-rock, tin, copper, lead, and all other mines and minerals, and ores, within the province, which by indenture of lease bearing date on or about the twenty-fifth day of August, one thousand eight hundred and twenty-six, were granted, demised and leased by or on the part of his late majesty king George the fourth to his late royal brother the duke of York and Albany, to hold to his royal highness and his assigns for the term of sixty years from the date of the lease, under certain rents and renders therein contained, as by reference to the lease will at large appear; and also all rents and arrears of rent and returns due, or to become due, by virtue of the lease, with all powers, rights, and authorities, whether of entry for forfeitures or breach of condition, or otherwise, in such lease, reserved and contained in respect of the breach of any condition thereof, and also all the estate, right, and title of her majesty, reversionary or otherwise, of, in, and to all such coal mines in the island of Cape Breton, or of, in, and to all such reserved mines at Pictou, which were agreed to be leased and demised by his said late majesty for the yearly rent of three thousand pounds sterling, and certain other rents or reservations payable for the use of his said majesty, and which mines, under such agreement, are in possession of, and were, or are now, in operation, and worked by or for the general mining association: and likewise the said yearly rent of three thousand pounds sterling, and all other rents and reservations by such agreement, reserved or payable, and all rights, powers, and authorities, whether of entry upon forfeiture or breach of condition, or otherwise, in such agreement contained or reserved, in respect of any breach of the condition thereof: and also all mines of gold, silver, iron, coal, iron-stone, lime-stone, slate-stone, slate-rock, tin, copper, lead, and all other mines, minerals, and ores within the province, including the island of Cape Breton, of which the title is now in her majesty, are hereby respectively assigned, transferred, and surrendered to the disposal of the general assembly of the province, and shall and may be subject only to the existing rights of the lessees and persons entitled under such lease and agreement, and of all persons lawfully claiming under them, or any of them, managed, leased, disposed of, made available, paid and applied in such manner, and to and by such officers and persons, and for such public uses and purposes as by any act of the general assembly for the time being shall be directed.

Management provided for.

4. The general assembly may provide for the managing, collecting, and receiving of the revenues, and other matters hereby surrendered and transferred, and for appointing proper officers for the revenues.

Collection provided for.

5. For the more easy collection of such revenues, the officers or persons charged with the collection or management of the revenue, may in the name of her majesty but to the use of the

province, take all such lawful ways and means, by information, suit or proceeding at law or in equity, as by or on behalf of her majesty, might be adopted in respect of the revenues, or any of the lands, mines, or royalties chargeable therewith if the surrender, transfer, and assignment had never been made for the use of the province.

Proceeds of crown lands where payable.

6. Nothing herein contained shall interfere with the grant, sale, lease, or disposal of any of the ungranted lands of the crown in this province, except only the mines and minerals hereinbefore specified by or on behalf of her majesty, but all such grants, sales, leases, or disposal of such ungranted lands, and the management, direction, or control thereof, shall remain in such officers as her majesty shall deem proper, or as may be directed by any law of this province, and the nett proceeds only of such grants, sales, leases, or disposal of such ungranted lands, after deducting the necessary expenses of managing the same, shall be paid over to the treasury of the province; but an account of such expenses shall be annually submitted to the general assembly, and the salary or allowance of the officers employed, and expenses of the department, be subject to the control and regulation of the general assembly, and no other or greater salary or allowance or expenses shall be taken than such as shall be allowed thereby.

Duration of chapter.

7. This chapter shall continue in operation until eighteen months after the demise of her present majesty (whom God long preserve), and thereafter every thing herein contained, and the transfer, surrender, and assignment hereby made, shall cease and determine.

CHAPTER 12.

OF CUSTOMS DUTIES.

SECTION

1. Date of operation of chapter.
2. Payment of duties provided for.
3. Animals for improving breeds exempted.
4. Duty on home manufactured liquors.
5. Table of exemptions provided.
6. Standard for collecting duties.
7. Collection and application of duties.
8. Duties where and how received.
9. How applied and how drawn.
10. Articles of other provinces exempted by proclamation.
11. Articles exempted in case of American reciprocity.

Table of duties.

Table of exemptions.

Date of operation of chapter.

1. This chapter shall come into operation on the first day of April, in the year of our Lord one thousand eight hundred and fifty-one, and shall continue in force until the first day of April, one thousand eight hundred and fifty-two.

Payment of duties provided for.

2. There shall be collected and paid unto her majesty, for the use of the province, upon all goods brought into this province by sea or inland carriage, the several duties set forth in figures in the

table hereinafter contained, denominated "table of duties," opposite the respective articles in such table mentioned, according to the value, number or quantity of every such article.

Animals for improving breed exempted.

3. Animals certified by the president and secretary of any agricultural society to have been imported for the purpose of improving the breed, shall be admitted duty free.

Duty on home manufactured liquors.

4. There shall be collected and paid unto her majesty, for the use of the province, upon all spirituous liquors distilled, compounded or made within the province, and which in the table are specifically enumerated, the several duties therein stated.

Table of exemptions provided.

5. The goods mentioned in the table hereinafter contained, denominated "table of exemptions," shall be free of duty.

Standard for collecting duties.

6. The duties shall be collected, paid and received, according to the British weights and measures in use in this province; and where the duties are in the table of duties imposed according to any specific quantity, value or number, the same shall apply in the like proportion to any greater or less quantity, value or number.

Collection and application of duties.

7. The duties shall be collected, paid and received, and the proceeds thereof applied under the provisions of the provincial statutes from time to time in force concerning the same.

Duties where and how received.

8. The duties shall be paid to the collectors of the colonial revenue and received at the receiver general's office, either in treasury notes of the province at their full value of twenty shillings each, or in current coin at the legal rate of tender.

How applied and how drawn.

9. Duties paid into the receiver general's office shall be carried to account of the provincial revenue and become part of the public funds, and shall be paid and applied to such purposes, and no other, as may be expressed in the provincial statutes from time to time in force; and shall, even when authorized by any such statute, be drawn only by warrant under the hand and seal of the governor.

Articles of other provinces exempted by proclamation.

10. The governor in council may, whenever it shall be thought advisable so to do, declare by proclamation what articles the growth, production or manufacture of the British North American possessions of Canada, New Brunswick, Prince Edward Island, or Newfoundland, or any of them, may be imported into the province free of duty; and may declare in what manner and under what restrictions the same may be so imported: but if wheat flour the production of Canada be allowed under such proclamation to be imported duty free, such flour shall be admitted duty free whether it comes direct from Canada or through warehouse in the United States, but in the latter case it must be certified to be the production of Canada.

Articles exempted in case of American reciprocity.

11. Whenever the importation into the United States of America of the following articles of the growth and production of British North America, viz: grain and bread stuffs of all kinds, potatoes and other vegetables, fruits, seeds, hops, hay and straw, animals, salted and fresh meat, butter, cheese, lard, tallow, hides, horns, wool, undressed skins, furs of all kinds, ores of all kinds, iron in pigs and blooms, copper, lead in pigs, grindstones and

stones of all kinds, earth, coals, lime, ochres, gypsum ground or unground, rock salt, wood, timber, and lumber of all kinds, firewood, ashes, bark, fish, fish oil, train oil, spermaceti oil, head matter and blubber, fins and skins, the produce of fish or creatures living in the water, or any of such articles, shall be by law admitted free from duty, the governor in council may, by proclamation in the royal gazette, fix a short day thereafter on which the duties on like articles, or any of them, being the growth and production of the United States, shall cease; and from and after the day so appointed all the articles specified in the proclamation, being the growth and production of the United States, shall be admitted into the province duty free upon such proof of origin and character as may be required by any order of the governor in council.

Table of duties.

Table of duties

ARTICLES.	Duties in sterling money. £	s.	d.
Apples, fresh or dried, per barrel,	0	4	0
Bacon, per cwt.,	0	9	0
Beef, salted, per cwt.,	0	6	0
" fresh, per cwt.,	0	5	0
Biscuit, fine, called crackers or cakes, per cwt.,	0	3	1
Butter, per cwt.,	0	8	0
Candles, tallow, per lb.,	0	0	1
All other candles, per lb.,	0	0	3
Cattle, viz: horses, mares, or geldings, each.	2	0	0
Neat cattle, viz: oxen, or other neat cattle, three years old or upwards, each,	1	10	0
Cows and cattle, under three years old, each	0	10	0
Sheep, each,	0	3	0
Hogs, over 100 lbs. weight, each,	1	0	0
Of 100 lbs. weight and under, each,	0	2	0
Cheese, per cwt.,	0	5	0
Chocolate or cocoa paste, per lb.,	0	0	1
Coffee, green, per lb.,	0	0	1
Roasted, burned, or ground, per lb.,	0	0	2
Clocks,—on all clocks costing under 20s.,	0	5	0
On all others,	0	10	0
Flour, viz: wheat flour, per bbl.,	0	1	0
Hams, smoked or dried, per cwt.,	0	9	0
Lard, per cwt.,	0	8	0
Leather,—sole leather, including hides and skins partially dressed therefor, per lb.,	0	0	1
Upper leather of all sorts, including hides and skins partially dressed therefor, per lb.,	0	0	2
Molasses, per gallon,	0	0	2½

ARTICLES.	Duties in sterling money. £	s.	d.
Onions, per cwt.,	0	2	6
Pears, fresh or dried, per bbl.,	0	4	0
Pork, salted, per cwt.,	0	6	0
Fresh, per cwt.	0	4	0
Raisins, in boxes, per lb.	0	0	0½
In other packages, per lb.	0	0	0¼
Spirits, viz: brandy, gin, rum, or other spirituous liquors which by any way or method whatsoever shall be manufactured, compounded, or extracted, distilled or made within this province, not exceeding the strength of proof by Syke's hydrometer, and so in proportion for any greater strength than the strength of proof, per gallon,	0	0	11
Brandy, whiskey, gin, cordials, and other spirits, except rum, not exceeding the strength of proof by Syke's hydrometer, and so in proportion for any greater strength than the strength of proof, per gallon,	0	2	8
Rum, not exceeding the strength of proof by Syke's hydrometer, and so in proportion for any greater strength than the strength of proof, per gallon,	0	1	6
Shrub or santee, per gallon,	0	1	4
Sugar,—refined, per cwt.	0	14	0
Crushed and bastard facings, per cwt.	0	10	0
Candied brown, per cwt.	0	10	0
Brown, or Muscovado, not refined, per cwt.	0	7	0
Teas, viz: souchong, congo, pekoe, bohea, pouchong, and all other black teas, per lb.	0	0	2
Gunpowder, hyson, young hyson, twankay, and other green teas, per lb.	0	0	4
Tobacco, manufactured, except snuff and cigars, per lb.	0	0	1½
Tongues of cattle, dried or pickled, per cwt.	0	9	0
Wines, viz: hock, constantia, malmsey, tokay, champagne, burgundy, hermitage, claret, called lafitte; latour, lafayette, margaux or hautbrian, per gallon,	0	3	0
Madeira, port, and sherry wines, of which the first cost is £20 per pipe or upwards, per gallon,	0	2	6
Other claret wines, barsac, sauterne, vin de grave, moselle and other French wines, and Lisbon and German wines, per gallon,	0	1	3

ARTICLES.	Duties in sterling money £	s.	d.
Wines,—all other port, madeira, and sherry wines teneriffe, marsella, sicilian, malaga, fayal, and all other wines, per gallon,	0	1	3
Clocks, viz: all wheels, machinery, and materials for manufacturing clocks. Confectionary, syrups, and articles manufactured from sugar, Hay and straw, For every £100 of the value	20	0	0
Cigars and snuff, Currants and figs, Leather, viz: boots, shoes and leather. Manufactures of all sorts, Meat, fresh. Poultry of all sorts, dead, For every £100 of the value,	10	0	0
Anchors, grapnels, and anchor palms. Cables of hemp, or other vegetable substance, or of iron. Copper, viz: plates, sheets, bars or bolts, for shipbuilding; wrought or cast for machinery, pure, or without other metal; copper castings of every description, for machinery, for mills, or steamboats; copper and composition nails and spikes, for shipbuilding, Cordage, tarred or untarred, whether fitted for rigging or otherwise, Iron, viz: in bars or bolts, castings for mills or steam engines, and cast or unwrought pipes and tubes, sheet iron and iron spikes, Oakum, Pitch, Sail cloth, of all kinds, canvass included, Tar, Zinc, viz: zinc sheathing of a size forty-eight inches long by fourteen inches wide, intended for and to be used as sheathing for vessels, and zinc sheathing nails, For every £100 of the value,	2	10	0
All other goods, wares, and merchandize, not otherwise charged with duty, and not enumerated in the table of exemptions, For every £100 of the value	6	5	0

Table of Exemptions.

Table of exemptions

Ashes, viz: pot ashes and pearl ashes.
Asses and mules.
Baggage and apparel of passengers not intended for sale.
Barilla and soda ash.
Beans.
Biscuit or bread.
Books not prohibited to be imported into the United Kingdom.
Bullion, gold or silver.
Burr stones.
Coal.
Cocoa.
Coin, gold and silver coins and British copper coins.
Copper, viz: copper ore, or in pigs or bricks, old or worn, or fit only to be re-manufactured.
Corkwood.
Corn, viz: wheat, rye, indian corn, barley, oats, rice, and buckwheat, unground; barley meal, rye meal, oatmeal, indian meal, buckwheat meal, peas, beans, and calavances.
Fish, viz: fresh, dried, salted, or pickled.
Fish hooks.
Fish oil, viz: train oil, spermaceti oil, head matter and blubber; fins and skins, the produce of fish or creatures living in the sea.
Flax.
Furniture that has actually been in use, working tools and implements, the property of immigrants or persons coming to reside in the province, and not intended for sale.
Hemp.
Hides, or pieces of hides, raw, not tanned curried or dressed.
Horns.
Horses and carriages of travellers, and horses, cattle, carriages, and other vehicles when employed in carrying merchandize, together with the necessary harness and tackle, so long as the same are actually in use for that purpose.
Iron, viz: unwrought or pig iron, ores of iron of all kinds, iron rails for railroads, boilers, plates and plough moulds, hoop iron.
Lintels.
Lime and limestone.
Lines for the fisheries of all kinds.
Manures of all kinds.
Maps and charts.
Nets, fishing nets and seines of all kinds.
Ores of all kinds.
Paintings.
Palm oil.
Plants, shrubs and trees.

Plate of gold and silver, old and fit only to be re-manufactured.
Potatoes.
Printing presses and types.
Rags, viz: old rags, old rope, junk and old fishing nets.
Rosin.
Sails, rigging and ship materials saved from vessels wrecked on the coast of the province.
Salt,
Seeds of all kinds.
Skins, furs, pelts, or tails, undressed.
Stone, unmanufactured.
Sugar of the maple.
Tallow.
Twines and lines used in the fisheries.
Tobacco, unmanufactured.
Tow.
Turpentine.
Whale fin, or bone.
Wood, viz: boards, planks, staves, square timber, shingles and firewood.

CHAPTER 13.

OF THE BOARD OF REVENUE.

SECTION
1. Board of revenue, how composed.
SECTION
2. Their power and duty.

Board of revenue, how composed.

1. The receiver general shall be the president of, and, along with the financial secretary and three other persons to be appointed by the governor in council, shall constitute the board of revenue, the seats at such board to be considered honorary appointments, and the members to be sworn into office.

Their power and duty.

2. The board shall superintend the working and practical effects of the revenue system, and report thereon to the governor when requisite; they shall examine claims for drawbacks and grant certificates therefor when allowed, and shall direct and carry on prosecutions against delinquent officers and their sureties, and also prosecutions for seizures, forfeitures, and breaches of the revenue laws, over which they shall have a general control; and they may remit penalties in whole or in part, and direct the restoration of property seized, under such terms as they may deem just.

CHAPTER 14.

OF OFFICERS OF THE CUSTOMS.

SECTION
1. Appointment of collectors.
2. Bonds given and registered
3. Death or insolvency of sureties
4. Sets of books to be kept
5. Quarterly returns to be made
6. Per centage allowed.
7. Penalty for merchandizing
8. Proceedings on resignation or removal
9. Landing waiters, guagers and weighers.
10. Duty of guagers and their fees.
11. Receiver general to superintend at Halifax and be allowed a clerk.
12. Appointment and duty of clerk.
13. Power of administering oaths.
14. Penalty for neglect of duty.
15. Penalty for illegally assuming office.

Appointment of collectors.

1. The governor in council may define and alter the limits of ports, and appoint for every such port, except the port of Halifax, one collector of colonial duties, who may also be empowered to act as landing waiter, guager and weigher.

Bonds given and registered.

2. Every collector shall, upon appointment, enter into a bond with two sureties in one thousand pounds for the faithful performance of his duties. The bonds shall be registered at length on the oath of a subscribing witness, in a book to be kept for that purpose by the provincial secretary; and if a bond be lost a copy thereof, taken from the registry and certified by the provincial secretary, shall be received in evidence.

Death or insolvency of sureties.

3. If either of the sureties shall die, become insolvent, or remove from the province, the board of revenue shall require the collector for whom he was surety, to give a new bond.

Sets of books to be kept.

4. Collectors shall keep regular sets of books, wherein shall be entered all receipts and payments of money, permits for the removal of dutiable goods, and certificates of drawback: which books shall be regularly balanced and produced for inspection, with all entries and documents in their office, when called for by the financial secretary or the committee of public accounts.

Quarterly returns to be made.

5. Collectors shall, as soon as may be practicable after the termination of every quarter, transmit under oath their quarterly accounts, together with a list of permits given for the removal of dutiable goods to the receiver general, and at the same time pay into the treasury the duties for such quarter.

Per centage allowed.

6. Upon their accounts being audited by the financial secretary, collectors shall be entitled to receive from the treasury a commission of ten per cent. on the duties by them paid in, not exceeding two hundred and fifty pounds in any one year.

Penalty for merchandizing.

7. If a collector shall act as a merchant or dealer in dutiable articles, he shall for every offence forfeit fifty pounds, one half to the use of the government and the other half to the person suing therefor; and no commission shall be allowed such collector on the duties by him collected for the year in which the offence shall have been committed.

Proceedings on resignation or removal.

8. If a collector shall resign or be removed from office, he shall forthwith deliver over to the new collector all securities and papers connected with the office which may be in his hands, and shall immediately make up and return his accounts, and pay over to the receiver general all monies in his hands or due to him as collector. If he shall not render such accounts and pay over such monies within three months from his going out of office, he shall forfeit two hundred pounds, for the use of her majesty.

Landing waiters, guagers, and weighers.

9. The governor in council may appoint landing waiters, guagers, and weighers for the different ports, who shall receive for their services, in addition to any fees by law allowed, such sums as may be annually granted by the legislature.

Duty of guagers and their fees

10. Guagers are required to ascertain, if possible, by Gunter's calipers, or if not, by the rod, the quantities of intoxicating liquor and molasses imported into or distilled in the province, and shall mark with an iron the quantity each cask contains, on the stave next the bung stave, or on the head of every cask, together with the initials of his name, and shall be entitled to receive therefor from the importers or owners the following fees, viz: for a puncheon or pipe, six pence; for a hogshead or tierce, four pence; and for a barrel, two pence; and for other casks in the like proportion: and in addition to such fees, except at the port of Halifax, six pence for every mile they shall necessarily travel, computing the distance from their place of residence to the place of guaging, but no travelling fees shall be charged where the liquor is guaged at the original distilling house. Where more than ten casks shall be guaged at one time and place they shall only be entitled to the following fees: for a puncheon or pipe, three pence; for a tierce or hogshead, two pence; and for a barrel, one penny; besides travelling fees.

Receiver general to superintend at Halifax, and be allowed a clerk.

11. The receiver general shall superintend the collection of colonial duties at the port of Halifax, and shall have under his direction for that purpose a principal clerk, who shall give bond in one thousand pounds, with two sureties, in five hundred pounds each, for the faithful discharge of his duties, and shall receive a salary of two hundred and fifty pounds per annum, payable quarterly.

Appointment and duty of clerk.

12. Such clerk shall be appointed by the governor in council, and shall pay into the hands of the receiver general the whole duties which he shall receive on the day of receipt, or at such other time as the receiver general may direct.

Power of administering oaths.

13. The receiver general and his clerk, and the collectors of colonial duties, may administer oaths under any act relating to the colonial revenue.

Penalty for neglect of duty

14. If any officer of the colonial revenue shall neglect his duty he shall forfeit a sum not exceeding fifty pounds, and also the costs of prosecution.

Penalty for illegally assuming office.

15. If any person shall illegally assume the duties or exercise the functions of any officer of the colonial revenue, he shall, for

every offence, forfeit a sum not exceeding fifty pounds and costs of prosecution, and, in case of non-payment thereof, may be committed to jail for a period not exceeding three months.

CHAPTER 15.

OF THE LAWS OF THE CUSTOMS.

SECTION

1. Entry and clearance how made.
2. Bonds by whom, and how taken.
3. Samples for ascertaining duties.
4. Questions of dates how regulated.
5. By what law duties shall be computed and penalties recovered.
6. Limitation for recovering overpaid duties.
7. Penalties for counterfeiting documents.
8. Agent's authority.
9. Penalties for false declarations.
10. Forfeitures and penalties for removing forfeited goods.
11. Vessels and boats forfeited may be relieved by board of revenue.
12. Seizing officers may fine for obstructing.
13. Goods seized may be restored on security given.
14. Goods seized or detained, restored by board of revenue.
15. Power of board in cases of trifling amount.
16. Officers may be stationed on shipboard.
17. Persons on board a vessel subject to penalty in certain cases.
18. Limitation of actions.
19. Actions in whose name to be brought.
20. Averments of place in information sufficient.
21. Proof in cases of seizure.
22. Claim to goods seized, how made.
23. Certificates received in evidence.
24. Month's notice before action.
25. Collusion how punished.
26. Penalties how applied.
27. Appeals when and how to be prosecuted.
28. Appeal not to stay execution in certain cases.
29. Operation of regulations may be suspended.
30. Rules for construing revenue laws.

Entry and clearance how made.

1. Papers and proceedings connected with the entry and clearance of vessels and goods shall be made and had in form and manner as heretofore, unless otherwise directed by the board of revenue, but any of them may be dispensed with by order of the governor in council.

Bonds by whom and how taken.

2. Bonds relating to duties required to be given in respect of goods or vessels, shall be taken by the collector in her majesty's name, and after the expiration of three years from the date thereof, or from the time, if any, therein limited for the performance of the condition, every bond not then in suit shall become void and be cancelled.

Samples for ascertaining duties.

3. Revenue officers may take samples of goods when necessary for ascertaining the duties, and the samples shall be disposed of and accounted for as the board may direct.

Questions of dates, how regulated.

4. Upon the first levying or repealing of any duty, or the first granting or repealing of any drawback, or the first permitting or prohibiting of any importation or exportation, the time of importation of goods shall be deemed to be the time at which the importing ship shall in due course be reported; and the time of exportation, the time when the goods shall be shipped on board the exporting ship. If any question shall arise in respect of any charge or

allowance upon any ship exclusive of the cargo, the time of arrival shall be deemed to be the time at which she ought to have been reported, and the time of departure the time of her last clearance for the voyage.

By what law duties shall be computed and penalties recovered.

5. Duties on goods imported before the coming into operation of an act imposing new duties, and whereon the duties have not been paid, shall be collected under the new law, but forfeitures shall be recovered under the law under which they were incurred, notwithstanding such law may have expired.

Limitation for recovering over paid duties.

6. Duties overpaid or improperly charged shall not be recoverable after three years from time of payment.

Penalties for counterfeiting documents.

7. If any person shall counterfeit or falsify, or knowingly use or procure to be used when counterfeited or falsified, any document required under the revenue laws, or in use in connection therewith, he shall for every offence forfeit a sum not exceeding two hundred pounds. This penalty shall not attach to any particular offence for which a penalty is otherwise imposed.

Agent's authority

8. Officers may require persons applying to transact business for others, to produce a written authority, and in default may refuse to transact business with them.

Penalties for false declarations.

9. If any declaration required to be made under the revenue laws, except declarations as to the value of the goods, shall be untrue in any particular, or if any person required under such laws to answer questions put to him by officers shall not truly answer such questions, the person making such declaration, or refusing to answer or not truly answering such questions, shall forfeit a sum not exceeding fifty pounds over and above all other penalties to which he may be liable.

Forfeitures and penalties by removing forfeited goods

10. All boats, carriages and cattle, used in the removal of any goods liable to forfeiture, shall be forfeited; and every person who shall knowingly assist in such removal, or harbor such goods, or knowingly have them in possession, shall forfeit the treble value thereof or a sum not exceeding one hundred pounds, at the election of the prosecutor, and the averment of such election in the information or libel shall be sufficient proof thereof. The forfeiture of a ship shall include her guns, tackle, apparel and furniture; and of goods, the package containing them.

Vessels and boats forfeited may be relieved by board of revenue.

11. All vessels and boats in or from which goods shall have been illegally imported, concealed, landed, or thrown over, may be seized in the first instance, and shall be forfeited in the same manner as if detected hovering on the coasts with prohibited goods; and such boats and vessels may also, upon judgment against the master or other person on board for any penalty thereby incurred, be levied upon and sold under execution issuing on such judgment; but the board on proof that the master and owners of the vessel were ignorant of such illegality, may relieve from the penalty in whole or in part, and on such terms as may be deemed right.

Seizing officers, fine for obstructing.

12. All goods and all vessels, carriages and cattle, liable to forfeiture, may be seized by any revenue officer or by any person

employed for that purpose with the concurrence of the board, and also by any officer of her majesty's navy in command of or serving under the commander of any of her majesty's ships, also by any person commissioned by the governor to protect the revenue laws, and by any sheriff or deputy sheriff, or by any justice of the peace, or by any other person in a place more than ten miles from any collector who shall by the warrant of a justice of the peace on oath before him of such forfeiture, be appointed to seize them; and every person who shall obstruct any such person so employed in the exercise of his office, or any person acting in his aid, shall forfeit a sum not exceeding one hundred pounds.

Goods seized may be restored on security given.

13. If any goods or any vessel shall be seized as forfeited under the revenue laws, the court having jurisdiction over such seizure, with the consent of the collector may order the delivery thereof to the claimant on security by bond, with two sureties approved by the collector, being given to answer double the value thereof in case of condemnation; and such bond shall be taken in her majesty's name.

Goods seized or detained restored by board of revenue.

14. If any goods, ship or boat shall be seized as forfeited, or detained as undervalued, the board may order the same to be restored on such terms as they shall direct; and if the proprietor accept the terms he shall have no action on account of the seizure or detention, nor shall any proceedings be had for condemnation.

Power of board in cases of trifling amount

15. If a ship shall have become liable to forfeiture on account of any goods laden therein, or unladen therefrom, or the master shall have become liable to a penalty on account of such goods, and the goods be small in quantity or trifling in value, the board if satisfied that the act was done contrary to the intention of the owner or without the privity of the master, as the case may be, may remit the forfeiture, and remit or mitigate the penalty on the master, in their discretion, and no action shall be thereafter brought in respect of the same.

Officers may be stationed on shipboard.

16. The board, or the collector under their directions, may station officers on board any ship while within the limits of a port, and the master shall provide every officer sufficient room under deck in the forecastle or steerage for his bed or hammock, under a penalty of fifty pounds.

Persons on board a vessel subject to penalty in certain cases.

17. Every person proved to have been on board any vessel or boat liable to forfeiture for being found within one league of the province, having on board or attached thereto, or conveying or having conveyed, any thing subjecting such vessel or boat to forfeiture, or who shall be proved to have been on board any vessel or boat from which any part of the cargo shall have been thrown overboard or destroyed, shall forfeit twenty pounds—provided such person shall have been knowingly concerned in such acts.

Limitation of actions.

18. No suit for recovery of penalties or forfeitures under the revenue laws shall be brought after the expiration of three years from the incurring thereof.

Actions in whose name to be brought.

19. Except in cases specially provided for, no suit shall be

commenced for recovery of any penalty or forfeiture under the revenue laws, except in the name of the collector or seizing officer, or of her majesty s attorney general, or in his absence the solicitor general of the province: and if any question shall arise whether any person is an officer of the revenue, or such other person in this section mentioned, oral evidence may be given of the fact.

Averments of place in information sufficient

20. In any information or proceeding for any offence against the revenue laws, the averment that the offence was committed within the limits of any port shall be sufficient presumptive proof of the fact.

Proof in cases of seizure.

21. If goods shall be seized as forfeited, and any dispute shall arise whether the duties have been paid thereon, or the same have been legally imported, laden, or exported, the proof shall be on the owner or claimant.

Claim to goods seized how made

22. No claim to any thing seized under the revenue laws and returned into a court of record for adjudication shall be admitted unless entered in the name of the owner, with his residence and occupation, nor unless oath to the property therein be made by the owner, or by his attorney or agent, entering the claim to the best of his knowledge and belief; nor shall any such claim be admitted until security shall have been given in the court, in a penalty not exceeding forty pounds, to respond the costs occasioned by such claim, if decided against the claimant, and in default of the provisions of this section being complied with, such thing shall be condemned.

Certificates received in evidence.

23. Certificates, and copies of official papers certified under the hand and seal of any of the principal officers of the customs, or of any collector of the colonial revenues in any of the British possessions in America or the West Indies, or of the principal officers of the customs in the united kingdom, or other the British possessions, or of any British consul or vice consul in a foreign country, and certificates and copies of official papers made pursuant to the revenue laws of this province, shall be received as presumptive evidence on the trial of any suit in reference to any matter contained in the revenue laws.

Month's notice before action

24. No action shall be commenced against any person acting under the revenue laws for any thing done in the exercise of his office until one month after written notice shall have been delivered to him, or left at his usual place of abode; in which notice shall be explicitly stated the cause of action, the names and places of abode of the person intending to bring the same, and of his attorney or agent, and no evidence of any cause of action shall be received which was not contained in the notice. In default of the proof of such notice, a verdict shall be given for the defendant. Every such action shall be brought within three months after the cause thereof, and be laid and tried where the acts were committed.

Collusion how punished

25. If any revenue officer or person employed for the prevention of smuggling shall make a collusive seizure, or deliver up, or agree to deliver up or not to seize any thing liable to forfeiture

under the revenue laws, or shall take any reward for the non-performance of his duty, he shall forfeit for every offence a sum not exceeding two hundred pounds, and be incapable of serving her majesty in any office of provincial appointment, and every person who shall give or offer, or promise to give, or procure to be given, any reward to, or shall make any collusive agreement with any officer or person hereinbefore in this section designated, to induce him to neglect his duty, shall forfeit a sum not exceeding one hundred pounds.

Penalties how applied.

26. Except in cases specially provided for, penalties recovered under the revenue laws, or the laws relating to trade and navigation, shall be paid into the hands of the collector of the port where recovered, and shall be applied as follows: after deducting the charges of prosecution, one half of the nett produce shall be paid to the collector for the use of the government, and the other half to the person making the seizure: but the board may, out of the government portion, make a further allowance, in whole or in part, of the same to the person making the seizure, to reward his vigilance, or make such distribution of the government portion as they shall approve. But no officer, except he shall have made the seizure, or been the means of recovering the penalty, shall be entitled to any portion thereof.

Appeals when and how to be prosecuted.

27. No appeal shall be prosecuted, from a judgment of a court of record, touching any penalty under the revenue laws, unless entered, and security therefor filed within twelve months from the time of judgment.

Appeal not to stay execution in certain cases

28. Where proceedings have been instituted against any vessel, boat, or goods, for recovery of any penalty under the revenue laws, and judgment of restitution is given, the execution thereof shall not be suspended by an appeal, if the party appellee shall give security that, if the judgment shall be reversed, and the vessel, boat, or goods condemned, the full value thereof, to be ascertained by agreement between the parties, or in case of difference, then by appraisement, under the authority of the court, shall be rendered.

Operation of regulations may be suspended.

29. Upon the representation of the board, the governor in council may suspend the operation of any regulation in this chapter contained, for so long a time as may be deemed proper.

Rules for construing revenue laws.

30. In the construction of the revenue laws the following rules shall be observed, unless otherwise expressly provided for, or such construction would be inconsistent with the manifest intent of the legislature, or repugnant to the context, that is to say: the word "ship" or "vessel" shall include vessels of all classes; "boat" shall include all sorts of water conveyances under the class of vessels; "master" shall mean the person having charge of the vessel; "mate" shall mean the person next in command to the master; "seamen" shall mean any of the crew; "board" shall mean the board of revenue; "collector" shall mean the collector of colonial revenue for the port; "officer" shall mean revenue officer;

"proper officer" shall mean the person authorized to do the act referred to; "proprietor," "owner," "importer" and "exporter" shall include persons acting in their behalf.

CHAPTER 16.

OF THE IMPORTATION OF GOODS.

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1. Provisions of chapter, their extent.
2. Breaking bulk.
3. Manifest on importation.
4. Manifest to be produced to a revenue officer boarding vessel.
5. Masters of vessels to report on arrival.
6. Duty of collector where articles for another port.
7. Duty of collector where contents of package unknown.
8. Live stock or perishable articles on deck may be unladen before report.
9. Goods by steamers may be unladen and entered.
10. Liquors how imported.
11. Powers of revenue officers on shipboard.
12. Directions in cases of partial entry.
13. Time and mode of entry.
14. What a valid entry.
15. Duties to be paid on goods warehoused before permit granted.
16. Penalty for entry by persons unauthorized.
17. Goods not chargeable with duty by number, weight, &c., how unladen.
18. Goods improperly unladen forfeited.
19. Goods chargeable with duty by number, weight, &c., how unladen.

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20. Entries by bill of sight in certain cases.
21. Goods abandoned for duties how disposed of.
22. Abatement of duties allowed on damaged goods.
23. Invoices on entry to be verified under oath.
24. Proceedings where goods are undervalued.
25. Prize goods, duties on how and from whom secured.
26. Surplus stores liable to duty.
27. Goods compounded of different materials duties on how charged.
28. Goods from Britain or British possessions must have been cleared outwards.
29. Land-borne goods liable to duty.
30. Duties when payable at Digby or Annapolis.
31. Provisions in case of goods landed to repair vessel.
32. Goods sold for salvage may be exempted from duty.
33. Wrecked goods liable to duty.
34. Goods how, when and where to be unladen.
35. Expenses connected with the landing of goods, how borne.
36. Vessels for Bras D'or Lake where to enter.

Provisions of chapter: their extent.

1. All goods liable to duties, imported into this province or carried from one part of the province to another, shall be subject to the provisions of this chapter.

Breaking bulk.

2. No goods shall be unladen from any vessel bringing goods into the province, nor from any vessel having on board dutiable articles brought coastwise, nor shall bulk be broken after the arrival of any such vessel within three leagues of the coast, before report and entry and permit granted, and except in conformity with the further directions in this chapter contained; and all goods unladen contrary hereto shall be forfeited, and if bulk be broken contrary hereto, the master shall forfeit fifty pounds. If after the arrival of any such vessel within three leagues of the coast, any alteration be made in the stowage of the cargo so as to facilitate the unlawful unlading of any part thereof, or if any part thereof be fraudulently staved, destroyed, or thrown overboard, or any pack-

age be opened, it shall be deemed a breaking of bulk; but fresh fish, coin and bullion may be landed without report, entry or permit, as well as goods in any stranded or wrecked vessel, provided that as soon as such goods are safely deposited on shore, report and entry be made thereof.

Manifest on importation

3. No goods shall be imported in any British vessel unless the master shall have a manifest thereof made at the place where taken on board, and there dated and signed by him, which shall set forth the name and tonnage of the vessel, the place to which she belongs, and the master's name—the place where the goods were taken on board, and the place to which they were destined—a particular account and description of all the packages, with their marks and numbers, and the sorts of goods therein, and of the goods stowed loose, and the names of the shippers and consignees so far as the same can be known to him, to which shall be subjoined a recapitulation of the total number of packages of each sort by their usual names, and the total quantities of the different goods stowed loose. If any goods shall be imported contrary to this section, or if goods contained in the manifest be not on board, the master shall forfeit fifty pounds, unless a satisfactory explanation be given; but the board of revenue, or any collector under their directions, may excuse the production of the manifest in particular cases.

Manifest to be produced to a revenue officer boarding vessel.

4. The master shall produce the manifest to any revenue officer demanding it, who shall come on board after the vessel shall have arrived within three leagues of the coast, and he shall also deliver a copy thereof signed by himself to the officer who shall first demand it, and the officer shall note on the original and copy the date of production, and shall return the original to the master and transmit the copy to the collector of the port to which the vessel is bound. If the master shall not produce the manifest and deliver a copy in conformity with this section he shall forfeit fifty pounds.

Masters of vessels to report on arrival

5. The master of every vessel arriving coastwise with dutiable articles on board, and the master of every vessel arriving from parts beyond the seas, shall at once make a written report at the principal revenue office of the arrival and voyage of the vessel, her name, country and tonnage, and if British the port of registry; of the name and country of the master, and the number of the crew: whether the vessel is laden or in ballast, and if laden the marks, numbers and contents of every package, and the particulars of the goods stowed loose: where the goods were laden and where and to whom consigned, and where any were laden during the voyage, if any such there be, so far as such particulars are known to him: where the vessel has broken bulk, if at all, during the voyage what part of the cargo is intended for importation at that port, and what part at any other port in the province, and what is intended for exportation, and what surplus stores remain on board; and he shall at the same time deliver the manifest of the cargo where a manifest is requisite, and if required by the officer shall produce the bills of lading thereof or true copies; and he shall fur-

ther truly answer all questions connected with the foregoing requirements that shall be put to him by the officer. If the master shall not in all respects comply with the provisions of this section, or if the manifest or bill of lading or copy thereof be false, or if the goods contained in any bill of lading shall not have been bona fide shipped, or if any bill of lading shall not have been signed by him or under his authority, or any such copy thereof shall not have been received or made by him in either case before leaving the place of shipment, or if any goods be unladen before report made, the master shall for every offence forfeit fifty pounds, and the goods landed without report shall be forfeited.

Duty of collector where articles for another port.

6. If part of the cargo be reported for importation at another port, the collector shall note the articles delivered at his port on the manifest and return it to the master.

Duty of collector where contents of package unknown.

7. If the contents of any package intended for importation into another port, or for exportation, be unknown to the master, the officer may open and examine it, and, if deemed advisable for that purpose, direct the same to be landed; and if any prohibited goods be found therein, they shall be forfeited.

Live stock or perishable articles on deck may be unladen before report

8. If a vessel having live stock or perishable articles on deck shall arrive after business hours, the collector, guager, or any tide waiter, may permit the master to unlade the same before report; but report shall in such case be made as soon as may be after the next opening of the office.

Goods by steamers may be unladen and entered

9. The collector may permit the master of any steamboat employed regularly in the conveyance of passengers, upon due report of such boat, to deposit the cargo in a warehouse to be provided by the owner or agent of the boat and approved by the collector, the owner or agent having first given general security by bond with two sureties for payment of the full duties of importation on all such goods as shall be at any time so warehoused therein, or for the exportation thereof; and goods so deposited shall be deemed to be on board the importing steamboat, and shall be subject to the same regulations, penalties and forfeitures as if they had not been taken thereout: and the master or owner of the steamboat shall have the same lien on the goods for freight or other charges as if the same had not been deposited in the warehouse, but shall not be entitled to any rent for the goods so deposited. The owner or consignee of the goods must make entry thereof within six days from the time of their being deposited in the warehouse.

Liquors how imported.

10. No rum, brandy, gin or alcohol shall be imported or brought into the province by sea or inland carriage or navigation, in any cask or package not capable of containing at least one hundred gallons; nor shall any such liquor in any smaller cask or package be exposed for sale, or be in the possession of any person unless imported previously to the first day of June, one thousand eight hundred and forty-nine, or unless the same shall have been transferred to such smaller cask or package after it shall have been brought into the province, of all which the proof shall be upon the

party in possession. Any person offending against any of the provisions of this section shall forfeit ten pounds for every such cask or package, and the liquor shall be forfeited. Nothing in this section contained shall apply to any such liquors imported into the province from Europe, the British West Indies, or any of the British possessions in North America.

Powers of revenue officers on shipboard

11. Revenue officers may board any vessel arriving, and stay on board until all the goods intended to be unladen shall have been delivered. They shall have free access to every part of the vessel, with power to fasten down hatchways, the forecastle excepted, and to mark and secure any goods, as may be deemed advisable. If any place, box or chest be locked and the keys withheld, the officer, if a collector, guager or weigher, may open the same; and if he be not an officer of that degree he shall send for his superior officer, who may open the same. If any goods be found concealed on board, they shall be forfeited. If the officer shall place any mark, lock or seal upon any goods, and the same shall be wilfully altered, opened or broken before delivery of the goods, or if goods be secretly conveyed away, or if hatchways fastened down by the officer be opened or broken by the master or with his assent, the master shall forfeit fifty pounds.

Directions in case of partial entry.

12. When report shall be made that part only of the goods are intended to be unladen at that port, the entry shall be confined to such goods, and entry outwards coastwise shall be made of the goods intended for any other port; and on arrival at any such other port, the like proceedings shall be adopted with respect to the goods there to be landed, as hereinbefore directed in respect of the goods landed at the first port. But if at any of the ports the residue of the goods shall be designed to be shipped out of the province, then entry outwards for exportation shall be made, and the regulations applicable thereto attach.

Time and mode of entry.

13. The importer shall, within six days after the arrival of the ship, make entry inwards of all goods not intended for exportation in the same ship to parts out of the province, by delivering to the collector or other proper officer a bill of entry thereof, fairly written in words at length, containing the name of the importer and of the ship and master, and of the place within the port where the goods are to be unladen, and the situation of the warehouse if the goods are to be warehoused, and the name of the person in whose name the goods are to be entered, with the particulars of the quantity and quality of the goods, and the packages containing the same, with their marks and numbers, and whether the goods are of the production of British America or otherwise, and of the number, guage, weight, measure or value upon which duties are payable thereon, and shall also, at the same time, deliver two or more duplicates of such entry as may be required by the collector, in which all such sums and numbers may be expressed in figures, and the particulars in all such entries shall be written and arranged as directed by the collector, and one of such duplicate entries signed

by the collector shall be the warrant to the landing tide waiter for the landing or delivering of the goods.

What a valid entry.

14. No entry or permit shall be deemed valid unless the same shall correspond with the ship's report, and also with the manifest and certificate or other document respectively where the same are requisite, nor unless the goods shall have been properly and particularly described in such entry or permit.

Duties to be paid or goods warehoused before permit granted.

15. The importer shall at the time of entry of any goods either pay down the duties thereon, or, having entered the same for warehouse, enter into the bonds in that respect prescribed by law, or otherwise a permit shall not be granted for the landing thereof: and the collector or other officer shall secure the same and cause them to be sold at public auction within twenty days thereafter, at such time and place as such officer shall by at least four days' public notice appoint for that purpose, and the proceeds shall be applied, first, in payment of the freight and of the charges occasioned by the securing and sale of the goods, secondly, in payment of the duties thereon, and the surplus, if any, shall be paid to the importer or other person authorised to receive the same.

Penalty for entry by persons unauthorized.

16. If any person other than the master of the ship shall fraudulently make any entry inwards of any goods without authority from the proprietor or consignee, he shall for every offence forfeit fifty pounds.

Goods not chargeable with duty by number, weight, &c., how unladen.

17. No goods, except such as are charged with duty, according to the number, weight, guage, or measure thereof, shall be unladen until entry made and permit granted therefor; nor shall any goods be unladen except at a place where an officer is appointed to attend, unless authorized by the permit, nor shall any goods be unladen except in the presence of the officer, or with his permission. But the board may make regulations for carrying goods coastwise.

Goods improperly unladen forfeited.

18. All goods unladen contrary to law shall be forfeited.

Goods chargeable with duty by number, weight, &c., how unladen.

19. Where goods are liable to duty, according to the number, weight, guage, or measure thereof, upon the report of the ship and cargo being made, the collector shall grant a permit for the unlading of the goods intended to be landed at such place as shall be most convenient to the importer, and as soon as landed the collector shall cause the same to be weighed, counted, guaged, or measured, according as the duties are chargeable thereon, and shall cause casks or packages of spirituous liquors to be marked on their heads, with the name of the place whence they shall have come, with the contents and the guager's surname, or otherwise, as the board shall direct; and shall cause a duplicate return in writing of the contents of each cask or package with reference to the numbers and marks, signed by the guager and weigher, to be filed in the collector's office; and thereupon the importer shall make the entry. If any such goods shall be removed from the place named in the landing permit, without a removal permit, they shall be forfeited.

Entries by bill of sight in certain cases.

20. If the importer, or his agent, shall subscribe a declaration before the collector, or other proper officer, that he cannot, for

want of information, make a perfect entry, the collector may receive an entry by bill of sight by the best description of the goods that can be given, and grant a permit for the landing thereof, and the same shall be at once landed, and at the expense of the importer searched by the proper officer, and in the presence of the importer if he shall desire it, and within three days after the goods have been landed the importer shall make perfect entry thereof, and in default the goods shall be taken to a warehouse, and if entry shall not be made within one month thereafter they shall be sold, and the duties thereon, together with warehouse rent and other charges, shall be taken out of the proceeds, and the balance paid to the importer or owner. If any package shall have been landed from a vessel, and goods shall be found concealed therein packed to deceive the revenue officers, the package with all its contents shall be forfeited.

Goods abandoned for duties how disposed of.

21. Whole packages of goods may be abandoned for the duties thereon payable, and shall in such case be described in a written notice of abandonment to be given to the collector, and thereupon the same shall be sold as directed by the board, and after payment of charges the duties shall be paid out of the proceeds and the balance be paid into the treasury.

Abatement of duties allowed on damaged goods.

22. If goods not charged with duty according to the number, weight, guage, or measure thereof, shall receive damage during the voyage, an abatement of duties shall be allowed proportioned to the damage, provided satisfactory proof be adduced to the board, or officer acting therein under their directions, that the damage was received after the goods were shipped in the importing ship and before they were landed, and provided claim be made on the first examination of the goods. The officers of the revenue shall examine such goods, and may make an abatement of duties proportioned to the damage which, in their opinion, they shall have received, but if the officers be incompetent to estimate the damage, or if the importer be not satisfied with the abatement by them made, the collector shall appoint two experienced and disinterested merchants, who shall, at the expense of the importer, examine the same and subscribe a declaration on oath before the collector of what, in their opinion, the damage is, and the collector may make an abatement of duties in accordance therewith.

Invoices on entry to be certified under oath.

23. Where duties are charged according to the value of the goods, the importer, or his agent, shall declare on oath what is the invoice price thereof at the place whence they were imported, and that he believes such invoice price is the current value thereat, and shall at the same time exhibit to the collector the original invoices, and certify on oath that they are the original invoices, and that they contain all the dutiable goods imported by, or belonging, or consigned to him in the vessel specified in the entry, to the best of his belief, or if he has not and cannot procure the original invoices he shall make oath thereof, and account for his want of the same, and shall also state on oath what he believes to be the current

value of the goods at the place whence they were imported, as near as can be ascertained. All such oaths shall be signed by the party attesting, and be taken by the collector, or, in case of his absence, by his chief clerk or authorized substitute.

Proceedings where goods are undervalued

24. If it shall appear to the collector, or other proper officer, that goods liable to duty according to their value, have been valued below their real value under the last preceding section, he shall appoint two persons to examine the same, and such persons shall declare on oath before the collector or other proper officer, at what, in their opinion, the same should have been valued, and the same shall be deemed the real value upon which duties are chargeable. The appraisers shall receive ten shillings each for their valuation, to be paid by the collector, or other proper officer, and charged in his accounts.

Prize goods, duties on how and from whom to be collected

25. The value of goods not chargeable with duties according to the number, measure, guage, or weight thereof, brought into the province under the denomination of prize goods, or which shall be sold by order of the court of vice admiralty, or which shall become forfeited, shall, if the value thereof cannot be ascertained by the means hereinbefore prescribed, be ascertained by the gross price which the same shall bring at public auction. And all such goods whether chargeable to pay duties according to value or to number, weight, guage or measure, shall be sold at public auction within two years after importation, reasonable notice of the sale being given by the person charged therewith to the collector, and the purchasers shall be considered the importers and pay the duties thereon.

Surplus stores liable to duty

26. The surplus stores of vessels arriving in this province from parts beyond the seas, shall be subject to the same duties and regulations as if imported as merchandize, but if it shall appear to the collector that such stores are not excessive or unsuitable under the circumstances of the voyage, he may permit them to be entered for the private use of the master or owner, or of any passenger to whom the same may belong, on payment of the proper duties, or to be warehoused for the future use of the vessel.

Goods compounded of different materials, duties on how charged.

27. Where goods are manufactured or composed of different materials, they shall be charged with the highest duty to which any of the component parts are liable.

Goods from Britain or British possessions must have been cleared outwards.

28. No goods shall be imported as from the United Kingdom or from any British possession, if any advantage attach to such distinction, unless they shall appear upon the cockets or proper documents to be duly cleared outwards at the port of exportation in the United Kingdom or such British possession, nor unless the grounds upon which such advantage is claimed be stated in the cocket or document.

Land-borne goods liable to duty

29. Goods which might be imported by sea may be brought by land or inland navigation into the province from any adjacent British colony, and they shall be subject to the same duties, regulations, penalties and forfeitures as the like goods if imported

would be subject to, so far as the same are applicable; and if any goods shall be brought into the province contrary to this provision, or if they shall be removed from the place appointed for the examination thereof by the revenue officers before the duties thereon shall have been paid, such goods, together with the vessel or carriage and cattle which shall have brought the same, shall be forfeited.

Duties when payable at Digby or Annapolis.

30. Vessels entering the gut of Annapolis may be reported and entered, and the duties on goods therein imported paid, either at the ports of Digby or Annapolis.

Provisions in case of goods landed to repair vessel.

31. If any vessel bound to this province having received damage shall put into another port than that to which she shall be bound, having dutiable goods on board which it may be necessary to land for the purpose of repairing the vessel in order to enable her to proceed on her voyage, the collector upon application of the master or agent, may permit such goods to be unladen and deposited in a warehouse in the custody of the collector; and the collector shall cause to be taken an exact account of the packages and contents, and entry of the goods shall then be made by the master or agent as hereinbefore directed, and they shall remain in the custody of the collector until the vessel is ready for sea, when, upon payment of storage and the reasonable charges of unlading and storing, the collector shall deliver up the same to the master or agent to be exported from the province under the same security and regulations as if such goods had been imported in the usual manner, and such goods shall not be subject to duty. No person shall be entitled to the benefit of this section who shall have sold any of such goods except such as it may have been necessary to sell to defray the expenses of repairs and charges of the vessel, or as may have been authorized by the board. If goods are sold for payment of repairs and charges they shall be subject to duty, and shall be warehoused or the duties thereon paid by the purchaser.

Goods sold for salvage may be exempted from duty

32. The owner or salvor of dutiable goods saved from the sea, in respect of which any salvage shall have been lawfully awarded or paid or agreed to be paid to the salvors, may sell so much thereof as will pay the salvage, and upon production of the award, or satisfactory proof to the board of such payment or agreement therefor, the board shall allow the sale of goods free of duty, to the amount of the salvage, or to such other amount as to them shall appear proper.

Wrecked goods liable to duty

33. Goods derelict, flotsam jetsam, or wreck, or landed or saved from any vessel wrecked, stranded, or lost, brought or coming into the province, shall be subject to the same duties as goods of the like kind imported are subject unto: if of such sort as are entitled to allowance for damage, such allowance shall be made under the direction of the board. If any person shall have in his possession, in port or on land, any such goods, the same being dutiable, and shall not give notice thereof to the nearest revenue officer without unnecessary delay, or shall not, on demand, pay the

duties thereon, or deliver the same to the proper officer, he shall forfeit fifty pounds. And if any person shall remove or alter, in quantity or quality, any such goods, or shall unnecessarily open or alter any package thereof, or shall abet any such act before the goods are deposited in a warehouse under the custody of the revenue officers, he shall forfeit fifty pounds: and if the duties on such goods are not paid within eighteen months from the time when the same were so deposited, the same may be sold in like manner and for the same purposes as goods imported may in such default be sold. If they cannot be sold for enough to pay the duty they shall be delivered over to the person entitled to receive them, and shall be deemed unenumerated goods, and charged with the lower duty accordingly; but any person having lawful claim to such goods, or being in possession thereof, shall be at liberty to retain the same in his own custody, on giving bond, with two sureties approved by the collector, in double the value of the goods for the payment of the duties thereon at the expiration of a year, or to deliver such goods to the proper officer in the same condition as they were at the time of taking possession. Nothing in this section contained shall extend to goods in the custody or under the management of any commissioner for the Isle of Sable.

Goods how, when, and where to be unladen.

34. No goods, except those allowed to be landed without permit, shall be unladen from any vessel arriving from parts beyond the seas, or arriving coastwise with dutiable goods, on Sundays or holidays, and such goods shall be unladen only in the day time, and between such hours as the board shall appoint, and such goods shall be unladen only in the presence or with the authority of the proper officer, and at the place expressed in the permit: and no such goods after being unladen shall be transhipped, or after having been put into any boat to be landed shall be removed into any other boat or craft previously to their being landed, without the permission of the proper officer.

Expenses connected with the landing of goods how borne.

35. The unshipping, carrying, and landing of goods, and the bringing the same to the proper place after landing for examination, and the putting the same into the scales and taking them thereout after weighing, shall be performed by or at the expense of the importer.

Vessels for Bras d'Or Lake where to enter.

36. No vessel shall pass into the Bras d'Or Lake without first coming to anchor at the entrance, and making entry of the cargo on board, and paying the duties to the collector appointed to receive the same; the master of any vessel passing without making such entry shall be liable to a fine of twenty-five pounds, in addition to any other penalty he may have incurred.

CHAPTER 17.

OF THE WAREHOUSING OF GOODS.

SECTION
1. Warehouse appointments confirmed.
2. Warehouses may be established, and orders made relating thereto.
3. Goods may be warehoused, and bonds given.
4. Goods entered for warehouse forfeited in certain cases.
5. Duty of officer on entry of goods for warehouse.
6. Goods how stored and secured in warehouse.
7. Samples may be taken.
8. Owners may do certain acts to goods while in warehouse.
9. Goods may be removed from one warehouse to another.
10. Limitation of time for keeping goods warehoused.
11. How goods in warehouse may be transferred.
12. Penalties for interference with warehoused goods.
13. Duties on goods entered for warehouse remitted in certain cases.
14. Goods entered for warehouse re-entered for home consumption.
15. Warehoused goods liable for freight.

Warehouse appointments confirmed.

1. The appointment of warehouses for the securing of goods liable to duty already established, is confirmed, but may be annulled by the board of revenue.

Warehouses may be established, and orders made relating thereto.

2. The board may by order establish other warehouses at any warehousing port, and may declare what goods may be warehoused therein, and may also annul any order establishing such warehouses, but all such orders shall be forthwith transmitted to the governor in council and published.

Goods may be warehoused, and bonds given.

3. The importer of any dutiable goods, and the manufacturer of any spirituous liquors, may warehouse the same without payment of duty on the first entry thereof on entering into a bond to the collector, with two sureties by him to be approved, in double the amount of duties, which bond shall be in the form now in use, and shall be otherwise made and executed as the board may direct. And if any of such goods shall be thereafter entered for home use, the duties thereon shall be paid at the time of such entry, and at the same rate as if then imported and entered for the first time. If within two years from the date of the first entry, the goods, or any part thereof, shall be sold, the collector may admit fresh security by bond with sureties from the purchaser, and cancel the original bond, or exonerate the parties thereto to the extent of the new security, but such new security shall not be given for a less sum than one-fifth part of the duties mentioned in the condition of the original bond.

Goods entered for warehouse forfeited in certain cases.

4. If goods entered for warehouse shall not be deposited therein within the time and in the manner directed by the proper officer, or shall afterwards be taken out of warehouse without entry therefor, they shall be forfeited.

Duty of officer on entry of goods for warehouse.

5. Upon entry and landing of any goods to be warehoused, the proper officer shall take a particular account thereof and mark the contents on each package, and enter the same in a book to be kept

for the purpose; and no goods warehoused shall be delivered from warehouse except upon entry and under care of the proper officers for exportation, or upon entry for home use and payment of the duties. Whenever the whole of the goods warehoused under any entry shall be cleared from warehouse or whenever further time shall be granted for any such goods to remain warehoused, an account shall be made out of the quantity upon which the duties have been paid and of the quantity exported, and of the quantity, to be then ascertained, of the goods still remaining in the warehouse, deducting from the whole the quantity contained in any whole package which may have been abandoned for duties; and if there shall be any deficiency of the original quantity, the duty, except as hereinafter provided, payable upon the deficiency, shall then be paid.

Goods how stored and secured in warehouse.

6. Goods warehoused shall, by or at the charge of the owner, be stowed in such manner as that easy access may be had thereto, under penalty on such owner of five pounds for every omission; and they shall be stowed in such parts or divisions of the warehouse and in such manner as the collector shall direct, and the warehouse shall be secured in such manner, and visited only at such times, and in the presence of such officers, and under such regulations, as the collector, under the authority of the board, shall direct.

Samples may be taken.

7. The collector, under the regulations of the board or in his own discretion, may permit samples to be taken of goods warehoused, without entry and without payment of duty, except as the same may eventually become payable on a deficiency of the original quantity under the provisions of this chapter.

Owners may do certain acts to goods while in warehouse.

8. The collector, under the regulations of the board or in his own discretion, may permit the proprietor of goods warehoused, at his own expense to sort, separate, pack and repack the same as may be necessary for their preservation or more convenient disposal, and under the regulations of the board to draw off liquors into bottles or casks, and to mix brandy with wines, and to fill up casks of liquors from other casks thereof respectively in warehouse, and to rack off wines from the lees, or mix wines: and he may also allow portions of goods so separated to be destroyed, but without prejudice to claim for duty upon the whole original quantity. Whole packages may be abandoned to the collector for duties, and shall not remain liable thereto. No portion of goods less than a whole package shall, however, be taken out of warehouse at any time.

Goods may be removed from one warehouse to another.

9. Goods warehoused may, under the authority of the collector, be delivered on entry without payment of duty except for any deficiency, for removal to another warehouse in the same or another port in the province under bond to the satisfaction of the collector, or such other regulations as the board may make for the re-warehousing thereof or payment of duties thereon.

Limitation of time for keeping goods warehoused.

10. Goods warehoused shall be cleared for exportation or entered for home use within two years from the first entry thereof;

and if not so cleared or entered the collector, unless otherwise directed by the board, shall sell the same, and the proceeds shall be applied—first to the payment of warehouse rent and other charges, next of duties, and the surplus, if any, shall be paid to the proprietor.

How goods in warehouse may be transferred.

11. When goods in warehouse are sold, the seller shall give the buyer a transfer note containing the particulars of the goods and the date of sale, and the purchaser shall lodge the same with the warehouse keeper, who shall make a minute of the transfer in a book to be kept for the purpose, and which shall be produced on application. If this provision shall not be complied with, the goods, so far as respects the officers of the revenue, shall be held the property of the seller.

Penalties for interference with warehoused goods.

12. If goods warehoused shall, with the owner's sanction, be fraudulently concealed in or removed from the warehouse, they shall be forfeited; and if the proprietor, or any person with his knowledge, shall fraudulently open the warehouse or gain access to the goods, except in the presence of the proper officer in the execution of his duty, or shall fraudulently adulterate, reduce or increase the strength of liquors, such proprietor shall, for every offence, forfeit one hundred pounds.

Duties on goods entered for warehouse, remitted in certain cases.

13. If goods entered for warehouse, or for delivery therefrom, shall, by unavoidable accident, be lost or destroyed either on shipboard or in the landing or shipping, or the receiving into or delivering from warehouse of the same, or if any such goods shall be destroyed, or, being liquors, shall leak or evaporate while in the warehouse, the board may remit or return the duties thereon, but no abatement shall be made in respect of deficiency in quantity of liquors or of wastage in any article, unless the goods shall have been warehoused six months.

Goods entered for warehouse, re-entered for home consumption.

14. If the importer of any goods entered for warehouse and landed shall, before the same are deposited in the warehouse, further enter the same or any part thereof for home use or for exportation as from the warehouse, the goods so entered shall be considered constructively warehoused, and may be delivered for home use or for exportation, as the case may be.

Warehoused goods liable for freight.

15. Goods warehoused shall continue liable for freight, as if on shipboard.

CHAPTER 18.

OF THE EXPORTATION OF GOODS AND OF DRAWBACKS.

SECTION

1. Drawbacks allowed.
2. Warehoused goods exported free of duty.
3. Salt beef and pork, as sea stores, duty free in certain cases.
4. Where drawback claimed how goods to be exported.
5. Entry for exportation, how made.
6. Bond on entry outwards.
7. Penalty where unauthorized party enters goods outward.
8. What a valid permit.
9. Drawbacks allowed, in what cases.
10. Shipping permit to be certified by guager.
11. Exportation of goods entered for home use.
12. Time for receiving duties limited.
13. What shall cancel bond.
14. How drawback obtained on goods sent coastwise.
15. Where goods exported in importing vessel.
16. Entry in such case, how made.
17. Penalty and proceeding for false report and entry.
18. Proceedings when importer refuses to comply with the law.
19. Officer's duty in case of suspicion.
20. Trifling differences not to incur a penalty.
21. Tidewaiter may recover his wages from masters of vessels in case of unnecessary delay.
22. Articles for army and navy exempt from duties.
23. How such articles obtained from warehouse.
24. Drawback, how obtained on shipment of such goods.
25. Goods shall be guaged and weighed if so charged with duty.
26. If re-landed in the province they shall be forfeited.
27. Officers' wines purchased under license from board.
28. Bond for such wines cancelled, or drawback allowed.
29. Agents may enter goods in certain cases.
30. No drawbacks allowed after three years.
31. Agents may export and receive drawbacks from persons abroad.
32. Board to make rules respecting exportation of liquors.
33. Drawback on home manufactured rum.
34. Goods entered for exportation forfeited if re-landed, or not forwarded as cleared.
35. Penalty for false documents to get drawbacks.
36. Operation of regulations, how suspended.

Drawbacks allowed.

1. Whosoever shall export any goods on which on their entry inwards for home use the duties shall have been paid, shall be entitled to a drawback of the whole amount, such goods being of the quantity or value for which a drawback is allowed; and all drawbacks shall be under the management of the board of revenue.

Warehoused goods exported free of duty.

2. All goods warehoused on the importation thereof may be exported from warehouse without payment of duty.

Salt beef and pork as sea stores, duty free in certain cases.

3. Salted beef and pork may be delivered out of warehouse and shipped as stores, without entry or payment of duty, for ships of sixty tons at the least, bound on a voyage out of the province, the probable duration of which, out and home, will not be less than forty days: but such beef and pork shall be borne on the ship's clearance, and shall be shipped in such quantities and under such regulations as the collector shall direct, and the surplus stores thereof shall be delivered into the charge of the proper officer, to be re-shipped as stores under such regulations as the collector shall direct; and any such beef or pork shipped contrary to such regulations shall be forfeited.

Where drawback claimed how goods to be exported.

4. No goods on which, upon exportation, any drawback is intended to be claimed, and no goods intended to be exported from

the warehouse shall be laden until entry outward shall have been made and permit granted therefor; and no goods shall be laden except at some place at which an officer is appointed to attend, and except in the presence or with the permission, in writing, of the officer: but the board may make such other regulations for carrying goods coastwise as may be expedient. All goods laden contrary to the provisions of this chapter, or to any such regulations, shall be forfeited.

Entry for exportation how made.

5. The person entering goods outward, for drawback or for exportation, or from the warehouse, shall deliver to the collector a bill of entry, written at length, containing the name of the exporter, of the ship and of the master, and of the place to which bound, the particular place within the port where the goods are to be laden, the particulars of the quality and quantity of the goods and the packages, their marks and numbers; and the collector shall thereupon grant his shipping permit, which shall be written upon or annexed to a copy of the entry to be made by the exporter.

Bond on entry outwards.

6. Upon the entry outwards of any goods for drawback, or from the warehouse, the exporter shall give a bond in double the duties, with two sureties, that they shall be landed at the place for which they may be entered, or accounted for to the board.

Penalty where unauthorized party enters goods outward

7. Every person who shall make entry outwards of goods for drawback, or for exportation from warehouse, not being the proprietor thereof nor the master of the vessel, shall for every offence forfeit fifty pounds.

What a valid permit.

8. No entry outwards, nor any shipping permit, or permit for taking goods from warehouse for exportation, shall be deemed valid unless the particulars of the goods and packages shall correspond with the particulars in the entry inwards for home use, or in the entry for warehousing, nor unless they shall have been properly described in the entry outwards, by the character, denomination and circumstances under which they were originally charged with duty; and any goods laden or taken out of warehouse by any entry outwards or shipping permit not so corresponding or not properly describing them, shall be forfeited.

Drawbacks allowed in what cases.

9. A drawback of the whole duties upon goods on which the duties shall have been paid, shall be allowed upon any quantity of wine not less than twenty-five gallons, or upon any quantity of spirits or other liquors not less than one hundred gallons, exported in the original packages, and upon any quantity not less than three hundred weight of coffee, or any quantity not less than one thousand weight of sugar, or upon any quantity whatever of other articles charged with duty according to the weight thereof if exported in the original package, and upon any amount not less than fifty pounds of the declared value of any articles charged according to the value.

Shipping permit to be certified by guager.

10. Before any goods not exported from the warehouse and being charged with duty according to the weight, guage or mea-

sure, shall be laden for exportation, the shipping permit shall be exhibited to the guager and weigher, who shall thereupon, without fee, guage or weigh them before shipment and certify on the permit the weight, guage or measure thereof.

Exportation of goods entered for home use.

11. So soon as any goods so entered outwards, not being from warehouse, shall have been actually laden, the master and exporter shall make an affidavit annexed to the entry that the goods are shipped for exportation and not to be relanded or disposed of in the province, and that the same to the best of their knowledge and belief were part of the stock of the person by whom they were entered for home use, and shall specify the office where entered and the date of entry, and that they are of the same quality, proof and description as when imported, or as described in the entry outwards.

Time for receiving duties limited.

12. The exporter shall within three months be entitled to receive the amount of the duties at the receiver general's office, if the board shall be satisfied that the goods were exported and not relanded or consumed in the province.

What shall cancel bond.

13. If within one year from entry outwards there shall be produced a certificate annexed to the shipping permit and signed by some principal officer of the customs or colonial revenue at the place to which the goods were exported, or, if such place be a foreign country, of any consul or vice consul resident there or an affidavit annexed to the permit of any person resident at the place and certified by a notary public or magistrate, and in which certificate or affidavit it shall be stated that the goods were actually landed at some place out of the province, or that they were lost, or that the vessel had never arrived at her destination and was supposed to be lost, the bond shall be cancelled.

How drawback obtained on goods sent coastwise.

14. Whenever dutiable goods shall be sent coastwise, the person to whom they are sent may export them and receive the drawback in the name of the importer; but they must have been duly entered at the first port for exportation to the second port coastwise, and the shipping permit granted, in which it shall be stated that the duties have been paid or secured at the first port, the importing ship's name, the place whence and the time when they were imported, the marks and numbers of the packages; and all liquors must be in the original packages.

Where goods exported in importing vessel.

15. Whenever portions of cargoes are intended to be exported in the importing vessel, the part intended to be exported shall be reported and entered outwards without being landed, and the duties thereon ascertained by means of the original manifest and invoices, and the shipping permit shall be granted and the bond for exportation given.

Entry in such case how made.

16. Upon entering outwards in the importing ship, the person making the entry shall deliver to the officer the original invoice, and shall answer the questions put to him, and shall verify the invoice by the following affidavit:

"I [*name and designation of the party*] do swear that the invoice hereunto annexed, is the original invoice of the goods now

by me entered outwards for exportation in the ship called the [*ship's name*] whereof [*master's name*] is master, bound to [*port of destination*] and that such invoice was actually and truly made at the port out of the province where such goods were originally shipped; and contains, to the best of my knowledge and belief, a true account of the quantities and value of every part of the goods so by me now entered for exportation in the said ship."

Penalty and proceedings for false report and entry.

17. If it shall be discovered that the report and entry were false, and that there was a greater quantity of dutiable goods laden than was reported and entered, the surplus goods shall be forfeited, and the person making the same shall be subject to the penalty by law prescribed for making a false report and entry; and if any part of the goods shall be fraudulently discharged, or unladen within this province, the vessel and the goods, and all things employed in removing them, shall be forfeited: and all persons aiding therein shall forfeit fifty pounds.

Proceedings when importer refuses to comply with the law

18. In case the party making the report and entry shall refuse to produce the original invoice, or to verify it, or to answer the questions, or give the bond, the officer shall cause the goods to be landed at the expense of the importer, and the duties to be secured as directed by the chapter for regulating the importation of goods.

Officer's duty in case of suspicion.

19. In case the collector shall doubt the truth of the report or entry, or of the invoice, he may examine into the contents of the cargo, and the master, officers and crew shall aid the officer in making the examinations: and in case of refusal to assist, the goods shall be landed and the truth ascertained. The officer may call to his aid three merchants, and if, in their opinion, there shall be cause for suspicion, they shall certify the same, which shall be sufficient to authorize the discharge of the cargo and subsequent examination.

Trifling differences not to incur a penalty

20. If the difference between the invoice and the return of the guager and weigher shall not exceed the difference which frequently occurs between the guage and weights of two different ports, no penalty shall attach.

Tidewaiter may recover his wages from masters of vessels in case of unnecessary delay.

21. If the master of a vessel in which a part of the imported goods are intended to be exported shall unnecessarily delay unlading the goods intended for landing, or, after unlading them, delay longer than ten days proceeding on the voyage, he shall pay every day to the tide-waiter employed the regular wages which would in ordinary cases be chargeable against the government, and the tide-waiter may recover the same before a justice of the peace.

Articles for army and navy exempt from duties.

22. All wines and distilled spirituous liquors and brown sugar, flour, bread, cheese, oatmeal, peas, salted suet, vinegar, oil, raisins, currants, salted beef, salted pork, butter and cocoa, imported for the army or navy or naval yard, or any commissary or government contractor, and all prize goods purchased for their use, and all spirituous liquors distilled in the province and supplied for their use, shall be exempted from duties, but they shall be warehoused,

and when they are intended to be delivered from the warehouse, the entry shall be made as for home use, and shall state that they are solely for the use of the army or navy, or naval yard; and a bond with two sureties, and in double the duties, shall be given to deliver them to the persons authorized to receive them for such use, or otherwise to account for them to the satisfaction of the board.

How such articles obtained from warehouse

23. Upon security being given, a permit shall be granted, and such goods shall be delivered from warehouse in presence of the revenue officer, and shall be conveyed and delivered in presence of a revenue officer to the commissary or other person appointed to receive the same for the use of the army, or on board of some of her majesty's ships or into the naval yard, and a receipt therefor signed on the permit, and on the return thereof, to be made if required under oath, the security shall be cancelled.

Drawbacks, how obtained on shipment of such goods.

24. If any of the above enumerated goods shall be shipped for such service after the duties have been paid, a drawback of the whole duties shall be allowed; but a permit for the delivery of them for such use, specifying the quantities thereof with marks, numbers, or packages containing the same, shall have been first obtained from the collector, and the goods shall be conveyed and delivered in manner as in the preceding section prescribed for goods taken from warehouse, and the like receipts on the permits, and verification thereof made; and thereupon the amount of the duties paid thereon shall be repaid from the provincial treasury.

Goods shall be gauged and weighed if so charged with duty.

25. Where such goods are charged with duty according to the guage, weight, number, or measure, they shall be guaged, numbered or weighed, and marked, and the drawback paid accordingly.

If re-landed in the province they shall be forfeited

26. If such goods shall be fraudulently relanded in this province, or applied otherwise than for such use, they shall be forfeited; and every person concerned therein shall forfeit fifty pounds.

Officers' wines purchased under license from board.

27. The board may, upon the application of the officer in command of any ship of war about to leave the province, grant a license to purchase for the use of the officers so many gallons of wine as shall be approved by the board as adequate to their supply for three months; and the name of the person from whom such wines are to be purchased shall be therein inserted.

Bond for such wines cancelled or drawback allowed.

28. The person selling the wines shall obtain the permit and ship them according to the regulations, and the officers for whose use they have been purchased shall certify that they are actually on board of the ship ready for sea, and that no part shall be relanded. The certificate, with the license, shall be delivered to the collector, and the bond, on exportation from the warehouse, shall be cancelled; or, if the duties have been paid, the drawback shall be allowed.

Agents may enter goods in certain cases.

29. If a proprietor of goods shall be resident more than ten miles from the office of the collector at the port of shipment, he may appoint an agent to make his entry and clear and ship his goods, or receive for him the drawback on his certificate of drawback if

payable to him; but the name of the agent and the residence of the proprietor shall be subjoined to the name in the entry and shipping permit, and the agent shall make the declaration on the entry which is required of the proprietor, and shall answer the questions that shall be put to him. Any trading corporation or company may appoint an agent for the like purposes.

No drawback allowed after three years.

30. No drawback shall be allowed unless the goods be shipped within two years after the payment of the duties.

Agents may export and receive drawbacks from persons abroad.

31. If any goods which are to be exported for drawback be the property of a person residing abroad, having been consigned to some person residing in this province to be exported on account of the owner, such person may, as agent of the owner, enter, clear, and ship them, and receive the drawback thereon.

Board to make rules respecting exportation of liquors.

32. The board may make rules with regard to the exportation of any spirituous liquors on which a drawback shall be claimed, and for ascertaining the strength thereof for the allowance of the drawback, and for the prevention of fraud.

Drawback on home manufactured rum

33. Upon the exportation of any rum made within the province, and which may have been warehoused, the person exporting it shall be entitled, on the certificate of shipment, to receive from the provincial treasury three pence sterling per gallon, but the certificate shall not be granted until the requisites of the law concerning exportation from warehouse have been fully complied with.

Goods entered for exportation forfeited if relanded or not forwarded as cleared.

34. If any goods entered for exportation from warehouse, or for drawback, shall not be duly exported to the place for which they were cleared out, or shall be relanded in this province, such goods not having been duly relanded as short shipped or for other just cause, or shall be carried to New Brunswick or Prince Edward Island not having been entered and cleared direct thereto, such goods shall be forfeited, together with any vessel or boat used in the infringement of this section; and all persons concerned in the violation of this section shall forfeit double the value of the goods.

Penalty for false documents to get drawbacks.

35. If any person in this province shall give any document in writing stating that goods have been landed in the province for the purpose of enabling any person to obtain a drawback thereon in the United States or any of the colonies or provinces of North America, he shall, if unable to prove that the goods specified in such document have paid the duties thereon in this province, for every offence forfeit one hundred pounds.

Operation of regulations, how suspended

36. Upon the representation of the board the governor in council may suspend the operation of any regulation in this chapter for so long a time as may be deemed proper.

CHAPTER 19.

OF THE PREVENTION OF SMUGGLING.

SECTION
1. Officers of revenue may board vessels.
2. Officers of revenue may enter and search buildings.
3. Officers of revenue may have a writ of assistance.
4. Collectors may enter shops and take accounts of stock.
5. Penalty for obstructing officers.
6. Proceedings in case of seizure.
7. Appeal to be allowed.
8. Condemned articles.
9. Disposal of proceeds.
10. Regulations of costs in cases of informations.
11. Tender of amends.
12. Penalties upon masters of vessels and others.
13. Operation of regulations, how suspended.

Officers of revenue may board vessels.

1. The officers of the revenue may go on board any vessel within any port in the province and search her for prohibited and uncustomed goods, and also on board any vessel being within one league of any of the coasts, and stay on board while she remains in port, or within such distance: and if she shall continue hovering for twenty-four hours after the master shall have been required to depart, the officer may bring her into port, and search her and examine her cargo, and examine her master upon oath touching the cargo and voyage: and if there be any prohibited goods on board, the ship and cargo shall be forfeited: and if the master shall not answer the questions demanded of him, or shall not truly answer the same, he shall forfeit one hundred pounds.

Officers of revenue may enter and search buildings.

2. Any revenue officer, having first made oath before a justice of the peace that he has reasonable cause to suspect goods liable to forfeiture to be in any particular building, may, in company with the justice who is hereby required to accompany him, enter such building at any time between sunrise and sunset: but if the doors are fastened, then admission shall be first demanded and the purpose for which entry is required declared, when, if admission shall not be given, the justice shall order the officer forcibly to enter: and when, in either case, entry shall be made, the officer shall search the building and seize all forfeited goods.

Officers of revenue may have a writ of assistance.

3. Under the authority of a writ of assistance, which, upon application of the board of revenue and due cause shewn, shall be granted by the supreme court or by any judge thereof and be in force for three months, any revenue officer, taking with him a peace officer, may enter any building or place in the day time, and search for and seize any goods liable to forfeiture, and if necessary for that purpose, break open any doors and packages.

Collectors may enter shops and take accounts of stock.

4. Every collector may at any time between sunrise and sunset enter into any building of any person dealing in dutiable goods, and take an account of his stock; and if he shall refuse to open the door, or shall obstruct the officer, he shall forfeit one hundred pounds.

Penalty for obstructing officers.

5. If any person shall obstruct a revenue officer employed as hereinbefore mentioned, or any person assisting him, he shall be guilty of a misdemeanor and be punished in the discretion of the court.

Proceedings in cases of seizure.

6. All seizures under the revenue laws shall be forthwith placed in custody of the nearest collector, and by him secured under the directions of the board, and shall be held to be condemned and may be sold without further proceeding, unless the person from whom they were seized, or the owner of them, or some person on his behalf, shall within one month from the seizure give a written notice to the seizor or to the collector in whose custody they are, of claim thereto. If claim be made within the month, then, subject however to the control of the board, the collector shall forthwith thereafter have the articles valued by three sworn appraisers, who shall sign the valuation; and if it shall amount to forty pounds or upwards an information shall be filed in the supreme court, otherwise an information in writing, if the seizor thinks proper so to proceed, may be exhibited in the name of the collector before two justices of the peace, charging the articles seized as forfeited under some particular section and chapter to be therein referred to, and praying condemnation thereof; and the justices shall thereupon issue a summons for all persons claiming interest in the seizure to appear at a certain time and place, there to claim the articles or answer the information, otherwise the articles will be condemned; and a copy of the summons shall at least eight days before the time for appearance, be served upon the person from whose possession the things were taken, or shall be left at or affixed to the building, or vessel if there remaining, or at two public places nearest the place of seizure. If any person shall appear to answer the information, the justices shall hear and determine the matter and acquit or condemn the articles; but if no person appear, judgment of condemnation shall be given. The justices on condemnation, shall issue a warrant to the collector to sell the goods.

Appeal to be allowed

7. If either party be dissatisfied with the decision of the justices, he may appeal to the supreme court at its next sitting in the county; and such appeal shall be allowed upon security by bond being given to the satisfaction of the justices to abide the decision, which security, if the claimant appeal, shall be in double the appraised value of the articles, but not less in any case than twenty pounds; and if the prosecutor appeal the security shall be in twenty pounds; and the proceedings shall be sent to the supreme court, which shall hear and determine the matter in a summary manner, and confirm or reverse the judgment with or without costs; and, if there be judgment of condemnation, shall order the sale of the articles.

Condemned articles.

8. Where articles are condemned and liable to be sold, the collector shall forthwith sell the same at public auction, giving at least five days' notice thereof by advertisements posted up in at least five of the most public places in the county, or such other

notice as the board may direct; but the board, instead of such sale, may direct articles to be destroyed.

Disposal of proceeds.

9. The collector out of the nett proceeds of the sale, after paying the expense of the proceedings, shall pay one-third part to the seizor, another third to the overseers of poor of the place where the seizure was made, and the remainder as the board shall direct; and the board may thereout grant a further sum to the seizor, or may recompense the informer or any person assisting in the seizure.

Regulations as to costs in cases of informations.

10. If on the trial of any information or suit brought on account of any seizure made under this chapter judgment shall be given for the claimant, and the judge or court before whom the cause is tried shall certify on the record that there was probable cause of seizure, the claimant shall not be entitled to costs nor shall the seizor be liable to any suit or prosecution on account of the seizure: and if on the trial of any suit or prosecution brought against any person on account of any such seizure, judgment shall be given against the defendant, but the judge or court shall certify that there was probable cause for the seizure, then the plaintiff, besides the thing seized or the value thereof, shall not be entitled to more than two pence damages, nor to any costs, nor shall the defendant in such prosecution be fined more than a shilling.

Tender of amends.

11. The officer may, within a month after notice, tender amends to the party complaining, or his attorney or agent, and may plead such tender.

Penalties upon masters of vessels and others.

12. The master and owner of any vessel in which dutiable goods shall have been imported from any of the British possessions in North America, such goods not having been warehoused or the duties paid thereon according to law, shall, over and above all other penalties to which they are liable, each severally forfeit for every offence not less than ten nor more than one hundred pounds, and shall also be jointly and severally liable for the duties: and every person concerned in exporting from any of such British possessions to this province, or in bringing in, importing, landing or receiving into this province, or having knowingly in his possession any such goods whereon the duties have not been paid, or which have not been warehoused, shall, for every offence over and above all other penalties to which he is liable, forfeit not less than ten pounds nor more than one hundred pounds, and be liable for the duties.

Operation of regulations, how suspended.

13. Upon the representation of the board, the governor in council may suspend the operation of any regulation in this chapter for so long a time as may be deemed proper.

CHAPTER 20.

OF THE REGULATION OF DISTILLERIES.

SECTION

1. Accounts of distilleries to be furnished weekly under oath.
2. Duty to be paid on liquors warehoused.
3. Powers of revenue officers.
4. Liquors not reported, forfeited.
5. Liquors may be sold for duties.
6. Penalty and forfeitures for possession, without permit.
7. Officers to be kept on superintendance.
8. Duty of officers.
9. Their remuneration.
10. Penalty for neglect of duty.
11. Regulations may be made by board.
12. Penalties for disobedience.
13. Penalties, how recovered and applied.

Accounts of distilleries to be furnished weekly under oath.

1. The owner or manager of every establishment where spirituous liquors are made, shall every Saturday render to the nearest collector of the colonial revenue an account of the spirituous liquors made at the establishment since the last preceding account, and shall subscribe before the collector the following oath:

"I, A. B., do swear that the account which I have now rendered and subscribed is a correct account of all the spirituous liquors made at the establishment of ——— since the —— day of ———, and that no spirituous liquors, to my belief, have been removed from the establishment without being guaged according to law, or without a permit from the collector of the colonial revenue for the district."

Duty to be paid on liquors warehoused.

2. Entry shall at the same time be made of the liquors and the duties thereon paid, or the liquors warehoused. If the duties are paid, the collector shall give a removal permit in the following form:

"Permit A. B. to receive from the stock of ——— the following liquors made by him, that is to say: ———————.

"Given under my hand at ——— this —— day of ———, A. D. 18—.

"C. D., Collector."

No such spirituous liquors, if of the value of five pounds, shall be removed or transferred to another person without the removal permit.

Powers of revenue officers.

3. For investigating into the correctness of the accounts, and for ascertaining the true quantity of liquors made at any establishment, the revenue officers shall have the same power as by law conferred with respect to dutiable goods imported.

Liquors not reported, forfeited.

4. If any such spirituous liquors shall be found in any establishment after the day on which the same ought to have been reported, without having been reported and entered, the same shall be forfeited.

Liquors may be sold for duties.

5. If the duty on entry for home use be not paid within twenty-four hours thereafter, the collector or other officer shall take the liquor into his custody, and shall within fifteen days sell at public

auction, giving ten days public notice thereof, so much of the liquors as shall suffice to pay the duties on the whole, with the charges of storage and sale, and shall pay the surplus monies and deliver the remaining liquor to the person entitled thereto.

Penalty and forfeitures for possession, without permit.

6. If any such spirituous liquors shall be found in the possession of any person other than the maker, or laden on any carriage or animal, or on board any vessel or boat, without the duties thereon having been paid, or without the removal permit when required, the person in possession shall forfeit fifty pounds, and the liquor, carriage, animal, vessel or boat, shall be forfeited. The duty shall be deemed unpaid until the contrary be shewn.

Officers to be kept on superintendence.

7. The board of revenue shall employ officers for attending the manufactories or distilleries, so that one officer shall always be present at every manufactory or distillery while in operation: and the officers under the direction of the board, or of the collector, shall be employed alternately in superintending the progress of the manufactory or distillery, and shall report the same at least twice a week to the collector.

Duty of officers.

8. The officers shall be sworn by the collector, faithfully to attend the establishment to which they may be appointed, and to report to the collector, to the best of their belief, all quantities of spirituous liquors made thereat, and to use their utmost exertion in preventing evasion of the revenue laws.

Their remuneration.

9. The officers shall be entitled to receive from the treasury, on the certificate of the board, at the rate of five shillings a day while actually employed.

Penalty for neglect of duty.

10. If an officer shall absent himself from the establishment to which he may have been appointed while at work, or shall in any way connive at an evasion of the revenue laws, he shall be forthwith dismissed from office, and forfeit fifty pounds.

Regulations may be made by board.

11. The board may make regulations respecting the attendance of the officers, and the seasons of the year and hours at which distilleries and manufactories shall be allowed to work, and for checking frauds therein, for the supervision of the buildings in which the same are conducted when not in operation as well as when at work, and for keeping closed such buildings when the manufactory or distillery may not be in operation, and for the expenses incident thereto, and for searching for concealed pipes and other secret means by which fraud may be perpetrated, and with that object for opening doors or windows, or otherwise entering buildings, and taking down and removing partitions and other impediments to search which it may be proper to take down or remove for that purpose, and also for making the owners or occupiers of the buildings, when fraud shall be detected, liable for the expenses incident thereto, and generally for insuring a faithful account of the duties payable, and for carrying into effect the provisions of this chapter.

Penalties for disobedience.

12. Manufacturers and distillers shall observe the regulations made under the preceding section, and give free access to the offi-

cers at all times, by day or by night, when required; and any manufacturer or distiller who shall not obey such regulations, or shall impede the officer in the execution of his duty, shall for every offence forfeit fifty pounds.

Penalties how recovered and applied.

13. Penalties under this chapter shall be sued for in the name of the collector, and be applied as the board may direct.

CHAPTER 21.

OF LIGHT HOUSE DUTIES.

SECTION

1. Light duties on provincial vessels, how secured.
2. Light duties on other vessels
3. Light duties on vessels passing through Canso.
4. Vessels in government employ exempted.
5. Collector's commission.
6. Penalty for non-payment.
7. Seizure authorized.
8. Date and limitation of chapter.

Light duties on provincial vessels, how secured.

1. Vessels registered in the province shall on their first voyage pay six pence per ton to the collector of the colonial revenue or other person in that behalf appointed by the governor in council, who shall deliver to the master a certificate thereof, which shall exempt the vessel from further payment until the first day of April then next: and such vessel shall not be cleared at the custom house without production of the certificate: but new vessels leaving the province on their first voyage and intended for sale shall be exempted from duty unless they again return: and new vessels cleared on their first voyage after the first of September shall be exempted from further payment of duty until the first of April next following on payment of one-half the amount of the above duty.

Light duties on other vessels.

2. Other vessels coming into the province shall pay, on entry, six pence per ton to the collector or other person appointed as hereinbefore mentioned, who shall grant a certificate thereof which shall exempt them from further duty until the first day of April then next.

Light duties on vessels passing through Canso.

3. Vessels passing through the straits of Canso without the certificate hereinbefore mentioned, shall pay six pence per ton; and a certificate thereof shall be granted which shall exempt them from further payment until the first day of April then next.

Vessels in government employ exempted.

4. This chapter shall not extend to vessels or steamers belonging to or in the service or employment of her majesty's government, excepting steamers not belonging to her majesty and carrying mails, which shall pay duty.

Collector's commission.

5. The person receiving the duty shall pay the same into the provincial treasury, deducting five per cent. for his commission.

Penalty for non-payment.

6. If the master of any vessel liable to duties hereunder shall

refuse to pay or depart without paying the same, he shall forfeit five pounds; to be recovered with the duties in the name of the officer.

7. If the master shall not pay the duty when duly demanded, the officer shall seize the vessel and detain her until the same, together with the penalty of five pounds, is paid. Seizure authorized.

8. This chapter shall come into operation on the first day of April in this present year, and shall remain in force until the first of April one thousand eight hundred and fifty-two. Date and limitation of chapter.

CHAPTER 22.

OF LICENSES FOR THE SALE OF INTOXICATING LIQUORS.

SECTION

1. Date and limitation of chapter.
2. Clerk of Licenses, how appointed
3. Penalty for sale of liquors without license.
4. Licenses how obtained.
5. Licenses to be of three kinds.
6. Form of licenses.
7. Duties on licenses.
8. Duties when paid; bonds required.
9. Free licenses in certain cases.
10. Justices not to hold tavern license.
11. Physicians may sell without license.
12. Licenses to be registered.
13. Fees of clerks of peace, and licenses.
14. Signs to be erected.
15. Penalty for erecting signs illegally.
16. Penalty for keeping disorderly house.
17. Penalty for selling liquors on Sunday.
18. Duty of persons holding shop license.
19. Quantity less than a gallon, price not recoverable.
20. Warrants of restitution for servants, &c.

SECTION

21. Married women and servants liable for penalties in certain cases.
22. Clerks of licenses to visit taverns and enforce the law.
23. Clerks of licenses: their commissions
24. Clerks of licenses, their accounts, how and where rendered.
25. Penalties by whom and how recovered
26. Penalties to whom paid.
27. Clerk of licenses a witness in his own suit in certain cases.
28. Appeals how allowed and prosecuted
29. Witnesses, penalty for non-attendance.
30. Clerk of licenses how indemnified against costs.
31. Variances and technical objections provided for.
32. Halifax city controlled by act of incorporation.

Forms.

1. This chapter shall come into operation on the first of April one thousand eight hundred and fifty-one, and shall continue in force until the first of April one thousand eight hundred and fifty-two. Date and limitation of chapter.

2. The grand jury shall annually present the names of three persons, of whom one shall be appointed by the sessions to fill the office of clerk of the licenses, and who shall give bonds to her majesty, with such sureties and in such penalty as the sessions may direct, for the faithful performance of his duties, and shall be sworn into office: and such officer shall be appointed although no licenses be granted in the county. Clerk of licenses how appointed.

3. No intoxicating liquors shall be sold in quantities less than ten gallons to be delivered at one and the same time, unless in the Penalty for sale of liquors without license.

original package in which imported, or by license, under a penalty not less than twenty shillings nor more than twenty pounds for every offence: and no such liquors shall be sold in the city of Halifax without license, unless in the original package in which the same are imported.

Licenses how obtained.

4. Licenses may be granted by the sessions upon the recommendation of the grand jury, except in the city of Halifax, where they may be granted agreeably to the act incorporating the city: but such recommendations may be rejected in whole or in part by the sessions.

Licenses to be of three kinds.

5. Licenses shall be of three kinds, viz: tavern licenses and shop licenses. In the city of Halifax and town of Pictou there may be also general licenses granted to persons holding tavern or shop licenses.

Form of licenses

6. Licenses shall be in the form in schedule A.

Duties on licenses

7. The duties on licenses shall be as follows:

On tavern licenses, five pounds ten shillings: and

On shop licenses, three pounds: and

Upon general licenses, when granted to a person holding a tavern license, one pound: and when granted to a person holding a shop license, three pounds ten shillings.

Duties when paid, bonds required.

8. Every person to whom a license shall be granted, shall, before receiving the same, pay down the whole duties: and also enter into a bond with two sureties, in the form in schedule B, which bond shall be prepared by the clerk of the licenses, and when executed shall be filed by the clerk of the peace.

Free licenses in certain cases.

9. Licenses may be granted free of duty, or upon payment of a less duty than by law imposed, to persons living on public roads little frequented, to encourage them in keeping public houses for the accommodation of travellers.

Justices not to hold tavern license.

10. No justice of the peace shall hold a tavern license.

Physicians may sell without license.

11. Physicians or apothecaries may sell intoxicating liquors for medical purposes only, without license.

Licenses to be registered

12. The clerk of the peace and clerk of the licenses shall each register in a book a list of licenses, with the dates thereof, the names, additions, and residences of the parties licensed, and a memorandum of the houses or shops for which the licenses are granted, and of the bonds taken and the amounts of duty paid; and such books shall be exhibited to the sessions and grand jury when required by either.

Fees of clerks of peace, & licenses

13. The clerk of the peace and clerk of the licenses shall each receive five shillings from the party licensed in full for all their respective services connected with every license.

Signs to be erected

14. If any person holding a tavern license shall not, within ten days after obtaining the same, place a sign on the tavern, with his name thereon, importing that liquors are there to be sold; and where holding a tavern license without a general license, that entertainment for man and horse can be there had, he shall forfeit a sum not exceeding five pounds, and the neglect to do so for every ten days after every conviction shall be deemed a fresh offence.

15. If any person not having a license shall place on any building, or in the neighborhood thereof, any inscription importing that intoxicating liquors may be had there, he shall forfeit a sum not exceeding five pounds, and every continuation of the same for ten days after conviction shall be deemed a fresh offence. Penalty for erecting signs illegally.

16. If any person holding a tavern license shall not maintain good order on the premises, or if he shall permit rafflings or gamblings thereon, or shall on the Sunday permit persons other than lodgers or persons coming for necessary victualling only, to remain about the premises drinking or idly spending their time, or, where not holding a general license also, shall permit any thing other than victuals or drink usually consumed in a tavern to be exposed for sale on the premises, or shall not have reasonable accommodation for travellers and their horses, cattle and conveyances, he shall forfeit his license, or a sum not exceeding ten pounds, for every offence, in the discretion of the court before which he shall be convicted. Penalty for keeping disorderly house.

17. If any person holding any license shall sell any intoxicating liquors on Sundays, except in the case of tavern keepers to lodgers on the premises, he shall incur the like forfeiture as in the last section mentioned. Penalty for selling liquors on Sunday.

18. No person holding a shop license only shall sell less than one quart of intoxicating liquors, to be delivered at one and the same time, or shall suffer any intoxicating liquors to be drank on the premises where sold, or any such premises to be opened on Sunday, under the same penalty as in the sixteenth section mentioned. Duty of persons holding shop license.

19. No person shall recover or be allowed to set off any charge for intoxicating liquors, unless it be for a quantity not less than one gallon, delivered at one and the same time. And all specialties, bills, notes, or agreements, given in whole or in part to secure any such charge, shall be void. But nothing herein contained shall extend to any charge made by a person holding a tavern license only, against any boarder or traveller. Quantity less than a gallon, price not recoverable.

20. If any person holding a tavern licence shall purchase from any servant or common laborer, any wearing apparel, tools or implements of trade or husbandry, or household goods, or furniture made up, or shall receive from any person any goods in pawn, a justice of the peace, upon sufficient proof on oath of the fact, may issue his warrant for restitution of the property and payment of the costs; and in default thereof, for levy and sale of the offenders goods for double the value of the property and costs, and the offender shall also be liable to a penalty of forty shillings. Warrants of restitution for servants, &c.

21. Married women and servants concerned in any breach of this chapter shall be liable for the penalty thereto attaching, as if they were unmarried women or principals, provided the husbands or masters shall not have been prosecuted for the same offence, and upon any conviction of a married woman or servant under this section the husband or master shall not be afterwards sued for the same offence. Married women and servants liable for penalties in certain cases.

Clerks of licenses to visit taverns and enforce the law.

22. The clerk of the licenses may, whenever he sees fit, visit the premises of persons holding tavern licenses, to see that the provisions of this chapter are complied with, and he shall prosecute offenders against such provisions: and if any person shall obstruct him in the exercise of his duty he shall forfeit a sum not exceeding five pounds, and may also be indicted for a misdemeanor, and fined and imprisoned in the discretion of the court.

Clerks of licenses; their commissions.

23. Clerks of the licenses shall be entitled to retain on the duties collected the following commissions, viz: in the city of Halifax five per cent., and elsewhere seven and a half per cent.; but in Halifax the city clerk of licenses shall not in any one year receive more than one hundred and fifty pounds from his fees and commissions, and the balance, if any, shall be paid over to the city treasurer.

Clerks of licenses; their accounts how and where rendered

24. Clerks of the licenses, except the city clerk of Halifax, shall render a half yearly account to the county treasurer of all duties collected, and of all penalties or portions thereof payable into the county treasury, which may have come into their hands, together with a statement of all judgments obtained for penalties, so far as shall have come to their knowledge, and which may be unsatisfied; and shall at the same time pay over such duties, deducting their commissions, and all such penalties as may belong to the county.

Penalties by whom and how recovered.

25. Penalties under this chapter may be recovered in the name of the clerk of the licenses, or of any other person who will sue therefor, in the same manner and with the like costs as if they were private debts, except that the summons shall be in the form in schedule C., and upon conviction such conviction shall be endorsed upon or annexed to the original summons in the form in schedule D., and the same when signed by the justices shall be held a valid conviction.

Penalties to whom paid.

26. Penalties under this chapter shall be paid, one half to the person sueing, and the other half into the county treasury, or, if in Halifax, into the city treasury.

Clerk of licenses a witness in his own suit in certain cases.

27. The clerk of the licenses shall, although the suit be instituted in his own name, be a competent witness; but, in such case, if he succeed, the whole penalty shall be paid into the county treasury, or, if in Halifax, into the city treasury.

Appeals how allowed and prosecuted.

28. Appeals from the decision of the justices for any penalty or forfeiture incurred under this chapter shall be granted in the same manner as under the chapter respecting summary trials before justices of the peace: but before a new trial shall be granted the appellant shall shew by affidavit some error in the proceedings below either in law or in fact, and upon his failure so to do the court shall confirm the judgment with costs, and in case of granting such new trial the court may impose such terms on either party as may best promote the ends of justice.

Witnesses; penalty for non-attendance.

29. If any person subpœnaed as a witness in any suit or prosecution under this chapter shall not attend at the time and place

mentioned in the subpœna, without just cause, to be allowed by the court or justices before whom the suit or prosecution shall be had, or having attended shall depart without permission of the court or justices, or shall refuse to be sworn or give evidence on the trial, he shall forfeit a sum not exceeding ten pounds, to be levied by warrant of distress from the court or justices on the offender's goods, and for want of such distress such person shall be committed to jail for a period not exceeding three months, or until the amount be paid: but no person shall be obliged to attend or give evidence on any such trial until paid his fees for travel and for attendance.

Clerk of licenses how indemnified against costs.

30. In suits instituted by a clerk of the licenses where the justice before whom the trial is had shall give judgment for the prosecution, or if he give judgment for the defendant shall certify there was reasonable ground to commence the suit, the prosecutor shall be fully indemnified for all costs and expenses on both sides, to be taxed by a judge of the supreme court, and levied by assessment or amercement on the county.

Variances and technical objections provided for.

31. No judgment shall be withheld on account of variance between the proof and the summons, if it appear to the satisfaction of the justice trying the cause that the defendant was aware of the real cause of complaint, but if the justice see fit for this cause he may continue the trial to another day, and no judgment shall be set aside for any such variance, or from any formal objection.

Halifax city controlled by act of incorporation.

32. The provisions of this chapter, so far as respects the city of Halifax, shall be controlled by the act concerning the city of Halifax, passed or to be passed in the present session.

Forms.

A.

County of ———.

License office. Tavern license.

License is hereby granted to ———, of ———, in the county of ———, to sell and retail in a tavern, to be kept in the house wherein he dwells, situate [*here describe particularly the situation of the premises,*] intoxicating liquors conformably to law.

This license to remain in force until the end of the next ——— sessions to be held in such county, subject to forfeiture for breach of the law.

Given under my hand as clerk of the licenses for the said county, this —— day of ——, A. D. 18—.

A. B., clerk of the licenses.

By order of the sessions, security having been given as required by law.

C. D., clerk of the peace.

County of ———.

License office. Shop license.

License is hereby granted to ———, of ———, in the county

of ———, to sell in a shop to be kept in the building occupied by him, situate [*here describe particularly the situation of the premises.*] intoxicating liquors in quantities not less than one gallon, but no part whereof shall be consumed on the premises.

This license to remain in force until the end of the next ——— sessions to be held in such county, subject to forfeiture for breach of the law.

Given under my hand as clerk of the licenses for the said county, this —— day of ——, A. D. 18—.

A. B., clerk of the licenses.

By order of the sessions, security having been given as required by law.

C. D., clerk of the peace.

County of ———.

License office. General license.

Whereas a tavern license dated the —— day of ——, in the year of our Lord one thousand eight hundred and ——, hath been granted unto ———, of ———, in the county of ———: and whereas the sessions for such county have also ordered a general license to be granted to the said ———, license is hereby granted to him to vend goods in his tavern during the continuance of his tavern license.

Given under my hand as clerk of the licenses for the said county, this —— day of ——, A. D. 18—.

A. B., clerk of the licenses.

By order of the sessions.

C. D., clerk of the peace.

County of ———.

License office. General license.

Whereas a shop license dated the —— day of ———, in the year of our Lord one thousand eight hundred and ——, hath been granted unto ———, of ———, in the county of ——. And whereas the sessions for such county have also ordered a general license to be granted to the said ———. Licence is hereby granted to him during the continuance of his shop license, to sell by retail any quantity of intoxicating liquors to be used in the shop in such shop license described.

Given under my hand as clerk of licenses for the said county, this —— day of ———, A. D. 18—.

A. B., clerk of the licenses.

By order of the sessions.

C. D., clerk of the peace.

B.

Know all men by these presents, that we ——— ——— are held and firmly bound unto our soverign lady queen Victoria, her heirs

and successors, in the sum of fifty pounds of lawful money of Nova Scotia, to which payment we jointly and severally bind ourselves, our heirs, executors and administrators, by these presents, sealed with our seals. Dated the —— day of ——— in the year of our Lord one thousand eight hundred and ——.

Whereas to the above bounden ——— has been granted a license for the sale, by retail, of intoxicating liquors, in the tavern, [*or in the shop*] kept by the said ——— in ———. Now the condition of this obligation is such, that if the said ——— shall in all respects conform to the laws in force respecting the retail of intoxicating liquors, and connected with such license, then this obligation shall be void, but otherwise shall remain in full effect.

Signed, sealed and delivered in the presence of ———.

C.

To any of the constables of ———:

You are hereby commanded to summon A. B., of ——, in the county of ———, to appear before us at ———, on the —— day of ———, to answer to the suit of C. D., [*clerk of the license for the county of ———, if the suit be brought in his name*] for a breach of the laws respecting the sale of intoxicating liquors, in having [*here briefly state the nature and description of the offence.*]

Witness our hands and seals at ———, the —— day of —— in the year of our Lord one thousand eight hundred and ——.

C. D., (L. S.) J. P.
E. F., (L. S.) J. P.

D.

The within named defendant having been duly summoned, was this day convicted of the offence within mentioned [*upon his own confession, or upon default, or upon the oath of G. H., as the case may be, stating the manner of the party's conviction and the names of the witnesses who may have been examined.*]

Witness our hands this —— day of ——, one thousand eight hundred and ——.

C. D., J. P.
E. F., J. P.

TITLE IV

CHAPTER 23.

OF THE POST OFFICE.

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4. Governor in council empowered to make orders.
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The governor in council to have control of the post office.

1. The exclusive right of establishing posts, and of conveying and delivering letters and collecting postage within the province, and the power and authority heretofore vested in the lords of her majesty's treasury by virtue of the acts of the imperial parliament passed in such behalf to order and establish rates of postage herein, are hereby vested in the governor in council.

The governor in council may appoint officers and establish posts.

2. The governor in council may establish, alter, discontinue or extend any posts or post communication, or post offices, and may appoint, suspend or remove the postmaster general, and all or any postmasters, officers, deputies, agents and servants connected therewith,

Postmaster general to give bonds.

3. The postmaster general shall give bond in the sum of one thousand pounds, with two sureties in the sum of five hundred pounds each; and deputy postmasters shall give bond in such sum and with such sureties as may be directed by the governor in council.

Governor in council empowered to make orders.

4. The governor in council may make such orders in conformity with this chapter as may be necessary for carrying out the same and promoting the objects thereof, and for avoiding as far as practicable the transmission of mails on the sabbath, and all such orders shall be valid as if in this chapter contained; but no higher penalty than one hundred pounds shall be imposed by any such order in council for the violation thereof.

Orders to be published in gazette, and laid before legislature.

5. Every such order in council shall be published in the royal gazette, and the rates of postage then established shall be demanded and taken immediately after such publication; and every such order, within eight days after it is made, shall be laid before the legislature if then sitting, or otherwise within fourteen days after it shall meet.

Rates of postage, how regulated.

6. In conformity with the agreements made between the local governments of British North America, the provincial postage on letters and packets, not being newspapers or printed pamphlets, magazines or books, entitled to pass at the lower rates hereinafter referred to, shall not exceed the rate of three pence currency per half ounce for any distance within the province; and the increase of charge on letters weighing over half an ounce shall be regulated according to the British rule and scale of weights. No transit postage shall be charged on any letter or packet passing through the province to any other colony in British North America unless it be posted in this province and the sender choose to prepay it, nor any letter nor packet from any such colony if prepaid there; and the rate of two pence sterling the half ounce shall remain in operation as regards letters by British mails, to be extended to countries having postal communication with the United Kingdom, unless her majesty's government shall see fit to alter the rate thereon to be charged to three pence currency.

Prepayment optional.

7. The prepayment of provincial postage shall be optional to the sender.

Postage retained where received.

8. All provincial postage received within this province shall be retained as belonging to it; and all provincial postage received within any other of the British North American colonies may be retained as belonging to such colony.

British & packet postage how disposed of.

9. The British packet postage and other British postage collected in this province, shall be accounted for and paid over to the proper authorities in the United Kingdom; but the colonial postage on the same letters or packets shall belong to the colony collecting it; or if prepaid to the British post office, it shall be credited and belong to the colony to which such letters or packets are addressed.

Franking abolished.

10. No privilege of franking shall be allowed as regards provincial postage.

Stamps provided for

11. Provincial stamps for the prepayment of postage may be prepared, issued and sold, under the orders of the governor in council: and such stamps prepared issued and sold, under the direction of the proper authorities in the other British North American colonies, shall be allowed in this province as evidence of the prepayment of provincial postage in such colonies respectively on the letters or packets to which they are affixed.

Newspaper postage abolished

12. All newspapers, whether published in this province or elsewhere, shall pass through the post offices in this province free of charge.

Books & pamphlets, postage on, regulated.

13. Printed books, periodical publications and pamphlets, may be transmitted by post within this province at the rate of two pence per ounce up to six ounces in weight, and three pence for each additional ounce up to sixteen ounces, beyond which weight no printed books, publication or pamphlet shall be transmitted by post: but the governor in council may, by order, alter, modify and reduce the rates of postage on such printed books, periodical publications or pamphlets.

Packet postage regulated and apportioned.

14. The packet postage for letters shall be one shilling sterling the half ounce, ten pence of which shall belong to the English post office, and two pence to the Nova Scotia office.

Packet postage paid half-yearly, other postage quarterly.

15. All monies received on account of packet postage to and from the United Kingdom shall be carried to a separate account by the postmaster general, and the same shall be remitted by the governor not less than twice in every year to the postmaster general in England; and all other monies received by the postmaster general in this province shall be paid by him at the end of every quarter to the receiver general; and he shall also return to the office of the financial secretary, at the end of every quarter, a quarterly account of the whole revenue received by him.

Express mails, expense of to be subject of agreement.

16. The rate of remuneration for the transport of British mails by express through this province to or from New Brunswick, Canada and Prince Edward Island shall be paid from time to time by agreement to be made between the government of this province and the other provinces or governments concerned.

Agreement may be modified.

17. If it shall appear to the local governments or proper authorities of the other provinces and of the United Kingdom, and to the governor in council, that the foregoing conditions and provisions are not in accordance with the arrangements so made or agreed upon with the other colonies, then the governor in council may alter and modify such conditions and provisions so as to carry out and complete such arrangement.

Government or parliamentary printed papers, free of postage.

18. All papers ordered to be printed by either house of parliament or by her majesty's command, or by the legislative council or house of assembly of this province, or by virtue of an address of the legislative council or assembly, shall be transmitted by post within this province free of postage.

Conditions to be observed in forwarding printed papers.

19. No printed paper, whether newspaper, book, pamphlet, or other paper, permitted by this chapter to be sent by post, shall be

transmitted either free or at a reduced rate of postage unless the following conditions shall be observed: first,—it shall be sent without a cover, or in a cover open at the sides or ends; second,—there shall be no words or communication printed on the paper after its publication, or upon the cover thereof, nor any writing or marks upon it, or upon the cover of it, except the name and address of the sender, and of the person to whom it is sent; third,—there shall be no paper or thing enclosed in or with any such paper or publication.

Letter postage chargeable if conditions not complied with.

20. The postmaster general or any of his officers may examine any printed paper or packet which shall be sent by the post, either without or with a cover, open at the sides or ends, in order to discover whether it is contrary in any respect to the conditions hereby required to be observed: and in any case if the required conditions be not fulfilled, the whole of every such paper shall be charged with postage as a letter; and as to every such printed paper going out of the province, the postmaster general may either detain the same or forward it by post charged with letter postage.

Questions of postage on printed papers, how decided

21. In all cases where a question shall arise whether a printed paper is entitled to the privileges of a newspaper or other publication as regards its transmission by post under this chapter, the question shall be referred to the postmaster general, whose decision, with the concurrence of the governor in council, shall be final.

Removal of parties; provisions for forwarding newspapers in such cases.

22. If any printed newspaper or other printed paper privileged to go by post and brought into this province shall be directed to a person who shall have removed from the place to which it is directed before the delivery thereof at that place, it may, provided it shall not have been opened, be redirected and forwarded by post to such person at any other place within this province free of charge for such extra conveyance; but if such newspaper or other printed paper shall have been opened, it shall be charged with the rate of a single letter from the place of redirection to the place at which it shall be ultimately delivered.

Ship postage allowed masters of private vessels in certain cases

23. For encouraging masters of vessels, not being post office packets, to undertake the conveyance of letters between places beyond the British North American colonies and this province, and for regulating the conveyance and delivering of such letters, the postmaster general may allow to the masters one penny half penny for each letter they shall deliver to the post office at the first port they touch or arrive at in this province, or with which they shall communicate when inward bound; and if from unforeseen circumstances the master cannot, upon delivering his letters at an outport, receive the money to which he is entitled, he shall be paid by means of an order on the postmaster general at such other place as may be convenient; and every master of a vessel inward bound shall, at the port or place of arrival, sign a declaration in the presence of the person authorized to take the same at such port or place, who shall also sign the same, and the declaration shall be in the form or to the effect following:

"I, A. B., commander [*state the name of the ship or vessel*], arrived from [*state the place*], do, as required by the post office laws, solemnly declare that I have, to the best of my knowledge and belief, delivered, or caused to be delivered, at the post office, every letter, letter bag, package or parcel of letters that was on board the [*state the name of the ship*] except such letters as are exempted by such laws.

Ship letters, how delivered, how secured

24. No officer of the colonial revenue shall permit such vessel to enter or report until such declaration shall be made and produced, and no vessel shall be permitted to break bulk or make entry in this province until all letters on board the same shall be delivered at the post office, where posts may be established, except such letters as are exempted by this chapter, and also except all such letters as shall be brought by a vessel liable to the performance of quarantine, all which last mentioned letters shall be delivered by the persons having possession thereof to the persons appointed to superintend the quarantine, that all proper precautions may be by them taken before the delivery thereof; and when due care has been had therein, such letters shall be by them despatched in the usual manner by post, and the officers of the colonial revenue at every port or place in this province shall search every vessel for letters which may be on board contrary to this chapter, and may seize all such letters and forward them to the nearest post office, and the officer who shall so seize and send them shall be entitled to a moiety of the penalties which may be recovered for any such offence; and the postmaster general may appoint agents to demand from the masters of vessels arriving in this province all letters on board the same and not exempted by this chapter; and the master of any such vessel shall forthwith deliver all letters on board to such person on his demanding the same.

Way offices, how established

25. The postmaster general, with the approbation of the governor in council, may establish way offices over and above the regular post offices, and every person employed at a way office shall be liable to all the penalties imposed by this chapter on postmasters and other officers of the post office.

Extension of postage accommodations, how provided for

26. The postmaster general, with the concurrence of the governor in council, may enter into an agreement with and take security from any person applying to him to extend the accommodations of the post to any place, for indemnifying the revenue against the expenses which shall be incurred thereby beyond the amount of postages received.

Colonial and foreign newspapers; transmission of, how provided for

27. The Governor in Council may enter into arrangements or conventional agreements with any other of the North American colonies, or with any foreign country for the transmission of colonial or foreign newspapers, or other printed papers within or through this province upon such terms and conditions as shall be reasonable, and may carry out such arrangements or conventional agreements by orders in council duly published as herein directed.

Postage marks, evidence.

28. The postage marks, whether British, foreign, or colonial,

on any letter brought into this province, shall in all courts of justice, and elsewhere, be received as conclusive evidence of the amount of British, foreign, or colonial postage, payable in respect of such letter, in addition to any other postage chargeable thereon, and all such postage shall be recoverable in this province as postage due to her majesty.

Officers exempted from public duty

29. No postmaster general nor any officer of the post office throughout the province, nor any courier, shall be compelled to serve on any jury or inquest, or in the militia, or as a town or city officer.

Misconduct, how punished.

30. If any person employed to convey or deliver a post letter-bag or a post letter, shall, whilst so employed, or whilst the same be in his custody or possession, leave a post letter-bag or a post letter, or if any such person shall be guilty of an act of drunkenness or of negligence, or other misconduct, whereby the safety of a post letter-bag or a post letter shall be endangered, or shall collect, receive, convey or deliver a letter otherwise than in the ordinary course of the post, or shall give any false information of an attempt at robbery upon him, or shall loiter on the road or passage, or wilfully mis-spend his time so as to delay the progress or arrival of a post letter-bag or a post letter, or shall not use proper care and diligence safely to convey a post letter-bag or a post letter at the rate of speed appointed by and according to the regulations of the post office for the time being, he shall forfeit ten pounds.

Ferriage free.

31. No person in the employ of the post office, travelling with a mail, shall pay for passing or repassing a ferry; but the ferryman at every such ferry shall forthwith convey over such person travelling with a mail without payment for the same on pain of forfeiting for every offence five pounds.

Abettors of offences punished as principals.

32. Whoever shall abet or procure the commission of an offence which is by this chapter punishable on summary conviction, shall be liable to the same forfeiture or punishment to which a principal offender is by this chapter made liable.

Letters to be forwarded only by mail; exceptions

33. Subject always to the provisions and regulations hereinbefore contained, the postmaster general shall have the exclusive privilege of conveying, receiving, collecting, sending and delivering letters within this province; and any person who shall, except in the cases hereinafter excepted, collect, send, convey or deliver, or undertake to convey or deliver any letter within this province, or who shall receive or have in his possession any letter for the purpose of conveying or delivering it otherwise than in conformity with this chapter, shall for every letter so unlawfully conveyed or undertaken to be conveyed, received, delivered or found in his possession, incur a penalty of five shillings, but such exclusive privilege, prohibition and penalty shall not apply to—

Letters sent by private individuals to be mailed in the first way or post office:

Letters sent by a messenger on purpose, concerning the private affairs of the sender or receiver:

Letters addressed to a place out of the province and sent by sea and by a private vessel not being a packet boat:

Letters lawfully brought into this province and immediately posted at the nearest post office:

Letters of merchants owners of merchant vessels, or of the cargo, or loading therein, sent by such vessels or by any person employed by such owners for the carriage of such letters according to their respective addresses, and delivered to the persons to whom they are respectively addressed, without pay or advantage for so doing:

Letters concerning goods sent by common known carriers to be delivered with the goods to which such letters relate, without reward or advantage for receiving or delivering them.

Provided that nothing herein contained shall authorize any person to collect any such excepted letters for the purpose of conveying or sending them as hereinbefore mentioned, and that way letters prepaid may be delivered by the officer to the courier to be dropped along the route at convenient places; and provided also, that nothing in this chapter shall oblige any person to send any pamphlet, printed book or newspaper by post.

Letters sent otherwise than by mail seizable

34. It shall be lawful for any person, and it shall be the duty of the officer or person employed in the post office, or in the collection of the revenue, to seize any letters conveyed, received, collected, sent or delivered in contravention of this chapter, and to take them to the nearest post office, and to give such information as he may be able to give to the postmaster for the effectual prosecution of the offender: and the letters moreover shall be charged with letter postage.

Postage by whom and to whom payable.

35. As well the colonial British or foreign, as the provincial postage, on any letter or packet, shall, if not prepaid, be payable to the postmaster general by the party to whom the same shall be addressed, or who may lawfully receive such letter or packet; and any refusal or neglect to pay such postage shall be held to be a refusal to receive such letter or packet, which shall be detained and dealt with accordingly: but if the same be delivered, the postage on it shall be charged against and paid by the postmaster delivering it, saving his right to recover it from the party by whom it was due as money paid for such party. And if any letter or packet be refused, or if the party to whom it is addressed cannot be found, then such postage shall be recoverable by the postmaster general from the sender of such letter or packet; and the postage marked on any letter or packet shall be held to be the true postage due thereon, and the party signing or addressing it shall be held to be the sender until the contrary be shewn: and all postage may be recovered with costs by civil action in any court having jurisdiction to the amount.

Powers and duties of the postmaster general.

36. Subject to the provisions of this chapter and to the orders made under it, and the instructions he may receive from the governor, the postmaster shall have power to open and close post offices

and mail routes, to suspend any postmaster or other officer or servant of the department, until the pleasure of the governor be known, and to appoint a person to act in the meantime in the place of such officer or servant: to enter into and enforce all contracts relating to the conveyance of the mail, the local accommodation of the department and other matters connected with the business thereof, and to make rules and orders for the conduct of and management of the business and affairs of the department and for the guidance and government of the officers and servants thereof in the performance of their duties: to sue for all sums due for postages or penalties under this chapter, or by any postmaster, officer or servant of the department, or his sureties: and all such powers may be lawfully exercised by him, or by any postmaster, officer, servant or party whom he shall depute to exercise the same, or whose act in that behalf he shall approve, confirm or adopt: and every officer, servant or party, employed in the post office shall, as regards the duties attached to the office held by him, be deemed the deputy of such postmaster general. And all suits, proceedings, contracts and official acts to be brought, had, entered into and done by the postmaster general, may be so in and by his name of office, and may be continued, enforced and completed by his successor in office as effectually as by himself: nor shall the appointment or authority of any postmaster general, or of any postmaster, officer or servant of the post office, be liable to be traversed or called in question in any case except only by those who act for the crown.

Soldiers' and seamen's letters privileged

37. In every case in which any seaman in her majesty's navy, sergeant, corporal, drummer, trumpeter, fifer, or private soldier in her majesty's service, or in the service of the East India company, shall be entitled to receive or send letters on the payment of a certain sum and no more, in place of all British postage thereon, the payment of such sum shall likewise free such letter from all provincial postage thereon, and the governor in council may make orders for giving effect to this section.

Property in letters, in whom vested

38. From the time any letter, packet, chattel, money or thing shall be deposited in the post office for the purpose of being sent by post, it shall cease to be the property of the sender, and shall be the property of the party to whom it is addressed, or the legal representatives of such party.

Lost letters: postmaster general not liable for, except where his own default.

39. The postmaster general shall not be liable to any party for the loss of any letter or packet sent by post, unless such loss shall have arisen from his own default.

Offences enumerated and defined, and punishment prescribed.

40. To steal, embezzle, secrete or destroy any post letter shall be felony, punishable in the discretion of the court by imprisonment for not less than three nor more than fourteen years: unless such post letter shall contain any chattel, money, or valuable security; in which case the offence shall be punishable by imprisonment for life, or for a period not less than five years.

To steal from or out of a post letter any chattel, money, or va-

liable security, shall be felony, punishable by imprisonment for life or for a period not less than five years.

To steal a post letter bag, or a post letter from a post letter bag, or a post letter from any post office, or from any way office, or from a mail, or to stop a mail with intent to rob or search the same, shall be felony, punishable by imprisonment for life, or for a period not less than five years.

To open unlawfully any post letter bag, or unlawfully to take any letter out of such bag, shall be felony, punishable by imprisonment for not less than one nor more than fourteen years.

To receive any post letter, or post letter bag, or any chattel, money, or valuable security, the stealing, taking, secreting, or embezzling whereof is hereby made felony, knowing the same to have been feloniously stolen, taken, secreted, or embezzled, shall be felony, punishable by imprisonment for not more than five years, and the offender may be indicted either as an accessory after the fact or for a substantive felony, and in the latter case, whether the principal felon hath or hath not been previously convicted, or shall not be amenable to justice, and however such receiver shall be convicted, the offence shall be punishable as hereinbefore mentioned.

To forge, counterfeit, or imitate any postage stamp issued or used under the authority of this chapter, or by or under the authority of the government, or proper authority of the united kingdom, or of any British possession, or of any foreign country, or knowingly to use any such forged, counterfeit, or imitated stamp, or to engrave, cut, or sink, or make any plate, die, or other thing, whereby to forge, counterfeit, or imitate such stamp, or any part or portion thereof, except by the permission in writing of the postmaster general, or of some officer or person who, under the orders to be made in that behalf, may lawfully grant such permission, or to have possession of any such die, plate, or other thing, without such permission, or to forge, counterfeit, or unlawfully imitate, use, or affix to or upon any letter or packet, any stamp, signature, initials, or other mark or sign, purporting that such letter or packet ought to pass free of postage, or at a lower rate of postage, or that the postage thereon, or any part thereof, hath been prepaid, or ought to be paid by or charged to any person or department, shall be felony, punishable by imprisonment for life, or for a period not less than five years.

To open unlawfully, or wilfully to keep, secrete, delay, or detain or procure, or suffer to be unlawfully opened, kept, secreted or detained any post letter bag, or any post letter, or after payment or tender of the postage thereon, if payable to the party having possession of the same, to neglect or refuse to deliver up any post letter to the person to whom it shall be addressed, or who shall be legally entitled to receive the same, shall be a misdemeanor.

To steal, or for any purpose to embezzle, secrete, destroy, wilfully detain or delay any printed vote or proceeding, newspaper, printed paper or book, sent by post, shall be a misdemeanor.

To obstruct or wilfully delay the passing or progress of any mail, or of any animal or carriage employed in conveying any mail on any public highway, shall be a misdemeanor.

To endeavor to procure any person to commit any act hereby made or declared a felony or misdemeanor, shall be a misdemeanor.

Every misdemeanor hereunder shall be punishable by fine or imprisonment, or both, in the discretion of the court before whom the offender shall be convicted.

Every principal in the second degree, and every accessory before or after the fact to any felony hereunder, shall be guilty of felony, and punishable as the principal in the first degree; and every person who shall abet or procure the commission of any such misdemeanor, shall be guilty of a misdemeanor and punishable as a principal offender.

Any imprisonment awarded under this chapter shall be in the provincial penitentiary, if for a term of or exceeding one year; and if the imprisonment awarded be for a less term, it may be with or without hard labor in the discretion of the court awarding it

Offenders, how prosecuted

41. Any indictable offence against this chapter may be dealt with, indicted and tried, and punished and laid, and charged to have been committed, either in the county or place where the offence shall be committed, or in that in which the offender shall be apprehended or be in custody as if actually committed therein; and where the offence shall be committed in, upon, or in respect of a mail, or upon a person engaged in the conveyance or delivery of a post letter-bag or post letter, or chattel or money, or valuable security, sent by post, such offence may be dealt with and inquired of, tried and punished, and charged to have been committed, as well within the county or place in which the offender shall be apprehended or be in custody as in any county or place through any part whereof such mail, person, post letter-bag, post letter, chattel, money or valuable security shall have passed in the course of conveyance and delivery by the post, in the same manner as if it had been actually committed in such county or place; and in all cases where the side or centre, or other part of a highway, or the side bank, centre or other part of a river or canal, or navigable water, shall constitute the boundary between two counties or places, then to pass along the same, shall be held to be a passing through both; and every accessory before or after the fact, if the offence be felony, and every person abetting or procuring the commission of any offence, if the same be a misdemeanor, may be dealt with, indicted, tried and punished as if he were a principal, and his offence may be laid and charged to have been committed in any county or place where the principal offence may be tried.

Property, in whom and how laid; other allegations.

42. In every case where an offence shall be committed in respect of a post letter-bag or a post letter, packet, chattel, money or valuable security, sent by post, it shall be lawful to lay in the indictment the property of such post letter-bag, post letter, packet, chattel, money or valuable security, sent by post, in the postmaster

general; and it shall not be necessary to allege in the indictment, or to prove upon the trial or otherwise, that the post letter-bag, post letter, packet, chattel or valuable security was of any value: but except in the cases hereinbefore mentioned, the property of any chattel or thing used or employed in the service of the provincial post office, or of the profits arising from the duties of postage shall be laid in her majesty, if the same be the property of her majesty, or if the loss thereof would be borne by the province and not by any party in his private capacity, and in any indictment against a person employed in the post office for an offence against this chapter, or in any indictment against a person for an offence committed in respect of some person so employed, it shall be sufficient to allege that such offender or other person was employed in the post office at the time of the commission of the offence, without stating further the nature or particulars of his employment.

Suits may be compounded

43. The postmaster general, subject always to the orders of the governor in council, may compromise and compound any suit or information which shall be commenced by his authority or under his control against any person for recovering a penalty incurred under this chapter on such terms and conditions as he shall in his discretion think proper, with full power to him or any of the officers and persons acting under his orders to accept the penalty incurred or alleged to be incurred, or any part thereof, without suit or information brought for the recovery thereof.

Pecuniary penalties, how recovered; limitation of actions

44. All mere pecuniary penalties imposed by this chapter, or by any order of the governor in council made under this chapter, shall be recoverable with costs by the postmaster general, by civil action, in any court having jurisdiction to the amount, and shall belong to the province, saving always the power of the governor in council to allow any part or the whole of such penalty to the officer or party by whose information or intervention the same shall have been recovered; but all such penalties shall be sued for within one year after they are incurred, and not afterwards, provided always, that if the penalty exceed twenty pounds the offender may be indicted for a misdemeanor in contravening the provisions of this chapter or of the regulations made under it, instead of being sued for such penalty, and if convicted shall be punished by fine or imprisonment, or both, in the discretion of the court.

Competency of witnesses; burden of proof

45. In any action or proceeding for the recovery of postage, or of any penalty under this chapter, any postmaster, or other officer or servant of the post office, shall be a competent witness, although he may be entitled to or entertain reasonable expectation of receiving some portion or the whole of the sum to be recovered; and the burden of shewing that any thing proved to have been done by the defendant was done in conformity to or without contravention of this chapter, shall be on the defendant.

Pay of postmaster general, clerks, deputy postmasters, and way office keepers

46. The annual salary of the postmaster general for the province of Nova Scotia shall be six hundred pounds currency.

The salary of the first clerk of the post office at Halifax, £187 10 0
Of the second clerk, 125 0 0
Third clerk, 125 0 0
Fourth clerk, 125 0 0
Messenger at Halifax, 75 0 0
Currency.

Deputy postmasters shall, until the last day of the next session, receive and retain, in lieu of their services, twenty per cent. on the amount of postage by them collected; and also the several sums now agreed to be paid to them for extra labor and night work.

Way office keepers shall receive forty shillings a year in full, and the practice of charging two pence on the receipt or delivery of letters shall be discontinued.

Definition of terms.

47. The words "postmaster general" and "post office," when used in this chapter, shall mean the provincial postmaster general and provincial post office, unless otherwise expressed.

Chapter to come into operation by proclamation.

48. This chapter shall come into operation at such time as shall be directed by the governor in council, by proclamation published in the royal gazette.

TITLE V.

OF PUBLIC BUILDINGS AND ESTABLISHMENTS.

CHAPTER 24.

OF THE BOARD OF WORKS.

SECTION
1. Board of works, how constructed; what property controlled.
2. Clerk; his duty and salary.
3. Keepers; their appointment and tenure of office.
4. Salaries of officers.
5. Work done and materials provided by public tenders.
6. Superintendant; his duty and salary.
7. Expenses provided for; no commissions allowed.
8. Accounts how kept; expenditures how drawn.

Board of works, how constructed; what property controlled.

1. The financial secretary, and four other persons to be appointed by the governor in council and to hold office during pleasure, shall constitute a board for the superintendance and management of the provincial building, government house, provincial penitentiary, and all other buildings and property belonging to the province—of all the light houses, buoys and beacons erected or to be erected within the province, and of Sable Island, and of the Seal and Mud Islands, and to be called "the board of works."

Clerk: his duty and salary.

2. The board shall appoint a clerk at a salary not exceeding one hundred pounds a year, who shall hold office during the pleasure of the board.

Keepers; their appointment and tenure of office.

3. The board shall have the appointment of all keepers and other persons to be employed in and about the penitentiary and other public buildings, light houses and islands above mentioned; all such persons to hold office during pleasure, and their appointment to be cancelled in any case in which the governor in council may not approve thereof.

Salaries of officers.

4. The board may allow to all persons so employed such salaries or other compensation as they shall think fit, but all such allowances shall be subject to the approval of the governor in council, and may be altered at their discretion, and shall be subject to the annual revision and control of the legislature.

Work done and materials provided by public tenders.

5. The erection of light houses and beacons, and the purchase of oil and other materials for the use of the light houses and penitentiary, shall in all cases be offered for public competition, after having been duly advertised: and the repairs of the public buildings, light houses and beacons, and the procuring of materials and necessaries for the islands above mentioned shall also be done whenever it is practicable by tender and contract after due advertisement.

Superintendant; his duty and salary.

6. The board may employ a superintendant to visit from time to time the light houses and beacons, and the above islands, or any of them, and may assign him, besides his travelling charges, a salary not exceeding one hundred and fifty pounds a year. The superintendant shall be under the general direction of the board, and shall furnish at least once in every year for the information of the legislature, a report of the condition of such light houses, beacons and islands, and offer suggestions for the improvement thereof.

Expenses provided for: no commissions allowed.

7. The board, with the exception of the financial secretary, shall be repaid any expenses they may incur in the performance of their duties for travelling or contingencies; but none of the board shall be entitled to any commission on the amount of the expenditure, as has been heretofore the practice.

Accounts, how kept: expenditures, how drawn.

8. The account of all expenditures made and expenses incurred by the board under this chapter shall be kept by the clerk of the board, and the amount necessary for that purpose shall be drawn by the board from time to time by warrant on the receiver general, under certificate of the financial secretary: and all such accounts shall be annually presented to the assembly, and be audited along with the other public accounts.

CHAPTER 25.

OF THE PENITENTIARY.

SECTION

1. Penitentiary a prison.
2. Penitentiary vested in her majesty.
3. Mode of removing dismissed officers.
4. Board may make rules for management.
5. Appointment of visitors; their powers.
6. Maintenance of convicts, and their employment.
7. Report of board to be laid before the legislature annually.
8. Convicts, how removed and received.
9. Convicts must undergo medical examination.
10. Discharge of convicts when sick, how conducted.
11. Employ of convicts, how regulated.
12. Admission of persons restricted.
13. Principal keeper; his powers and responsibilities.

SECTION

14. Punishment of convicts for assaults.
15. Incorrigible convicts liable to removal.
16. Insane convicts, how treated.
17. Breaking prison, escapes, and other misconduct, how punished.
18. Rescuing convicts, allowing or assisting escapes, how punished.
19. Subordinate officers punishable for misconduct.
20. Convicts may be tried in supreme court; register evidence of its contents.
21. Expenses of establishment, how provided.
22. Protection of board, and keeper.
23. Limitation of actions.
24. Imprisonment regulated and limited.

1. The provincial penitentiary shall be used as a prison for offenders, as hereinafter specified. Penitentiary a prison.

2. The penitentiary shall be absolutely vested in her majesty. Penitentiary vested in her majesty.

3. If any officer on being dismissed shall not quit the penitentiary, and give up possession of any building or apartment belonging thereto within a period to be fixed by the board of works, any justice of the peace shall, on application of the board, by warrant direct the sheriff to remove such person out of the penitentiary, or any building or apartment belonging thereto, in like manner as upon a writ of *habere facias possessionem*. Mode of removing dismissed officers.

4. The board shall have the same powers with respect to the penitentiary which the visiting justices of any prison in England have, or so much thereof as the governor in council may confer, and may hold meetings and make rules for the government of the penitentiary, for the duties and conduct of the principal keeper and other officers thereof, and for the maintenance, employment, and discipline of the convicts. No rules, or alteration or revocation of former rules, shall be in force until approved by the governor in council. Board may make rules for management.

5. The board shall appoint one or more of their number from time to time to visit the penitentiary, and may delegate to such visitors powers to make any order requisite in cases of pressing emergency. Every such order shall be in writing, and shall be reported, with the circumstances, to the board, at their next meeting. Appointment of visitors; their powers.

6. The board may contract for the clothing, diet, and other necessaries for the maintenance of the convicts, and for the imple- Maintenance of convicts; their employment.

ments or materials for any manufacture or trade in which the convicts shall be employed, and may carry on such manufactures or trade, and sell the goods manufactured.

Report of the board to be laid before the legislature annually.

7. The board shall, on or before the tenth day of January, in each year, and oftener if required by the governor in council, report to him in writing, under the hands of three or more of them, the state of the buildings, the behaviour of the officers and of the convicts, the amount of the earnings of the convicts, and the expense of the penitentiary, and such other matters relating to the management of the prison as they shall deem expedient, or as the governor in council shall direct, and such report shall be laid before the legislature within one month, if the general assembly be then sitting; if not, then within one month after its next meeting.

Convicts, how removed and received

8. The governor may direct the removal to the penitentiary of any convict under sentence of the supreme court, who, having been examined by a medical officer, shall appear free from any putrid or infectious distemper, and fit to be removed from the place of his confinement. The person having the custody of such convict shall, on the receipt of the order of removal, convey him to the penitentiary, and if, on examination by the medical officer there, he shall appear fit to be admitted, shall deliver him into the custody of the principal keeper, with an attested copy of the order of the court, containing the sentence by virtue of which such convict shall be in custody, and also a certificate specifying such particulars concerning such convict as the governor may direct. The principal keeper shall give a receipt in writing to every such person for every convict received into his custody; and all reasonable expenses of such removal shall be paid by the county in which the offender shall have been convicted.

Convicts must undergo medical examination.

9. When any convict ordered to be confined in the penitentiary shall be brought thither, he shall continue in the custody of the person who shall bring him until he has been examined by the medical officer and ascertained to be fit for admission into the penitentiary; and if the medical officer shall certify that he is not fit to be received there, he shall be placed in some hospital.

Discharge of convicts when sick; how conducted

10. No convict received into the custody of the principal keeper shall be discharged at the end or other determination of his term if he shall then labor under any acute or dangerous distemper, unless at his own request; and when any such convict shall be finally discharged, such clothing and assistance in money, or otherwise, as the board shall judge proper, shall be given him.

Employ of convicts, how regulated.

11. The convicts may be employed in work at the penitentiary every day in the year except Sundays, Christmas Day, Good Friday, and any day appointed for a general fast or thanksgiving, so many hours, not exceeding twelve, exclusive of the time allowed for meals and exercise, as the board shall order, but they may by a written order allow any convict at his own request to labor for a longer time.

Admission of persons restricted.

12. No person except the members of the board or servants of

the penitentiary, or persons authorised by the rules made by the board, shall be allowed at any time to enter any part of the penitentiary used by the prisoners, or to converse or hold communication with them.

Principal keeper; his powers and responsibilities.

13. The principal keeper, or person under him, having the custody of the convicts, shall, during the term for which they shall be ordered to remain in custody, have the same powers over them as are incident to the office of sheriff or jailer: and in case of any misbehaviour or negligence in the discharge of his office, shall be liable to the same punishment to which a jailer is now liable.

Punishment of convicts for assaults.

14. If any convict shall assault the principal keeper, or any officer or servant employed in the penitentiary, the board may order him to be prosecuted therefor; and, upon conviction, he shall be imprisoned for any term not exceeding two years, in addition to the term for which he was in the first instance confined.

Incorrigible convicts liable to removal.

15. The governor may at any time order any convict to be removed from the penitentiary as incorrigible, to any other prison or place of confinement in which he may be lawfully imprisoned.

Insane convicts, how treated.

16. If any convict shall be found insane during his confinement, and be so reported by the board to the governor, he may, by warrant, order such convict's immediate removal to such lunatic asylum as he may judge proper. Every convict so removed shall remain under confinement in such asylum until it shall be certified to the governor by two physicians or surgeons, that such convict has become of sound mind. If the term of his imprisonment shall not then have expired, the governor may order that such convict be remanded to the penitentiary; if the period of his imprisonment shall have expired, he shall be discharged.

Breaking prison, escapes, and other misconduct, how punished.

17. Every convict who, during the term of his imprisonment in the penitentiary, shall break prison, or who, while being conveyed to prison, shall escape, shall be punished by an addition, not exceeding three years, to the term of his imprisonment. If afterwards convicted of a second escape or breach of prison, he shall be guilty of felony; and every convict who, during the term of his imprisonment, shall attempt to break prison, or who shall forcibly break out of his cell, or make any breach therein with intent to escape therefrom, shall be punished, by an addition, not exceeding twelve months, to the term of his imprisonment, by the order and direction of the governor in council.

Rescuing convicts, allowing or assisting escapes, how punished.

18. Any person rescuing a convict from the penitentiary or from the person conveying him thither, or aiding in his rescue, shall be guilty of felony; and every person having the charge of a convict, or employed as a keeper or assistant, who shall wilfully allow such convict to escape, or assist him in an attempt to escape though no escape be actually made, and any person attempting to rescue any convict, or aiding in such attempt though no rescue be actually made, shall be guilty of felony: and every person having such custody carelessly allowing any such convict to escape, shall be guilty of a misdemeanor, and being convicted thereof shall be lia-

ble to fine or imprisonment, or to both, at the discretion of the court.

Subordinate officers punishable for misconduct.

19. Every officer or servant of the penitentiary bringing or carrying out, or endeavoring to bring or carry out, or allowing to be brought or carried out to or for any convict, money or any article not allowed by the rules of the penitentiary, shall be forthwith suspended by the principal keeper, who shall report the offence to the board at their next meeting, and the board shall enquire thereof upon oath, which any one of them may administer, and upon proof of the offence shall dismiss such officer or servant, and may, if they think fit, cause the offender to be apprehended and carried before a justice who shall hear and determine any such offence in a summary way; and every officer or servant upon conviction of such offence before a justice, shall be liable to a penalty not exceeding fifty pounds, or, at the discretion of the justice, to be imprisoned in the common jail or penitentiary, there to be kept with or without hard labor for any term not exceeding six months.

Convicts may be tried in supreme court; register evidence of its contents.

20. Every convict or person who shall commit any offence mentioned herein, for which he is not liable to be summarily convicted, may be tried before the supreme court at Halifax or in the county in which he shall be taken: and in case of any prosecution for any such offence, a copy properly attested of the order of commitment to prison with proof that the person in question is the same who was delivered with such order, and the production of the register of the prison shall be sufficient evidence of all the facts entered in such register as to such convict without the production of any other proof that such convict had been convicted of felony and legally sentenced to imprisonment in the penitentiary.

Expenses of establishment, how provided.

21. An account of the expenses of carrying these provisions into execution shall be annually laid before the legislature, and after deducting therefrom any profits arising from the earnings of the convicts the balance shall be provided for by such sums as may be granted by the assembly.

Protection of board and keeper.

22. All provisions of the legislature for protecting justices in the execution of their office, shall extend to the board and the principal keeper of the penitentiary.

Limitation of actions.

23. All actions and prosecutions for any thing done in pursuance of these provisions, shall be laid and tried in the county where the fact was committed, and shall be commenced within six months thereafter.

Imprisonment regulated and limited.

24. Any person convicted of felony under these provisions, shall be liable to imprisonment in the penitentiary for a term not more than fourteen years nor less than one year, as the court shall award.

CHAPTER 26.

OF SABLE ISLAND AND THE LIGHT HOUSES.

SECTION
1. Persons and property found on Sable Island, how disposed of.
2. Rules for the regulation of the island, how made.
3. Members of the board, &c., may act as justices.
4. Vessels and goods wrecked, how disposed of.
5. Sable island within the county of Halifax.
6. Expenses of light houses on St. Paul's and Scatarie, how provided for.

Persons and property found on Sable Island, how disposed of.

1. Any member of the board of works, or their superintendant, or the resident keeper, may apprehend any person who may be found residing on Sable Island, having voluntarily gone there for any purpose whatever without a license from the governor, describing such person and authorising him to reside thereon: and may bring him and all property found in his possession to Halifax; and three justices, upon proof that he was so found, may commit him to jail for not more than six months, and further until he give security for his future good behaviour, and whatever property be found on the island belonging to any such offender, if sufficient to pay the expense of the removal of such offender and goods, shall, by order of such justices, be sold, and the proceeds applied to that purpose, and the residue, if any, returned to the owner; but if it appear that such property has been cast on the shore of the island, or procured from some wrecked or stranded vessel, it shall be sold, and the proceeds, after payment of the expenses, paid to the owner or his agent, or otherwise be paid into the treasury for the right owner when discovered, who, upon proof to the satisfaction of a judge of the supreme court of his right thereto, shall receive the same.

Rules for the regulation of the island, how made.

2. The board may, from time to time, make rules for the government of the island, and for regulating the duties of the resident keeper thereon, for administering relief to shipwrecked persons and their removal, preserving and removing shipwrecked property, and preventing persons not authorised by the governor from taking up their residence thereon, and for the general management of the island.

Members of the board, &c., may act as justices.

3. Every member of the board, and also their superintendant and the resident keeper, shall have, in every respect upon Sable Island, and in relation to wrecks or wrecked goods there and elsewhere, the same power and authority as a justice of the peace.

Vessels and goods wrecked, how disposed of.

4. When vessels or goods shall be stranded on Sable Island, or its bars or coasts, and they, or any part thereof, shall be saved by any of the board, or their superintendant, or any person under the authority of the board, they shall be taken in charge by the superintendant or keeper and sent to Halifax, to be disposed of by the board for the benefit of the owners, after payment of salvage to the

establishment on Sable Island, and all other expenses incurred with respect to them, unless the board shall give contrary orders to the superintendant or keeper; and all goods so saved shall be held to be in the possession of the board, and shall not on any pretence be taken out of the custody of such superintendant or keeper, or person employed by either of them, except by order of the board, nor until payment of the salvage and expenses, and such goods shall be liable to duties as if imported.

Sable Island within the county of Halifax

5. In all proceedings in any court, Sable Island shall be held to be within the county of Halifax, and any person charged with any criminal offence committed thereon, or on its shores, banks, or bars, may be proceeded against and tried as if the island were actually within the body of such county.

Expenses of light houses on St. Paul's and Scatarie, how provided for

6. There shall be annually paid to her majesty, out of the public revenues towards the support of the light houses and humane establishments on the islands of Saint Paul and Scatarie, so long as they shall continue in operation, such sum of money as shall from time to time become payable on the part of this province under the terms of an award made on the sixteenth day of August, one thousand eight hundred and thirty-six, at Miramichi, by commissioners or arbitrators appointed for that purpose by the provinces of Lower Canada, New Brunswick, Nova Scotia and Prince Edward Island, and the governor shall in each year draw his warrant for such sum in favor of the board of works.

TITLE VI.

OF THE MANAGEMENT AND REGULATION OF THE PUBLIC DOMAIN.

CHAPTER 27.

OF THE COAL MINES.

SECTION

1. Proceedings preparatory to opening coal mines on private lands.
2. Land to be laid off by jury, and damages assessed.
3. Verdict of jury to be confirmed; bonds for rent.
4. Lands laid off, how to be used.
5. Railways may be laid down, and buildings erected
6. Possession to revert to owner in certain cases of neglect.
7. Provisions for recommencing works or altering the quantity of lands set off.
8. New bonds provided for in certain cases.
9. Costs of proceedings to be paid by applicant.

Proceedings preparatory to opening coal mines on private lands.

1. Whenever it shall be thought expedient by the government to open and work any mines of coal within the lands of any person for the purpose of raising and taking away coal discovered within

the same, the justices, in general or special sessions, on application in writing by the party authorised to open and work any such mines, shall cause the clerk of the peace, in their presence, to draw the names of twenty-four jurors out of the petty jury list then returned to the supreme court of the county, who shall be persons residing at least five miles from, and having no interest in, such lands, and not being of kin to the parties interested therein, or to the persons applying for the opening and working of such mines; and the justices shall direct the clerk to issue a precept in writing to the sheriff of the county, with a list of the jurors so drawn annexed; by which precept the sheriff shall be commanded to summon the persons named in such list to appear at some convenient place upon or near the said lands upon a certain day, to be at least fourteen days after the issuing of the precept, which shall be made returnable to the court of general sessions for such county, to be held next after the day appointed for the meeting of the jurors, and the clerk shall make out and sign notices in writing of the issuing of such precept, of the time and place of meeting of the jurors, and for what purpose, and upon whose application it issued; six of such notices to be posted up in the most public places in such county, and if the owner of the lands do not reside within such county a notice shall be inserted in two of the Halifax newspapers.

Lands to be laid off by jury, and damages assessed

2. Upon the day appointed for the appearance of the jurors, the sheriff shall call over the list, and of those in attendance the twelve who shall first answer to their names shall be sworn as a jury to the faithful discharge of the duties hereby required of them, and such jury shall proceed to the place intended to be opened, and there lay out so much of the lands as will be sufficient to sink a proper shaft or pit to reach the veins of coal, and also so much as will be sufficient for lodging and depositing whatever may be raised from such mines, and whatever may be necessary to bring to such mines, for the purpose of opening and working the same: and the jury shall at the same time lay out and mark so much of such lands adjoining such shaft or pit as will be necessary to pass through for making a drain to carry off the water from such mines, and also so much of such lands as may be necessary to make a road or a way from such mines to the nearest navigable sea water or public highway. And such jury shall assess reasonable damages to the owners and tenants of such lands, according to the several interests therein, and as such owners or tenants ought to receive for being deprived of the use of the lands so laid off, and for injury done thereto, and for expenses imposed upon them for making fences or ditches for the purpose of separating the lands laid off from other parts of their lands, and shall fix a reasonable annual rent for the use of the lands so laid off.

Verdict of jury to be confirmed; bonds for rent.

3. A list of the names of such jury shall be annexed to the precept, and the verdict of the jury fixing such damages and rent, and to whom and at what time the same are to be respectively paid,

shall be entered at the foot of the list and shall be signed by all the jurors, and the precept, with such list and the verdict of the jury annexed, shall be returned as above mentioned; and the court shall thereupon confirm the same, and order the precept and verdict of the jury to be filed, and shall make an order declaring that so soon as the persons liable by the verdict shall pay the damages therein, and shall enter into bonds, with sufficient sureties to be approved of by the sessions, to pay the annual rent to the persons respectively to whom the same is to be paid, such person shall be authorised to take possession of the lands so set off, with power to hold the same so long as they pay the stipulated annual rents.

Lands laid off, how to be used.

4. No person shall use any part of the lands so set off for any other purpose whatsoever, except such as shall be necessary for making roads, opening drains, erecting necessary works, and all other purposes connected with opening and working such mines to the most advantage; and the persons so authorised, and all persons employed about such mines, shall use the lands in such manner as will be least injurious to the owners and occupants of such lands or any other lands contiguous thereto.

Railways may be laid down and buildings erected.

5. Persons to whom possession of any lands shall be hereby given, may make and repair the roads to and from such mines, and erect thereon railways or any other conveniences to facilitate transportation of the articles necessary to be carried to and from the same, and may erect on the ground set off for the use of the shaft, houses and buildings to shelter the workmen and to contain any articles necessary to be used in and about the premises.

Possession to revert to owner in certain cases of neglect.

6. Persons erecting any engines or machines, houses or buildings on the lands so set off to them, may, during their occupancy, take down the same and remove the materials thereof notwithstanding such buildings and erections may be considered in law as attached to the freehold. And the owners of all the lands set off under the authority of this chapter for the use and accommodation of the workers of such mines, shall be entitled to take possession of all lands so set off in case the working of the mines shall have ceased for six months next before the taking possession unless the working thereof shall have received any temporary interruption from some unforeseen accident; and such owners shall hold the lands so taken possession of as of their first estate, but before such possession be taken reasonable notice must be given to the persons interested in the mines to remove their effects and materials off the premises.

Provisions for re-commencing works, or altering the quantity of lands set off.

7. If it be found expedient to re-commence working any mine after the lands set off for the use thereof shall be taken possession of by the owners, or if it be necessary to alter the quantity of land set off for the use of mines, the same proceedings shall be adopted as hereinbefore stated.

New bonds provided for in certain cases.

8. If any change take place of the persons authorised to work any mine, or their sureties die, remove from the province or become insolvent, the justices in session, on application of either party, may order new bonds to be entered into; and if such new bonds be not

given within a time to be limited therefor, the justices may order possession to be restored to the original owner of such lands, who may thereupon assume the possession thereof, and recover whatever compensation may be due for the time that possession of any such land may be held after such bonds ought to be given.

Costs of proceedings to be paid by applicant

9. All costs incurred in carrying out these provisions shall be paid by the party authorised to open such mines.

CHAPTER 28.

OF THE CROWN LANDS.

SECTION

1. Land boards how constituted ; their duties.
2. Upset price ; survey ; report ; improvements.
3. Reservations when they may be made, and how disposed of.
4. Improved lands ; price how fixed ; how granted.
5. Indian reserves, and free grants.

Land boards, how constituted ; their duties

1. The governor in council may appoint three or more persons in each county to be a land board therefor, who shall collect all information within their counties relating to the ungranted land therein, the quality, description, and value of the buildings and improvements on the occupied portions thereof: they shall receive all applications for grants and shall ascertain what ought to be the price of each lot applied for, when the same has not been occupied or improved as hereinafter mentioned. And when the same has been occupied and improved, then they shall ascertain and determine, to the best of their judgment, what ought to be the price or purchase money thereof, with reference to its original value, independently of the improvements. And the boards shall from time to time transmit to the governor all such information, applications, and reports, accompanied by such remarks as the circumstances of each case may seem to require.

Upset price ; survey ; report ; improvements.

2. The governor in council may settle, from time to time, the price to be paid for ungranted lands, not being less than one shilling and nine pence sterling per acre, and the manner of making the application therefor. Any of her majesty's subjects may, upon due application, become the purchaser at the regulated prices, of such lands as the governor in council shall from time to time see fit to sell, and he shall immediately pay the price and be entitled to possession, if practicable, and to a grant in fee simple, subject to such reservations and conditions as may be deemed necessary, but no grant shall pass until the land shall have been first surveyed and a plan of the survey returned to the surveyor general's office, with a report under the hand of the surveyor, setting forth the quality, situation, and value of the land, and whether at the

time of the survey any persons were in possession thereof, and if so, their names and the value of their respective improvements; and in case at the time of the application there was any dwelling house thereon in which any person then and for a year previously had continually resided, or in case five acres at least of the land had been cleared or cultivated during such persons' actual possession, and had been for at least one year in his constant use, then unless such fact shall have been communicated to the governor before the passing of the grant, he may, within two years, from the passing thereof, if it shall appear proper to do so, declare in council the grant to be vacated, and the same shall thereupon be deemed void.

Reservations when they may be made and how disposed of.

3. Nothing herein contained shall prevent the governor from reserving from sale at the fixed price from time to time any portion of the lands which may appear fit to be reserved; and the lands so reserved the governor may sell or lease at such price, or for such tenure, time, or use, either as regards the land or timber thereof, or quarries or mines thereon, or other benefit derived therefrom, as he may deem expedient.

Improved lands; price how fixed; how granted.

4. The governor may determine the price of all lots of ungranted lands which have been or may be actually and in good faith occupied and improved by subjects of her majesty; but nothing herein shall make it obligatory on the governor to grant or otherwise dispose of any land to persons in possession of or who have improved the same, if the circumstances of the case shall not give such person equitable claim thereto, but such land may be disposed of as the governor shall think just and equitable after report of the land board and full investigation of the facts.

Indian reserves and free grants.

5. The governor may reserve for the use of the Indians of this province such portions of the lands as may be deemed advisable, and make a free grant thereof for the purposes for which they were so reserved.

TITLE VII.

OF THE NATIONAL DEFENCE

CHAPTER 29.

OF THE MILITIA.

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Persons liable to be enrolled.

1. Every man of the age of sixteen and not over sixty years of age, shall be enrolled in the militia.

Regiments how formed, may be divided into battalions.

2. The militia shall be formed into regiments by counties, and the regiments, where the counties are sufficiently populous, shall

be divided into battalions, to consist of not less than three hundred nor more than eight hundred men.

Battalions divided into companies; how officered.

3. For the purpose of conveniently assembling, the battalions shall be formed into companies, by districts, of not less than thirty nor more than eighty men. For every company of not more than sixty men there shall be one captain and two subalterns, and every larger company may have an additional subaltern.

Limits of districts of battalions and companies, how fixed.

4. The governor shall affix the limits comprising the regiments or battalions, and the field officers and captains shall regulate the limits of the districts of the companies, and the number of men to be enrolled in each company, whose names shall be registered by the clerk in a book to be kept by him for the purpose, which shall be ready at all times for the inspection of the officers.

Small companies formed in certain cases.

5. In places where the men liable to serve are not sufficiently numerous to form a complete company, smaller companies may be formed; and where the number shall not exceed twenty, one officer, and exceeding twenty and not over thirty, two officers, shall be appointed for the same.

Limits confirmed.

6. The limits already formed shall remain until altered.

Of flank companies.

7. Flank companies shall wholly consist of light infantry or riflemen, except where grenadiers are already formed, and shall contain such numbers as the governor may determine, and there shall not be more than two such companies to any one regiment.

Of artillery companies and troops of cavalry.

8. The governor may establish artillery companies and troops of cavalry, and limit the numbers of officers and men. Artillery companies now formed shall continue until otherwise ordered.

Flank companies without the limits of the regiment in Halifax.

9. No flank company shall be formed without the limits of the regiment, except in the first and second Halifax regiments, in which the men may reside within the limits of the city.

Enrolment; its continuance in certain cases.

10. Every man enrolled in an artillery, grenadier, light infantry or rifle company, or troop of cavalry, shall continue in his company or troop for five years from the date of his enrolment, unless he shall remove from the district or be discharged by the captain, with the approbation of the colonel.

Artillery & other companies may make rules for their dress, &c

11. Artillery, grenadier, light infantry and rifle companies, and troops of cavalry, at any meeting convened by the captain, of which three days' notice shall be given, may, by vote of the majority present, make rules for their government, dress, drilling and discipline, and may impose a fine not exceeding forty shillings for breach of any such rule, but no rule made under this section shall be acted upon till approved by the captain and the colonel.

Fine for trooper disposing of his horse.

12. If any member of any troop shall dispose of his horse without the consent of the captain he shall forfeit ten pounds.

Enrolment, and fine for neglect.

13. The captain shall enrol every man residing within the limits of his company, who is liable to serve therein, and every man who shall not, within one month after his becoming liable to serve, give in his name and place of residence to the captain, in order to be enrolled, shall forfeit ten shillings.

Removal; fine for not enrolling in such case.

14. Any man removing without the limits of his company

shall, within ten days thereafter, give in his name, age, and place of residence to the captain of the district into which he shall have removed for the purpose of being enrolled therein, under a penalty of ten shillings.

Age disputed, by whom to be proved

15. If any difference shall arise between the captain and any man concerning his age, it shall be incumbent on the man to prove his age.

Fine for non-attendance when not enrolled

16. If any man shall neglect to enrol himself, and shall in consequence be absent from any muster, then, in addition to the fine for not enrolling himself, he shall be liable to the fine for non-attendance at such muster.

Halifax regiments in what company to do duty

17. Every man in the Halifax regiments shall be bound to do his duty in the company in which he was enrolled before the first day of October in every year, and shall be deemed to belong to that company for the year next following, notwithstanding any change of residence within the limits of his regiment.

Men to give notice of removal

18. Any man in the Halifax regiments who shall move out of the limits of his company shall, within one week, give notice of the same to the clerk of the company of his new place of residence, under a penalty of ten shillings.

Clerks of companies, sergeants, &c., how appointed.

19. The captain with the approbation of the colonel, shall appoint a clerk of the company, sergeants, corporals, drummers, and, if necessary, buglers and pipers, and any person refusing such appointment, or accepting and afterwards neglecting his duties therein, shall forfeit forty shillings.

Not obliged to serve out of regimental limits.

20. Any person having an appointment under the last preceding section shall continue therein notwithstanding his removal from the limits of his company, but he shall not be obliged to serve out of the limits of the regiment within which he may reside, unless on actual service.

Clerk's oath.

21. Every clerk of a company shall make the following oath before a justice of the peace: — "I, A. B., do swear truly to perform the duties of my office as clerk of the ——— company of militia, under the command of ———, to the utmost of my skill."

Clerk's exemption and duties.

22. The clerk shall be exempt from draft for actual service. He shall keep a register of his company and furnish to the non-commissioned officers lists of men whom they are to warn for muster, and shall take lists of the company when required by the captain, and attend upon officers making inspection of arms, and shall attend the meetings of the company, and, when ordered, prosecute for all fines in the name of the captain.

Fine for neglect of duty

23. If a clerk shall neglect his duty, he shall forfeit not less than one nor more than five pounds for each offence, to be recovered in the name of the captain.

Sergeant major and clerk of regiment to be appointed; extra clerks

24. The colonel of every regiment shall appoint a sergeant major, and a clerk for the same, and an additional clerk for every division thereof which cannot, from local circumstances, be assembled at the place of general rendezvous; but no more than one additional clerk shall be appointed in any one regiment.

Exemption from draft; clerk to be sworn.

25. The sergeant major and the regimental clerk shall be exempted from draft for actual service, and the clerk shall be sworn into office and be subject to the same liabilities as a clerk of a company, to be enforced by the colonel.

Returns by captains and colonels.

26. Every captain shall before the first day of November in every year, and oftener if the colonel shall require it, make returns of the strength of the company and of the arms thereof; and the colonel shall before the first day of December, make out, for the adjutant general, a return of the strength of his regiment and of the arms, and the amount of fines collected and the expenditure thereof, with vouchers.

Forms of returns.

27. The returns shall be in the form prescribed by the adjutant general.

Fine for false return.

28. Any officer wilfully making a false return shall be cashiered by sentence of a general court martial, and shall pay a fine of twenty pounds.

Fine for neglecting to make returns.

29. Any colonel neglecting to make the return hereinbefore prescribed shall forfeit twenty pounds, and every captain neglecting to make such return shall forfeit five pounds.

Arms to be distributed, how and to whom.

30. Every freeholder of the age of twenty-one years enrolled in the militia shall, after twenty days' notice, attend at the place of distribution of arms and accoutrements, when he shall receive a musket or rifle, and cartouche box capable of containing eighteen rounds of ball cartridge, and a bayonet or sword suitable for such musket or rifle, with proper belts for the same; such accoutrements to be of the same kind as used in her majesty's service.

Bond on receipt of arms: form.

31. Upon receiving his arms and accoutrements, each man shall give a bond in the following form:

"Know all men by these presents that we, A. B. and C. D., are held and firmly bound to our sovereign lady the queen in the sum of five pounds, to be paid to her majesty, her heirs or successors, for which payment, well and truly to be made, we bind ourselves, and either of us by himself, our and each of our heirs, executors and administrators, firmly by these presents, sealed with our seals and dated the —— day of ———, A. D. 18—.

The condition of this obligation is such that if the above bounden A. B. shall at all times hereafter safely keep in good and serviceable order and condition, and have ready to return when called for by the commanding officer of the regiment, [*or* battalion, *as the case may be, specifying the particular regiment or battalion to which such freeholder may belong*] one musket, &c. [*specifying the arms which may have been received by such freeholder*] which have been issued to him under the provincial laws regulating the militia, and shall in all things perform the provisions of such laws touching such arms and accoutrements, then this obligation shall be void.

Signed, sealed, and delivered in the presence of

A. B., l. s.
C. D., l. s."

Bond where lodged; penalty for not receiving arms.

32. All bonds given under the last preceding section shall be lodged with the captain, and any freeholder who shall not receive the arms and accoutrements and give such bond, or who shall not within the time limited provide himself therewith at his own expense, shall pay a fine of two pounds.

Fee on filling up bond.

33. Every freeholder giving such bond shall pay one shilling to the person who shall fill up the same.

Sureties to bonds.

34. Any man over twenty-one, not being a freeholder, shall receive arms and accoutrements upon giving bond, with one surety being a freeholder: and any man under twenty-one shall receive the same upon giving bond with two such sureties.

Arms to be returned when required by captain.

35. Every man when thereunto required by the captain, shall return his arms and accoutrements under a penalty of five pounds, and if the bond be not forthcoming the receipt of the captain shall be a discharge thereof.

Ammunition, &c., to be provided by men.

36. Every man when required by the order of the governor, shall, at his own expense, provide himself with a set of straps for carrying a great coat or blanket, a pricker and brush to clean the pan of his musket or rifle, also with a leathern or canvas knapsack with straps and buckles, three good flints, eighteen ball cartridges of a size to fit the musket or rifle, and forty buckshot, under a penalty of ten shillings.

Fine for appearance at muster unequipped.

37. Any man appearing at a muster without his musket or rifle shall forfeit ten shillings, and he shall further forfeit one shilling for every article enumerated in the last preceding section which he shall have omitted to bring.—flints, cartridges and buckshot to be respectively considered one article.

Arms for persons not giving security, how provided.

38. The captain shall prepare a list of the men in his company who are not obliged or able to give security, or to provide arms at their own expense, and shall receive the arms and accoutrements requisite for them, for the custody and return whereof he shall be responsible, and shall give receipts for them in duplicate, one to be entered in the orderly book and the other to be given to the adjutant general: and every captain who shall not within thirty days after public notice that such arms and accoutrements are to be distributed, prepare such list, receive such arms and accoutrements and sign receipts therefor, shall forfeit five pounds and be deprived of his commission.

Colonels and captains when responsible for arms, &c.

39. Colonels of regiments and captains of troops or artillery companies shall be responsible for arms and accoutrements delivered for them, for which they shall give a receipt to the quarter master general.

Arms how marked.

40. The arms shall be distinctly numbered and marked with a brand on the left side of the broad part of the butt with the county and number of the regiment, and with the letter M; the brand to be provided at the county expense and furnished to the colonel, who shall cause the arms to be branded as prescribed by this section before they are issued.

Arms where to be lodged.

41. The captain shall lodge the arms and accoutrements in a

suitable place to be delivered to the men as he shall order, and every man shall return such arms to the place of deposit within twenty-four hours after performance of the service for which he received the same, under a penalty of five shillings for every day's neglect.

Fine for selling or receiving arms, &c.

42. Every man who shall convey any such arms or accoutrements out of the limits of the regiment except when on duty, or shall dispose thereof, and any person who shall receive the same, shall forfeit five pounds for every musket or rifle and ten shillings for every article of accoutrement. And every person who, without authority, shall convey any such arms or accoutrements on board of any vessel to carry them out of the county, and any person who shall receive them for such purpose, shall forfeit ten pounds.

Persons about to remove with arms &c., may be arrested.

43. If information upon oath shall be given to any justice of the peace that a person offending under the foregoing section, who is not a freeholder, is about to remove out of the county with such arms or accoutrements, the justice may issue his warrant for the apprehension of such person to answer the offence.

Persons restoring arms, &c. entitled to a remission of half the penalty.

44. Any person charged with disposing of or with receiving any arms or accoutrements, who shall immediately restore the same, shall be entitled to a remission of half the fine or term of imprisonment.

Arms, &c., to be inspected by colonel's order.

45. The colonel shall once in every year, and oftener if he shall think it necessary, order an inspection of the arms, accoutrements, and ammunition of the several companies under his command, to be made by one officer of each company, attended by the clerk, calling at the abode of each man and making a return of their condition; and every man whose arms and accoutrements shall be in an unserviceable condition, or who shall be deficient in any of them, shall be subject to the like penalty for every such defect as if the same had occurred at a muster.

Arms, &c., to be returned before removal.

46. Before removing out of the limits of his company, every man shall return to the captain the arms and accoutrements which he shall have received in good and serviceable condition, under a penalty of five pounds.

Fine for arms, &c. being dirty.

47. If any man shall appear at a muster with his arms and accoutrements in a dirty or unserviceable condition, he shall pay not less than two shillings and six pence, nor more than ten shillings.

Arms subject to governor's order before distribution.

48. Until arms shall be ordered for distribution, the governor may make any order for storing and keeping them in order.

Drilling to be subject to governor's order.

49. The governor may make orders for the disciplining of the militia, prescribing the number of days for drill, not to exceed three days in the year, and the mode of assembling; and unless some exigency shall require, there shall be but one day's meeting for drill, at which the first class militia shall attend, and the governor may dispense with any meeting.

Fine on colonels and captains for neglecting to obey training orders.

50. Every colonel who shall neglect to give orders for the assembling of his regiment by companies, as required by the general

orders, for training, shall forfeit twenty pounds; and every captain who shall neglect to obey the orders in this respect shall forfeit five pounds.

Fine for non-attendance, and refusal by men to do duty.

51. Any man who shall, upon notice, neglect to attend without sufficient excuse, shall pay for the first offence ten shillings, for the second offence fifteen shillings, and for every subsequent offence one pound. Every man on parade refusing to perform the duty required of him, or departing from his company without leave from the colonel or captain, shall pay not less than five nor more than twenty shillings, to be imposed by the colonel or captain.

Clerk to give notice of sitting of board of appeal

52. The clerk shall notify every person fined for non-attendance, either personally or by writing left at his last place of abode, that at a certain time, the same not to be less than four days after such notice, and at a place therein to be mentioned, a board of officers will hear appeals.

Boards how formed.

53. The colonel may form boards of officers to hear appeals, to consist of one field officer and two captains, or of three captains, or of two captains and three subalterns, or of one captain and four subalterns, and shall by regimental order appoint a day for the meeting, not to be longer than thirty days after musters, and every captain shall have notice thereof.

Power and duty of boards.

54. The board may remit any fine, on proof of sickness of the man or of one of his family requiring his attendance, or of unavoidable accident rendering it impossible for him to reach the place of meeting, or the sudden occurrence of urgent business the postponement of which would seriously have injured his affairs, but shall remit such fines upon no other grounds. All fines confirmed by the board shall be certified in a schedule to be signed by the president.

Notice of muster where and how given.

55. Every man shall receive at least three days' notice of the musters at which he shall be required to attend, to be given to him in person by any commissioned or non-commissioned officer, clerk, or private having the written orders of the captain, or if he cannot be found to be left at his abode: but in the latter case, if the man shall not receive the notice, he may prove his ignorance thereof either to the captain or to the board of appeal.

Notice of re-assembling how given.

56. The commanding officer at any muster may name another day for re-assembling, and his orders then given shall be a notice to every man who shall have been notified of the first day of meeting.

Captains to report excuse for non-attendance.

57. When a captain shall accept of an excuse for non-attendance, he shall, if required by the colonel, make a written report thereof, and for neglecting to do so shall forfeit two pounds and ten shillings.

Fines for non-attendance of officers.

58. Any officer under the rank of a lieutenant colonel failing to attend a meeting without a reasonable excuse, shall, if a major, forfeit five pounds; if a captain, three pounds; and if a subaltern two pounds; and the adjutant shall receive one fourth of the penalty for his trouble in collecting the same.

In case of invasion, militia may be called into actual service.

59. In case of invasion made or threatened, the governor may call into actual service the militia, and may order any part thereof to march from one part of the province to another.

Of voluntary service for defence of New Brunswick

60. The governor may accept the voluntary service of any of the embodied militia for the defence of New Brunswick against the common enemy; and while serving in that province they shall be governed by the laws made for the government of the militia of this province and by none other.

Sudden attacks how provided against

61. In case of any sudden attack made or threatened, where the governor cannot be immediately consulted, the commanding officer shall, if he think it necessary, call out the militia for actual service. And if any invasion or attack shall be made or threatened in any place where the officer commanding in the county cannot be consulted, the militia may be called out by the officer in command there, and a report shall be made to the commanding officer in the county, who shall despatch an express to the governor notifying the danger, and strength and motions of the enemy; and the commanding officer may impress in such service, men, horses, boats and carriages, as the nature of the case may require, a reasonable compensation for which shall be made to the owners: and the governor in council, on the certificate of the commanding officer and any two captains, shall draw on the treasury for the amount.

Rosters in case of actual service

62. When any part of the militia shall be called into actual service, all duties, except in cases of great emergency, shall be regulated by rosters, to be framed as hereinafter directed.

Men to be classed for service

63. The colonel of every regiment, under the orders of the governor, shall cause the captains to divide the men into two classes, the first to consist of all the able men from the age of eighteen to forty-five, inclusive, which shall be the first for service; the second to consist of those over forty-five and under eighteen, which shall be considered the second for service.

If deficiency of arms first class to be first provided for

64. In case a sufficiency of arms shall not be provided by the province for the whole of the militia, the whole of the first class shall be provided with arms and accoutrements before any of the second class.

Ballots for rosters, rosters how prepared

65. The captain shall cause a ballot to be made of the first class for forming a roster or list, whereby the men may be called into actual service in manner following:

First,—Each name shall be written on a piece of paper which shall be rolled up and put into a box or a hat, and well mixed; all pieces of paper so used to be of equal size and rolled up in the same manner.

Second,—Pieces of paper of equal size rolled up in the same manner and numbered from one to the extent of the number of the men, shall be mixed together in another box or hat.

Third,—Two persons, to be nominated by the captain, shall alternately, until the whole are drawn, publicly draw the names and the clerk shall make a list of such names as they are drawn,

and as each name is drawn shall put the number thereof opposite to such name, and from such list the clerk shall form a roster.

Cavalry and artillery troops drafted and classed.

66. Troops of cavalry and artillery companies shall be drafted and classed for actual service in the same manner.

Men for actual service how furnished & drawn

67. When the governor shall order any number of men for actual service, they shall be furnished in as exact a proportion as possible to the number of effective men; and every company or troop shall furnish its proportion from the first class, according to the roster; and every man so liable to serve, unless prevented by sickness or other sufficient cause, shall go or find an approved substitute, and in default shall be liable to a penalty of ten pounds, and if the same shall not be paid, may, by the commanding officer, be imprisoned for three months, and the next man on the roster shall serve in his place, who shall have the whole of the fine if he shall go or find a substitute; but if he refuse or neglect to go he shall be liable to the same fine and imprisonment, and the next man shall be called out, and shall have the last mentioned fine if he, by himself or a substitute, shall serve, and so as often as such case shall happen; but no man shall receive more than one fine of ten pounds.

Rotation of service

68. If any part of the company shall be called out oftener than once in four years, no man who has served shall be liable to serve again until all the effective men shall have served personally or by substitute.

Provision in case of Quakers.

69. No Quaker shall be subject to such fine; but in case he shall refuse to go or to find a substitute, the captain may procure a substitute for him, and the Quaker shall pay the expense thereof, the same not to exceed ten pounds.

Cases of removal, regulation as to roster

70. When any man shall remove from the limits of the company to any place within the limits of another company, he shall fall in on the roster immediately before the man who has drawn the same number.

Exemptions for one where two or more sons liable to service

71. When there are two or more sons residing in the family of their father or mother for one year preceding who shall be liable to be ordered for service at the same time, one shall be excused, and the next on the list shall be called.

Exemption in case of aged dependant persons

72. If any person aged sixty years or upwards, or any widow, shall have a son, grandson or apprentice, on whom he or she shall be dependant for support, living with him or her for twelve months preceding, he shall be exempted so long as he resides in the family and contributes to the support of the same.

Assessment upon persons in the army or navy employ in Halifax.

73. Whenever a proportion of the militia of the city of Halifax shall be called into service, the colonel of the regiment to which clerks, storekeepers, mechanics or laborers belong who are employed in any department of the army or navy, may apportion the number of drafts which they ought to furnish, and procure substitutes in their places on the most reasonable terms, and the expenses shall be assessed on them in proportion to their daily pay by the colonel with the assistance of two captains.

How levied.

74. Every person assessed under the preceding section shall, on notice, pay the amount to the colonel, and on refusal any justice upon complaint of the commanding officer may issue his warrant of distress upon the offender's goods and sell the same, and for want of goods may commit him to jail until the amount assessed be paid; but any such person may procure a substitute or serve personally, and may, on receiving due notice of the duty required of him, declare such intention.

Fine for non-compliance with orders in case of actual service.

75. Whenever any of the militia shall be ordered into actual service, any man who shall refuse or neglect to obey the order and shall not march and proceed to perform such service as may be required either by himself or his substitute, shall be confined by the commanding officer and be subject to a fine of ten pounds, and in default of payment to three months imprisonment.

Pay in case of actual service

76. When on actual service the officers, non-commissioned officers, trumpeters, drummers, pipers, buglers, fifers and privates shall be entitled to the same pay, allowances and rations as her majesty's regular troops, to be reckoned from the day they march on actual service until dismissed by the governor, and at the time of their dismissal they shall be allowed a number of days' pay to defray their expenses to their usual places of abode, according to their distances, at the rate of fifteen miles a day.

Treasury liable when pay below a certain rate.

77. If the pay to persons under the rank of commissioned officers shall not amount to the rates following, clear of deductions, that is to say: to sergeants, two shillings per day—corporals, trumpeters, drummers, buglers, pipers or fifers, one shilling and six pence per day, and privates one shilling and three pence per day, the governor in council at the time of payment may draw on the treasury for the amount of the deficiency.

Watching and warding provided for

78. The duties of watching and warding shall be equally distributed amongst able bodied men of the district as well officers and those exempted from muster as others, according to a roster to be kept by the captain of every company, and every person refusing to perform his turn of duty shall forfeit ten shillings.

Provision for pay for extra labor

79. When by the direction of the governor guards shall be kept so that the watching and warding performed by any one man shall exceed six days or nights in one year, the governor may pay every such man for the excess over that time according to the rate hereinbefore mentioned upon certificate of the colonel.

Fine for false alarm.

80. Every person wilfully making a false alarm shall forfeit ten pounds.

Expense for defence of districts exposed to attacks by water, how provided.

81. In any district exposed to attack by water, the sessions, on presentment of the grand jury, may assess the sum necessary for providing armed boats for defence, to be under the direction of the commanding officer: and when no longer necessary they may be disposed of by the sessions.

Articles of war in case of invasion may be prescribed.

82. In case of an invasion, or imminent danger thereof, when the militia shall be called out for actual service, such of the articles of war for the government of her majesty's forces as the go-

vernor in council shall consider applicable, and shall be made to conform to the provisions of this chapter, shall be prescribed for, and shall be binding upon the militia, and shall be judicially taken notice of by the courts.

Sentence of death by court martial only in certain cases

83. No officer in her majesty's regular forces shall sit in any court martial in the militia service, nor shall any sentence of general court martial extend to death, unless for desertion to the enemy, for mutiny, traitorous correspondence with the enemy, or traitorously delivering up to the enemy any garrison, fortress, post or guard.

Corporal punishment forbidden; sentence of court martial to be approved by governor

84. No man serving in the militia shall be whipped, or otherwise corporeally punished, in any case except by imprisonment.

No sentence of any court martial shall be carried into execution until approved of by the governor.

General courts martial how constituted

85. The governor may by warrant constitute general courts martial for the trial of all offences made cognizable therein by the law, or the articles of war applicable to the militia, to consist of not less than thirteen commissioned officers, the president to be a field officer.

Oath of officer before trial

86. Every such officer, before any trial, shall take the following oath, to be administered by the judge advocate:

"I, A. B., do swear that I will duly administer justice according to the laws for regulating the militia, without partiality, favor, or affection; and that I will not divulge the sentence of this court until it shall be approved by the governor, and that I will not disclose the vote or opinion of any particular member of the court martial, unless required to give evidence thereof, as a witness, by a court of justice."

No sentence of death except twelve officers concur

87. No sentence of death shall be given against any offender by such general court martial, unless twelve officers shall concur therein.

Judge advocate how appointed; oath of same

88. The governor may appoint any justice of the peace, or other fit person, to be judge advocate at any such general court martial, who shall, previously to any proceeding being taken by the court, take the following oath, to be administered by the president:

"I, A. B., do swear that I will not disclose the vote or opinion of any particular member of this court martial, unless required to give evidence thereof, as a witness, by a court of justice."

Governor's warrant on sentence of death

89. No sentence of death passed by such general court martial shall be executed until the order of the governor, by warrant under his hand and seal, shall be given, which warrant shall direct the time and place and the manner of executing the sentence.

Sentence how executed

90. All sentences of death shall be executed by hanging or shooting the offender, as the warrant shall direct.

Warrant to be read at the execution

91. The governor's warrant shall be a sufficient authority for executing any sentence of death, and such warrant shall be read aloud in the presence of the bystanders before such execution at the time and place fixed for the same.

92. No officer under the rank of a captain shall sit on a court martial for the trial of a field officer. Field officer's trial, who shall sit upon.

93. General courts martial, upon appeal being made from any regimental court martial, may inquire into and confirm or annul the sentence. General court martial a court of appeal.

94. If in the opinion of the general court martial any such appeal shall be made without sufficient cause, they may increase the appellant's punishment by imprisonment where he resides for a term not exceeding thirty days. Powers of general court martial on appeal.

95. Any officer not under the rank of a captain, commanding a regiment, battalion, or detachment, may order a regimental court martial for the trial of any offence cognizable thereby: the court to consist of at least five members, and the president not to be under the rank of captain. Regimental court martial, who may order, how constituted.

96. Such courts martial may fine any offender in a sum not exceeding five pounds, or may imprison him for a term not exceeding thirty days. Powers of court to sentence.

97. No such sentence shall be carried into effect until approved in writing by the officer in command of the regiment, battalion, or detachment. Sentence how approved.

98. All courts martial under this chapter may administer oaths to witnesses in the same manner as is the custom in courts martial in the British army, and they may punish for contempt of court, either by disobedience of its orders or abuse of the court in its presence, by a fine not exceeding five pounds, or imprisonment not exceeding twenty days. Manner of proceeding, and power of court in cases of contempt

99. No person shall sit on a court martial who shall be related to the prosecutor or person accused within the fourth degree. Relations not to sit on court.

100. The accuser shall not sit as a member of the court martial for trial of the person by him accused. Accuser shall not sit.

101. The governor may draw upon the treasury for the sums necessary to defray the expenses of militia courts of inquiry. Expenses of military courts, how defrayed.

102. If upon any emergency arising from invasion made or threatened upon this province, or the province of New Brunswick, it shall be necessary to call into actual service any of the militia, the governor may order the colonel of any regiment to furnish two hundred men for every six hundred men of the first class, or the like proportion for any greater or less number; such men to be furnished either from drafts of the regiments or by volunteers. In cases of emergency colonels of regiments may be required to furnish drafts.

103. The governor may select from the regiments to which they belong, captains and subalterns to command the men furnished under the last section; and may form any number of the men furnished by the different regiments into a regiment or battalion for actual service, and appoint field and staff officers, and an adjutant for the same, and order such regiment or battalion into barracks or camp, and adopt measures to render them efficient for actual service. Officers, how selected; orders for regiment.

104. Upon calling out any body of the militia into actual service, the governor may direct the necessary measures to be adopted Provision in case of disability of men.

to ascertain the ability of every man to perform his duty; and if any man shall be found unable to serve, his place shall be supplied by the colonel, and if such man shall be a substitute the person in whose stead he served shall procure another substitute, under the same penalty as for refusing to go into actual service or find a substitute, or if the man has been originally drafted for the regiment the colonel shall take the next man standing for actual service in the same company, who shall go or find a substitute under the same penalty.

Necessaries when and how provided

105. Every man called into actual service shall supply himself with such necessaries as the governor shall direct, and appear with them where he shall be ordered; and if upon the certificate of the captain, approved by the colonel, it shall appear that any man is not able to supply himself the proper officer shall furnish him with the same at the public cost, not exceeding fifty shillings, and the amount shall be stopped from his pay by gradual deductions.

Desertion how prevented and punished.

106. The colonel may prosecute, either in the supreme court or before any two justices of the peace, any person who shall abet the desertion of a man on actual service under his command, or harbor or assist a deserter, knowing him to be such, and if convicted before the supreme court the offender shall pay twenty pounds or be imprisoned for three months, or if convicted before the two justices he shall pay five pounds, or be imprisoned for twenty days: such imprisonments, however, to terminate in either case upon payment of the penalty.

Power of governor to order drafts, &c. when not for actual service; number of days' drill

107. The governor may order the drafts to be selected and the names returned to him, and the men to be drilled and disciplined without calling them into actual service, and may select officers to command such men, and may direct the measures to be adopted and make such orders as may be necessary for that purpose, but the number of days drill shall not exceed fifteen in any one year.

Of drills, and travel to attend.

108. No man shall be required to attend drill at any squad drill for more than three hours in one day, nor to travel more than four miles from his home to attend such drill, nor to attend any company drill for more than four hours in one day, nor to travel more than twelve miles from his home to attend such company drill.

Fine for non-attendance

109. If any man, being duly notified, shall not attend any squad drill and shall not have a reasonable excuse, to be adjudged of by his captain, he shall be fined in a sum not exceeding ten shillings.

Fine for misbehaviour; commitment and form.

110. If any man shall misbehave at any meeting, or while engaged in militia duty, the commanding officer may impose a fine of not less than five nor more than twenty shillings, or commit him to jail for not more than three days, and shall send with him the following warrant:

"To the sheriff or keeper of the jail for the county of ———. You are hereby required to receive C. D. of my ——— who was guilty of [*state the offence*] on the —— day of ———, while en-

gaged in militia duty under my command, and him closely confine in your jail for the space of ——— from the time of his being delivered into your custody, and at the expiration thereof you are to release the said C. D. on his paying your fees, and this shall be your sufficient warrant.

Given under my hand this —— day of ———, 18—."

Fine for refusal to convey offender to jail; other fines and penalties.

111. If any non-commissioned officer ordered to escort such man to jail shall neglect to do so he shall forfeit forty shillings and be reduced to the ranks; and any private who shall neglect to perform such duty shall pay ten shillings: and any sheriff or jailer who shall refuse to receive and detain him for the time specified in the warrant shall forfeit five pounds.

Fees for commitment; imprisonment.

112. The non-commissioned officers shall receive three pence per mile for conveying the offender to jail, to be paid by the offender before he shall be discharged, and if unable to pay he shall be detained in jail for twenty-four hours for every five shillings of the amount: and in that case the quarter master shall pay the non-commissioned officer his fee out of the fines.

Confinement and fine for interrupting military duty.

113. The commanding officer may confine any person interrupting militia men when on duty, until the duty shall be performed, and the offender shall pay ten shillings for each offence.

Ferriage free to militia; freedom from arrest.

114. Militia men going to and returning from duty shall be entitled to a free passage across any licensed ferry; and shall be free from arrest under civil process, and any officer arresting them shall be liable to an action for damages.

Persons exempt from enrolment.

115. Clergymen, members of the executive council, judges of the supreme court, the master of the rolls, the receiver general, the financial secretary, and the provincial secretary, shall not be liable to be enrolled in the militia.

Persons exempt from musters.

116. The following persons shall be exempted from attending all musters, unless they hold commissions, viz: the members of the legislative council, the members of the house of assembly, the attorney general and the solicitor general, justices of the peace, high sheriffs, coroners, the surveyor general, officers of the customs, officers of the colonial revenue, physicians and surgeons, all clerks, storekeepers, mechanics, laborers and others employed in the civil and military departments, of the army and navy who may be exempted by the governor, one miller to every grist mill, licensed ferrymen, the deputy postmaster general and the clerks in his office, the deputy postmasters and all mail couriers, all firemen and engine men, quakers certified by their society, and all teachers of academies and licensed schoolmasters. But whenever arms and accoutrements shall be distributed, they shall be compelled under the penalties provided for default, unless exempted from enrolment, to provide for themselves the required arms and keep them in order: and shall be liable to be called out and to perform the duties of militia men when called into actual service, or find substitutes.

Sickness to exempt from duty.

117. When any man shall complain that by reason of sickness

or infirmity he is unable to perform the duties required, the colonel shall order a board of one field officer and two captains, or of three captains, to inquire into the complaint; and the court shall cause the man to apply to a physician or surgeon for his certificate, which shall be given without fee under a penalty of forty shillings; and if the board shall report that such man is unable to perform his duty, the colonel shall exempt him therefrom until his disability shall cease.

Fine for false certificates by medical men.

118. Any medical man giving a false certificate under the preceding section shall forfeit ten pounds.

Quarter-master's bonds and commissions

119. The quarter-master shall give bond, with two sureties, to the colonel for the faithful discharge of his duties, and for accounting for and applying all monies and stores he may receive, and he shall receive ten per cent. upon all fines received by him.

Shall exhibit his accounts.

120. The quarter-master shall annually, at the general meeting of the officers, and also upon three other occasions in the year if required by the colonel, exhibit his accounts.

May appoint a quarter-master sergeant.

121. The quarter-master, with the approbation of the colonel, may appoint a quarter-master-sergeant, for whom he shall be responsible.

Meetings to be called by colonel for making regulations, &c

122. Once in every year, and oftener on the advice of three captains if he shall think fit, the colonel shall require the officers to meet at such time and place as he shall appoint, and there confer with him for the better regulation of their companies, for establishing the limits of the company districts, and prescribing the number of men in each company—for appropriating fines, and making such rules as the major part may deem proper for the promotion of military discipline.

Obedience enjoined upon officers by fine.

123. All officers shall yield obedience to the commands of their superior officers, and shall observe the written regulations made at the meetings mentioned in the foregoing section under a penalty of five pounds, to be adjudged at the next meeting; but no officer shall be bound by any regulation concerning his dress or appointment unless two-thirds of the officers of his regiment shall have concurred therein.

Accounts of fines and their appropriation provided for.

124. An account of all fines, with their appropriation, shall be rendered to the secretary's office by the colonel, under the like penalty for default as in the preceding section.

What rules shall require the governor's sanction.

125. No rule shall be in force until it shall receive the governor's sanction, except such as relate to the limits of districts, the number of men in a company, and the appropriation of fines.

Fines on officers for neglecting to attend meetings.

126. If any officer shall neglect to attend any board or meeting ordered by the colonel under this chapter, without a reasonable excuse, he shall forfeit, if a field officer, five pounds; if a captain, three pounds; and if a subaltern, two pounds.

Field officers removing, or unattached, liable to duty

127. Every field officer who shall remove from the district, or who from other causes is not attached to any regiment, but retains a commission in the militia, shall be liable to sit on courts martial and to perform the other duties of his rank when required by his

superior officer, and may, in case of necessity or vacancy, be ordered to take his station in the regiment of the district where he resides: and in case of his neglect to obey such orders may be tried by a general court martial and deprived of his commission.

Officer cashiered, resigning, or dismissed, loses rank, &c.

128. No officer cashiered by the sentence of a general court martial, or who may resign his commission, or who has been dismissed from her majesty's service, or who shall neglect within six months to qualify himself for the duties of his station, and shall on that account upon the representation of the colonel be deprived of his commission by the governor, shall be entitled to any rank or privilege from having held such commission, or be exempted from enrolment or from the performance of the duties of a private.

Officers neglecting to take out commissions liable to be superseded, &c.

129. Any officer who having been appointed to a commission and notified thereof shall neglect for three months to take out his commission shall be liable to be superseded, or shall only take rank from the day on which such commission shall be taken, and which day shall be inserted in the commission as the date thereof.

Inspecting officer may be appointed.

130. The governor may appoint officers to inspect and command all or any of the regiments of militia throughout the province, and such officers, when commissioned and published in general orders to the militia, shall be obeyed in all things lawful by all persons who shall be so placed under their respective commands.

Adjutant general and quarter master general exempt from serving on juries.

131. The adjutant general and quartermaster general shall be exempt from serving on any jury.

Persons of color may be formed into companies.

132. People of color shall be set apart by the colonel and formed into companies or bands of pioneers, as their numbers may admit, and may be commanded by a non-commissioned officer of color, or otherwise, as the colonel shall appoint, and they shall assemble and train under such officer, but no greater degree of duty shall be imposed upon them than upon other militia men.

Provision for persons wounded in actual service.

133. If any person in actual service be wounded or disabled while on duty, he shall be supported out of the public funds of the province as long as the disability shall continue.

Widows and families of persons killed, how provided for.

134. In case of the loss of any officer or man while on actual service, provision shall be made for the widow and family out of the public funds.

Fines how recovered and enforced.

135. All fines, unless otherwise directed, when not exceeding three pounds, shall be recovered before one justice, and when above three pounds before two justices; and if payable by a militia man may be recovered in the name of the officer commanding the company, and the clerk shall be a competent witness; and if payable from an officer, in the name of the adjutant: and the amount in either case may be levied with costs by distress, and for want of goods the offender shall be committed to jail for the term prescribed for the offence, and if no term shall be prescribed he shall be committed for two days for every five shillings of the penalty.

Justices not entitled to fees.

136. No justice of the peace shall take any fee for any service performed under this chapter.

Amendment of process provided for.

137. Any process for recovery of a fine under this chapter may be amended until final judgment.

Appropriation of fines.

138. All fines not otherwise appropriated shall, after deducting one fourth for collecting, be paid to the quartermaster, to be applied under the direction of the colonel towards defraying the expenses of the regiment.

Limitation of actions.

139. All actions for any thing done under this chapter shall be commenced within three months after the cause of action arose, and the defendant may plead the general issue and give this chapter and the special matter in evidence.

Definition of terms.

140. The following terms and expressions, when used in this chapter, shall have the interpretations following, that is to say:

"Regiment," any regiment or battalion of the militia; "colonel," the colonel, lieutenant-colonel, or the commanding officer of any regiment or battalion: "captain," the captain or commanding officer of any company; "clerk," the clerk or any person performing the duties of clerk of a company; and "man," any person enrolled or liable to be enrolled in the militia under the rank of a commissioned officer.

Limitation of chapter.

141. This chapter shall continue in force until the first day of April, one thousand eight hundred and fifty-two.

CHAPTER 30.

OF BILLETTING THE TROOPS AND MILITIA.

SECTION

1. Troops and militia, how billetted.
2. Fine for false certificates.
   Expenses, how provided for and drawn.
4. Certificates under first section, how payable.
5. Further provisions for billetting troops in certain cases.
6. Baggage conveyances provided, rates of charges.
7. Fines for refusal to furnish conveyances
8. Fines on officers for illegal conduct in regard to conveyances.
9. Horses and carts exempted when actually employed

Troops and militia, how billetted.

1. Whenever any detachment of her majesty's forces or of the militia shall be ordered to march in this province, the justices of the peace shall billet them in inns and licensed taverns, or in the houses of persons who have within one month previously kept an inn or licensed tavern: and the persons on whom they are billetted shall furnish such troops or militia with lodging and with provisions, consisting of bread, flesh and vegetables, and the officer commanding them shall give certificates of the number of meals and nights lodging, which shall entitle the person supplying the same to one shilling and three pence for each meal, and for every nights' lodging three pence.

2. If any militia officer shall give a false certificate, he shall be cashiered by a general court martial, and shall also forfeit fifty pounds, to be recovered in the supreme court, one half thereof to be paid to the informer and the remaining half into the treasury. Fine for false certificates.

3. The governor may draw warrants on the treasury in favor of the parties entitled thereto under such certificates for all sums payable for the billetting of the militia, and also for the billetting of regular troops when on a march under a route granted by the governor on their removal from one part in the province to another, but no greater sum shall be drawn in any one year under this section than five hundred pounds. Expenses how provided for and drawn.

4. The certificates of the number of meals and nights lodging furnished to any of her majesty's troops under the first section, and for which payment is not provided under the last section, shall entitle the person who furnished the same to receive payment from the officer granting the certificate, or from the officer appointed by the commander-in-chief to pay the same. Certificates under first section how payable.

5. Where the houses specified in the first section shall not be sufficient to billet the whole regiment or detachment, part of them may be billetted on other housekeepers, in the discretion of the justices; and any person who shall refuse to receive troops or militia so billetted upon him shall forfeit five pounds. Further provisions for billetting troops in certain cases.

6. Two justices may, upon the application of the commanding officer, and on production of a route, signed by the commander-in-chief, order a suitable number of carts or waggons, and horses, to be furnished for conveying the baggage of the regiment or detachment, and the owners shall receive from the officer commanding the detachment at the rate of one shilling a mile for one horse, cart and driver to carry five hundred gross weight for twenty miles, and for every additional horse nine pence a mile, but the additional load for each horse shall not exceed five hundred gross weight. When ordered to halt, two shillings and six pence an hour shall be paid while the detention shall last, and the commanding officer shall make out certificates of the weights, distances, time and cause of detention, and take receipts thereon for payments. Baggage conveyance provided; rate of charges.

7. Any person refusing to furnish horses and carts, or waggons, when ordered, without a reasonable excuse, shall forfeit forty shillings. Fines for refusal to furnish conveyances. 55 G. 3

8. If any commanding officer shall constrain any cart to travel more than twenty miles, or shall refuse to discharge it in due time to return home, or shall overload it either by permitting soldiers or others to ride thereon, or otherwise, or shall force carts or horses from the owners thereof, he shall forfeit forty shillings. Fines on officers for illegal conduct in regard to conveyances.

9. No loaded cart passing from town to town, nor any horse travelling for the owner, shall be taken for the purpose of transporting baggage Horses and carts exempted when actually employed

CHAPTER 31.

OF PUBLIC FORTIFICATIONS.

SECTION
1. Private property, how appropriated for fortifications.
2. Value when found; how and to whom paid.
3. Fines on sheriff and jury neglecting duty.

Private property how appropriated for fortifications.

1. When the commander-in-chief of her majesty's troops shall judge it necessary to erect fortifications on private property, or to apply the same for other military purposes, he shall apply to the supreme court of the county where the lands are situate, and on notice given to the owners a jury of twenty-four freeholders shall be summoned, who, after being sworn, shall view the premises and ascertain to whom the lands belong, and the value of the land of each proprietor separately, and shall return their verdict to the supreme court in writing, under the hands and seals of at least thirteen of them, which shall be filed and become a record of the court.

Value when found, how and to whom paid.

2. The amount of such verdict shall be paid to the respective proprietors named therein, and if any of them shall refuse to accept the same, the money shall be paid into court for their use, and such lands shall thereupon become vested in her majesty for ever. If any proprietor be a minor the value of his land shall be paid to his guardian.

Fine on sheriff and jury neglecting duty.

3. If the sheriff shall neglect to summon a jury, he shall forfeit twenty pounds, and in case any of the jury shall not attend, or shall refuse to be sworn, each offender shall forfeit five pounds.

TITLE VIII.

CHAPTER 32.

OF THE NATURALIZATION OF ALIENS.

SECTION
1. Aliens naturalized by act of assembly.
2. Copy and duplicate of oath where filed; fees of officer.
3. Certificate to be given; contents evidence; fee therefor.

Aliens naturalized by act of assembly.

1. Aliens may be naturalized by an act of the assembly in conformity with the act of the imperial parliament, 10th and 11th Victoria, chapter 83, and shall take and subscribe in duplicate the oath of allegiance before a judge of the supreme court in open court, who shall attest the same.

2. One copy of the oath shall be filed by the officer of the court, who shall receive therefor, and for making the duplicate, twenty shillings; and he shall forthwith transmit the duplicate, certified under his hand and the seal of the court, to be filed in the provincial secretary's office. Copy and duplicate of oath where filed; fees of officer.

3. The officer shall also give a certificate under his hand and the seal of the court that the oath of allegiance has been taken, which certificate shall be evidence of its contents; and therefor he shall be entitled to ten shillings. Certificate to be given; contents evidence; fee therefor.

TITLE IX.

CHAPTER 33.

OF THE CENSUS AND STATISTICAL INFORMATION.

SECTION
1. Board of statistics, how appointed.
2. Forms to be prepared by the board.
3. Duty of board.
4. Secretary of board, how appointed.
5. First and succeeding general census, when to be taken.
6. Counties how divided into districts; appointment of enumerators; of abstracts and returns.
7. Enumerators to be sworn.
8. Their duty.
9. Their powers; penalty for obstructing.
10. Returns, how prepared and filed.
11. Clerk of the peace with justices to examine and correct returns, if necessary, and prepare abstracts for the legislature.
12. Remuneration of enumerators.
13. Remuneration of clerks of the peace.
14. Fine upon enumerators.
15. Offences not specially provided against to be punished as misdemeanors.
Schedule.

1. Two members of the executive council to be appointed by the governor in council, shall, together with the financial secretary for the time being, constitute a board of statistics. Board of statistics how appointed.

2. The board shall prepare and cause to be printed and circulated, as hereinafter provided, all such forms as to them shall seem best adapted for the purposes of this chapter, and such instructions as they shall deem necessary for the guidance of the persons appointed to take the census hereinafter provided for: and shall cause a sufficient supply of such forms and instructions to be forwarded to the several clerks of the peace on or before the first day of September previous to every year appointed for taking the census. The tables to be issued shall be in the form in the schedule, with such additional inquiries as to the board shall seem requisite, and they may strike out any which, in practice, may be found inconvenient. Forms to be prepared by the board.

3. The board shall have the general supervision of the statistics of the province, and shall cause to be prepared annually, and laid before the legislature at an early period of the session, a gene- Duty of board

ral report of such statistics, to comprehend the returns of deaths marriages, baptisms and births, of coroners inquests, and convictions, fines and forfeitures required to be made to them by law. The report shall also contain such information relative to the trade, manufactures, agriculture and population of the province, as they shall be able to obtain.

Secretary of board how appointed.

4. The governor in council may appoint the clerk of the board of revenue to be the secretary of the board, or assign the duties of that office to any of the clerks in the office of the financial secretary, the provincial secretary, or receiver general.

First and succeeding general census when to be taken.

5. The first general census shall be taken between the months of June and December in the present year, and a like general census shall be taken between the same months in every fifth year hereafter.

Counties how divided into districts; appointment of enumerators; of abstracts and returns

6. As soon as the tables and instructions shall be issued by the board, the sessions shall set off the several counties into different sections, following the divisions of electoral districts, but with power to unite districts: and shall appoint enumerators for the different sections, who shall be resident therein: and they shall also appoint two justices to act along with the clerk of the peace in preparing the abstract of the returns as hereinafter provided: of all which the clerk of the peace shall make a return to the board.

Enumerators to be sworn

7. Enumerators, before entering upon the duties of their office, shall be sworn into office before a justice of the peace, who shall administer the oath without charge.

Their duty.

8. The enumerators shall visit every house within their section, and take an account in writing, according to the forms to be provided for that purpose by the board, of every thing specified in the forms.

Their powers; penalty for obstructing

9. The enumerators may demand from the head of every family residing within their respective sections or from any member of the family being more than twenty-one years of age, and from the owners or managers of factories and agents of companies, or from others having knowledge of the matters inquired into and not being minors, true answers to all questions necessary for the purpose of taking such accounts; and any such person who shall not answer, or shall wilfully give a false answer to any such question, and also every person who shall in any way wilfully obstruct an enumerator in the execution of his duties, shall, for every such offence, forfeit not less than ten nor more than fifty shillings.

Returns how prepared and filed.

10. The enumerators shall sign their returns, and certify thereon that the same have been truly and faithfully taken by them, and that the same are correct so far as they can ascertain, and shall lodge the same in the office of the clerk of the peace within one month next after the account shall have been taken.

Clerk of the peace with justices to examine and correct returns, if necessary, and prepare abstracts for the legislature.

11. The clerk of the peace, together with the two justices, shall examine the returns made by the enumerators, and cause any defect or inaccuracy that may be discovered therein, to be supplied or corrected by the enumerators, as far as possible, and shall make

therefrom an abstract in such form as may be required by the board, and shall transmit triplicate copies of the abstract to the board within one month next after receipt of the returns; and copies thereof shall be laid before the two houses of the legislature within the first ten days of the session then next ensuing, and the original returns shall be kept as records of the county in the office of the clerk of the peace.

Remuneration of enumerators.

12. There shall be allowed out of the provincial treasury for each of the enumerators who shall make and transmit to the clerk of the peace faithful returns of the forms issued by the board within the time limited for that purpose, such sums of money as shall be agreed upon by the sessions and enumerators; and if the service shall be agreed to be done by days' work no greater sum shall be paid than six shillings and three pence per day for every day that every such enumerator has been diligently and in good faith engaged in the performance of his duties: and the sessions shall cause an account of such expense to be prepared and signed by the clerk of the peace, and by him returned to the board.

Remuneration of clerks of the peace.

13. Clerks of the peace shall, in full for all their services under this chapter, receive from the provincial treasury seven pounds and ten shillings, to be paid after the taking of every census, on the certificate of the board that the services have been faithfully performed.

Fine upon enumerators.

14. Any enumerator who shall not perform the duties required of him by this chapter shall, for every offence, forfeit not less than five nor more than ten pounds.

Offences not specially provided against to be punished as misdemeanors.

15. Any person who shall not comply with the requirements of this chapter in any matter for which no punishment is herein specially provided, shall be guilty of a misdemeanor.

SCHEDULE.

Schedule.

QUESTIONS.

Buildings.

1. How many inhabited houses.
2. By how many families inhabited.
3. Houses now building.
4. Uninhabited houses.
5. Stores, barns and outhouses

Inhabitants of various ages

6. Number of males under ten years of age
7. Number of females under ten.
8. Number of males from 10 to 20.
9. Number of females from 10 to 20.
10. Number of males from 20 to 30.

11. Number of females from 20 to 30.
12. Number of males from 30 to 40.
13. Number of females from 30 to 40.
14. Number of males from 40 to 50.
15. Number of females from 40 to 50.
16. Number of males above 50.
17. Number of females above 50.

Married.

18. Number of married persons of both sexes.

Widowers.

19. Number of widowers.

Widows.

20. Number of widows.

Rate payers.

21. Number of rate payers.

Paupers.

22. Number of paupers.

Deaf and dumb.

23. Number of males deaf and dumb.
24. Number of females deaf and dumb.

Blind.

25. Number of males blind.
26. Number of females blind.

Lunatics.

27. Number of male lunatics.
28. Number of female lunatics.

Idiots.

29. Number of male idiots.
30. Number of female idiots.

Indians.

31. Number of male indians, including children.
32. Number of female indians, including children.

Colored persons.

33. Number of colored males, including children.
34. Number of colored females, including children.

Assessments.

35. Amount of assessments for county rates.
36. Amount of assessments for poor rates.

37. Highest rate for poor in the county.
38. Lowest rate for poor in the county.

Value of property.

39. Assessed value of real estate.
40. Probable value of real estate.
41. Assessed value of personal estate.

Births, deaths, and marriages.

42. Number of births the preceding year.
43. Number of deaths the preceding year.
44. Number of marriages the preceding year.

Numbers engaged in various occupations.

45. Number of clergymen or ministers.
46. Number of doctors.
47. Number of farmers.
48. Number of mechanics.
49. Number of merchants and traders.
50. Number of persons engaged in the fisheries
51. Number of seamen registered.
52. Number of persons employed at sea.
53. Number of persons engaged in lumbering.

Places of worship.

54. Number of churches and places of worship of each denomination.

Schools and pupils.

55. Number of schools in district.
56. Number of children attending school.

Numbers of various religious denominations.

57. Number of church of England.
58. Number of catholics.
59. Number of kirk of Scotland.
60. Number of free church.
61. Number of presbyterian church of Nova Scotia
62. Number of baptists.
63. Number of methodists.
64. Number of congregationalists.
65. Number of universalists.
66. Number of lutherans, sandimanians, quakers, and other denominations.

Improved land.

67. Number of acres of dike land, and average value.
68. Number of acres of other improved land.

Agricultural produce.

69. Number of tons of hay cut.
70. Number of bushels of wheat raised.
71. Number of bushels of barley raised.
72. Number of bushels of rye raised.
73. Number of bushels of oats raised.
74. Number of bushels of buckwheat raised.
75. Number of bushels of indian corn raised.
76. Number of bushels of peas and beans raised.
77. Quantity of timothy and clover seed raised.
78. Number of bushels of potatoes raised.
79. Number of bushels of turnips raised.
80. Number of bushels of other root crops raised.

Agricultural stock.

81. Number of neat cattle.
82. Number of milch cows.
83. Number of horses.
84. Number of sheep.
85. Number of swine.

Fisheries.

86. Number of vessels engaged in fisheries, and men on board.
87. Amount of tonnage engaged in fisheries.
88. Number of boats engaged in fisheries, and men on board.
89. Number of nets and seines.
90. Quantity of dry fish cured.
91. Quantity of salmon caught and cured.
92. Quantity of mackarel caught and cured.
93. Quantity of shad caught and cured.
94. Quantity of herrings caught and cured.
95. Quantity of smoked herrings cured.
96. Quantities and value of other fish cured.
97. Quantity and value of fish oil.

Mills and factories.

98. Number and value of saw mills, and number of hands employed.

99. Number and value of grist mills, and number of hands employed.

100. Number and value of tanneries, and number of hands employed.

101. Number and value of founderies, and number of hands employed.

102. Number and value of weaving and carding establishments, and number of hands employed.

103. Number and value of breweries and distilleries, and number of hands employed.
104. Number and value of hand-looms.
105. Number and value of factories other than the above, and number of hands employed.
106. Number of steam mills or factories.

Articles manufactured.

107. Number of yards of fulled cloth manufactured last year
108. Number of yards of cloth not fulled.
109. Number of yards of flannel.
110. Value of boots and shoes manufactured.
111. Value of leather manufactured.
112. Value of candles manufactured.
113. Value of soap manufactured.
114. Value of agricultural implements manufactured.
115. Value of chairs and cabinet ware manufactured.
116. Value of carriages manufactured.
117. Value of wooden ware other than the above manufactured.
118. Value of iron castings manufactured.
119. Quantity of coal raised.
120. Quantity of iron smelted, and value.
121. Number of gallons of malt liquor manufactured.
122. Number of gallons of distilled liquor manufactured.
123. Casks of lime burnt, and value.
124. Quantity of bricks manufactured, and value.
125. Number and value of grindstones quarried.
126. Tons and value of gypsum quarried.
127. Quantity of maple sugar manufactured.
128. Quantity of butter manufactured.
129. Quantity of cheese manufactured.
130. Number of vessels built, and tonnage.
131. Number of boats built.
132. Quantity of deal made.
133. Quantity of pine boards made.
134. Quantity of spruce boards made.
135. Quantity of squared timber made.
136. Quantity of staves manufactured.

TITLE X.

OF CERTAIN PUBLIC OFFICERS.

CHAPTER 34.

OF THE SALARIES OF CERTAIN PUBLIC OFFICERS AND CERTAIN PENSIONS.

SECTION

1. Salaries of public officers.
2. Fees disallowed; what salaries are independent of expenses.
3. Salaries, the duration of which are specifically limited.
4. Retiring pensions.
5. Conditions attached to certain pensions.
6. Duration of certain pensions.

Salaries of public officers.

1. There shall be allowed to the several officers hereafter mentioned, to be paid quarterly out of the public funds income and general revenue, the following salaries in sterling money, to wit:

To the governor, three thousand pounds.

To the present chief justice, during his incumbency, one thousand pounds.

To any future chief justice, six hundred and forty pounds.

To the master of the rolls, five hundred and sixty pounds.

To the honorable W. B. Bliss, one of the assistant justices of the supreme court, during his incumbency, six hundred and fifty pounds.

To the other assistant justices, now or hereafter to be appointed, five hundred and sixty pounds.

To the provincial secretary, five hundred and sixty pounds.

To the attorney general, four hundred pounds.

To the solicitor general, one hundred pounds.

To the receiver general, four hundred and eighty pounds.

To the financial secretary, four hundred and eighty pounds.

To the present surveyor general and commissioner of crown lands, for the next three years or for such part of that time as he shall hold the office, four hundred and eighty pounds.

Fees disallowed; what salaries are independent of expenses.

2. The salaries of the chief justice, master of the rolls, assistant justices, and provincial secretary, to be without any fees of office whatsoever; and those of the receiver general and the provincial and financial secretaries to be clear of all deductions for the necessary expenses of their departments.

Salaries, the duration of which are specifically limited.

3. The salaries of the governor, chief justice, master of the rolls, assistant justices, provincial secretary, attorney general, and solicitor general, are to be continued until eighteen months after the demise of her present majesty.

Retiring pensions.

4. There shall be paid quarterly to the several persons hereafter mentioned, for their respective lives, out of the public funds income and general revenue, the following pensions in sterling money, to wit:

To Sir Rupert D. George, four hundred pounds.
John G. Marshall, esquire, two hundred and forty pounds.
Thomas Ritchie, esquire, two hundred and forty pounds.
William Q. Sawers, esquire, two hundred and forty pounds.
Henry W. Crawley, esquire, two hundred and forty pounds.
Thomas Crawley, esquire, one hundred pounds.
Miss Cox, one hundred pounds.

Conditions attached to certain pensions.

5. The pensions to John G. Marshall, Thomas Ritchie, William Q. Sawers, and Henry W. Crawley, esquires, shall cease upon their respectively accepting an office under government of equal or greater value.

Duration of certain pensions.

6. The pensions to Sir Rupert D. George and Miss Cox shall cease eighteen months after the demise of her present majesty, if not sooner determined.

CHAPTER 35.

OF THE QUALIFICATIONS, APPOINTMENT, AND TENURE OF OFFICE OF THE PRINCIPAL JUDICIAL OFFICERS.

SECTION
1. Qualifications of judges.
2. Judges not to enjoy a plurality of offices.
3. Tenure of judges' office.
4. Removal of judges, how effected.
5. Appointment of judges.

Qualifications of judges.

1. No person shall be appointed a judge of the supreme court or master of the rolls unless he shall have been a barrister of this province for ten years, and shall have been practising as such for five years next before such appointment.

Judges not to enjoy a plurality of offices.

2. The judges of the supreme court and master of the rolls shall hold no other office under government except that of judge of the admiralty and that of vice president of the court of marriage and divorce.

Tenure of judges' office.

3. The judges of the supreme court and master of the rolls shall hold their offices during good behavior, notwithstanding the demise of her majesty.

Removal of judges, how effected.

4. Provided always that it may be lawful for the governor to remove any judge of the supreme court or master of the rolls upon the address of the legislative council and house of assembly; and in case any judge so removed shall think himself aggrieved thereby, it shall be lawful for him within six months to appeal to her majesty in her privy council, and such amotion shall not be final until determined by her majesty in her privy council.

Appointment of judges

5. When any judge of the supreme court or master of the rolls shall die or resign his office, or be removed in the manner authorised by the preceding section, it shall be lawful for the governor to appoint by commission, under the great seal of this province, some fit and proper person to hold the said office until the royal pleasure shall be made known, and such appointment shall be held to be superseded by the issuing of a commission under the great seal of this province to the same person or such other person as her majesty shall appoint in the place of any judge who has died or resigned, or been removed in the manner authorised by the preceding section, or by signification, within the province, of the royal decision in the privy council, restoring to his office any judge who may have been so removed.

CHAPTER 36.

OF THE OFFICES OF RECEIVER GENERAL AND FINANCIAL SECRETARY, AND THE RENDERING AND AUDIT OF THE PUBLIC ACCOUNTS.

SECTION

1. Receiver general's bonds and tenure of office.
2. Clerk; his duty, bonds, and salary.
3. Financial secretary's bonds and tenure of office.
4. Clerk; his duty, bonds, and salary.
5. Receiver general and financial secretary members of the administration.
6. Receiver general's official duties.
7. Receiver general manager of treasury notes, funded debt, and savings' bank.
8. Financial secretary's official duties.
9. Warrants drawn only upon accounts duly vouched.
10. Quarterly accounts to be rendered to the financial secretary's office, and presented to the assembly annually.
11. Governor may give directions for the management of the office.

Receiver general's bonds and tenure of office.

1. The receiver general shall give bond in four thousand pounds, with four sureties in one thousand pounds each, for the faithful discharge of his duties, and shall hold office during pleasure.

Clerk; his duty, bonds, and salary.

2. He shall have a principal clerk to assist him in the business of his office, who shall be the cashier of the savings bank, and shall give bond in one thousand pounds, with two sureties in five hundred pounds each, for the faithful discharge of his duties, and shall be entitled to a salary of two hundred and fifty pounds, payable quarterly, such clerk to be appointed by the governor in council, and to hold office during pleasure.

Financial secretary's bonds and tenure of office.

3. The financial secretary shall give bond in two thousand pounds, with two sureties in one thousand pounds each, for the faithful discharge of his duties, and shall hold office during pleasure.

Clerk; his duty, bonds, and salary.

4. He shall have a principal clerk to assist him in the business of his office, who shall give a bond in one thousand pounds, with two sureties in five hundred pounds each, for the faithful discharge

of his duties, and shall be entitled to a salary of two hundred pounds, payable quarterly, such clerk to be appointed by the governor in council, and to hold office during pleasure.

Receiver general and financial secretary members of the administration.

5. The receiver general and financial secretary shall be members of the provincial administration for the time being.

Receiver general's official duties.

6. The receiver general shall receive, and on the warrant of the governor pay, all public monies, and it shall be competent for the governor in council to direct from time to time which of the public accounts shall be filed in his office, and in what form the books to be opened thereat shall be kept; but one general cash book shall be kept by him, in which there shall be entered, from day to day, all monies received and paid, with the names of the parties who received or paid the same, and which book shall be open at all times to the inspection of the members of the executive government, or of any member of the legislature.

Receiver general manager of treasury notes, funded debt, and savings' bank.

7. The receiver general shall manage or superintend the treasury notes, the funded debt, and the savings' bank, as hereafter provided for.

Financial secretary's official duties.

8. It shall be the duty of the financial secretary to examine and check from time to time, as they shall come in, all accounts of public receipt and expenditure of every kind and description. The accounts of the revenue officers and collectors of light duties at Halifax and in the outports shall regularly pass under his supervision, and any error or mistake therein be immediately pointed out and rectified, and the attention of the governor in council if necessary directed thereto; and no account of any public expenditure whatsoever for road work, public buildings, light houses, education, or otherwise, shall be paid by the receiver general until the same shall have been carefully examined and certified to be correct, or any mistake or error therein pointed out and rectified by the financial secretary, or, in case of his absence or indisposition, by his principal clerk.

Warrants drawn only upon accounts duly vouched.

9. Such accounts, so examined and certified under the hand of the financial secretary, or in case of his absence or indisposition under the hand of his principal clerk, shall be necessary vouchers previous to the issue of a warrant for the payment of the sums therein expressed, or for the payment thereof under any general warrant previously issued therefor.

Quarterly accounts to be rendered to the financial secretary's office, and presented to the assembly annually.

10. The principal revenue officer at Halifax and the receiver general shall furnish quarterly accounts of all sums received and paid by them respectively, to be examined and checked by the financial secretary; and such quarterly accounts shall be collected and formed into one general account, to be presented by the principal revenue officer and the receiver general to the general assembly in every year within the first ten days of each session, and to be examined and audited by a joint committee drawn from the legislative council and house of assembly as heretofore.

Governor may give directions for the management of the office.

11. It shall be competent for the governor in council to direct from time to time which of the public accounts shall be filed in the

office of the financial secretary, and in what form the books to be opened thereat shall be kept, and also from time to time on the report of the financial secretary to issue such orders for the more economical expending of the public monies, by the taking of contracts after due advertisement, or by such other guards and provisions as may appear most judicious for the checking of any abuse and the more vigilant and faithful husbanding of the public monies.

CHAPTER 37.

OF THE OFFICES OF SURVEYOR GENERAL AND COMMISSIONER OF CROWN LANDS.

SECTION
1. Surveyor general and commissioner of crown lands' offices united.
2. Clerk and contingent allowances, specified and limited.

Surveyor general and commissioner of crown lands' offices united.

1. The offices of surveyor general and commissioner of crown lands for the whole province shall be united in one person, who shall hold office during pleasure.

Clerk and contingent allowances, specified and limited.

2. The allowance for clerks and contingencies in the said office for the next three years shall be two hundred pounds sterling per annum.

TITLE XI.

CHAPTER 38.

OF TREASURY NOTES, THE FUNDED DEBT, AND THE SAVINGS' BANK.

SECTIONS
1. Commissioners of treasury notes, how appointed.
2. Form and mode of issue provided for.
3. Old notes how replaced.
4. Notes dated previously to 1846, how disposed of.
5. Warrants how paid.
6. Torn and defaced notes provided for; issue limited.
7. Funded debt, payment of how provided
8. Loan certificates may issue; their form, &c.
9. Interest on, when and how payable.
10. Savings' bank, how managed.
11. Interest on deposits; deposits limited.
12. Manner of keeping accounts; demands how provided for.

Commissioners of treasury notes, how appointed.

1. The governor in council shall appoint three commissioners of treasury notes, who shall hold office during pleasure and be

sworn before a judge of the supreme court to the faithful discharge of their duties. Any vacancy to be filled up by a similar appointment.

Form and mode of issue provided for.

2. The form of treasury notes now in use, and the mode of issuing, shall be continued; and all impressions taken from the plate now in the custody of the provincial secretary shall be securely kept in his office till required by the commissioners, or any two of them, at the instance of the governor in council.

Old notes how replaced.

3. The commissioners shall from time to time deliver to the receiver general as many new treasury notes as may be required to replace the old, and such new notes shall be immediately signed by the receiver general.

Notes dated previously to 1846, how disposed of.

4. Treasury notes issued previous to one thousand eight hundred and forty-six, as they come into the treasury shall be delivered to the commissioners to be defaced, and shall be lodged in the provincial secretary's office in sealed packets, which the committee of public accounts shall examine and destroy.

Warrants how paid

5. The receiver general shall pay all warrants in gold or silver, if in the treasury, or in treasury notes issued since one thousand eight hundred and forty-six, which notes shall be again received at the treasury and in payment of duties at their specified value.

Torn and defaced notes provided for; issue limited.

6. Treasury notes issued since one thousand eight hundred and forty-six, when torn or defaced, shall be replaced by new notes, and shall be dealt with as in the fourth preceding section. The whole amount to be issued shall never exceed the amount now issued.

Funded debt, payment of how provided.

7. The governor in council may direct such portion of the funded debt, not due to the savings' bank, to be paid off from time to time as they shall think prudent.

Loan certificates may issue; their form, &c.

8. Loan certificates for the funded debt shall be issued when required in the form now in use, and shall be transferable by endorsement.

Interest on, when and how payable

9. The interest thereon shall be payable to the holders at the treasury on the first days of January and July in every year, when the certificates must be produced.

Savings' bank, how managed.

10. The receiver general shall superintend the savings' bank, and shall see that the same is conducted by the cashier in accordance with instructions issued by the governor in council. The receiver general shall personally superintend the weekly payments and receipts of the cashier, and shall examine his accounts and vouchers every month and certify them to be correct. And the cashier shall prepare at the end of every year a full abstract of the accounts and proceedings, and a report of the state of the bank, to be certified by the receiver general and laid before the legislature.

Interest on deposits; deposits limited

11. Depositors in the bank shall be paid four per cent. interest, and no person shall be allowed to be a depositor of more than fifty pounds. The whole amount of deposits shall not exceed forty thousand pounds.

Manner of keeping accounts; de-

12. The accounts between the bank and the treasury shall be

mands how provided for.

kept as heretofore; and if at any time there shall be a demand upon the bank which the cashier cannot meet the governor in council shall order the same to be paid out of the treasury, and if necessary shall open a cash account with any of the banks in order to meet such demands, and on such terms as may be deemed most advantageous.

TITLE XII.

OF COUNTIES AND COUNTY OFFICERS.

CHAPTER 39.

OF THE BOUNDARIES OF COUNTIES.

SECTION
1. Boundary lines confirmed.
2. County dividing lines, provisions for running.
3. Directions to adjoining counties.
4. Disagreement of surveyors provided against.

Boundary lines confirmed.

1. The boundary lines of counties, and of the district of Saint Mary s, are confirmed as at present established.

County dividing lines, provisions for running.

2. The sessions for any county may choose a surveyor to run a dividing line, or a part thereof, between that and an adjoining county, and shall appoint a day and place for the purpose subsequent to the next term of the sessions of such adjoining county, notice of which shall be transmitted by the clerk of the peace to such sessions at or before their next sittings.

Directions to adjoining county.

3. The sessions of the adjoining county may then nominate a surveyor to meet the other. These two, or in case of neglect of the sessions of the adjoining county to make an appointment, the surveyor first appointed, shall run and mark the dividing line or such part thereof, and make return of the proceedings, with a plan annexed, to the clerk of the peace for each of the counties; and the line, or portion thereof, so surveyed, shall be the boundary between the counties.

Disagreement of surveyors provided against.

4. If the surveyors disagree, each shall make return of his proceedings, with a plan annexed, to the clerk of the peace of the county for which he was appointed, to be transmitted to the provincial secretary s office, and the same shall be laid before the governor in council, who, with or without further evidence, may determine upon a line, a plan whereof shall be sent to the clerk of the peace for each county, and the expense shall be equally divided between the counties and form a county charge.

CHAPTER 40.

OF SHERIFFS.

SECTION

1. Mode of selecting and pricking sheriffs, bonds given before commission.
2. Commission may issue before bonds given in certain cases.
3. Fine for refusing to accept office.
4. Sheriff re-eligible unless objected to by sessions.
5. Death of sheriff provided against.
6. Bonds how given and registered.
7. Allowance of bonds; provisions in case of disallowance.
8. Responsibilities of sureties, and substitution of others.
9. Sheriff's oath.
10. Fine for neglecting to return accounts of forfeitures.
11. Suits upon sheriff's bonds, how brought.
12. Damages regulated in suits for escapes.
13. Writs returned to be endorsed with items of fees.
14. Limitation of actions.

Mode of selecting and pricking sheriffs; bonds given before commission.

1. The chief justice, and a judge of the supreme court selected by him, or, in the absence of the chief justice any two judges selected by the senior judge, together, in either case, with two members of the executive council, shall meet in Halifax during michaelmas term in each year, and select three persons for sheriffs for each county, out of whom the governor in council shall prick one to serve for the ensuing year, who shall reside in his county, and who, upon giving security by bond as hereinafter mentioned, shall receive his commission and be invested with the powers of office.

Commission may issue before bonds given in certain cases.

2. A sheriff may receive his commission before his bond is approved in case the late sheriff has misconducted himself or any of his sureties have become insolvent, or in case of the decease of a sheriff; but such new sheriff must find approved security within one month, to commence from the date of the commission.

Fine for refusing to accept office.

3. If any person appointed shall refuse to accept the office, he shall forfeit fifty pounds, and the governor shall prick another from the list.

Sheriff re-eligible unless objected to by sessions.

4. The name of a person serving the year previous in any county may be again returned, unless a representation by a majority of the justices in session against him be filed in the supreme court in Halifax before michaelmas term.

Death of sheriff provided against.

5. If a sheriff die whilst in office his deputy shall act till another be appointed, and the sureties of the sheriff so dying shall be liable for such deputy as if the sheriff were living. If there be no deputy the governor in council may commission a sheriff for the remainder of the year, who shall file security as other sheriffs.

Bonds how given and registered.

6. Every sheriff shall deposit in the provincial secretary's office a bond for the discharge of the duties of office, to be made to her majesty: himself in one thousand pounds, with two sureties each in five hundred pounds, and the bonds when approved shall be registered in the provincial secretary's office, on the oath of a sub-

scribing witness. Where bonds are lost, certified copies shall be receivable in evidence.

Allowance of bonds; provisions in case of disallowance.

7. Such bonds when received by the provincial secretary shall forthwith be laid before the governor in council, who shall approve or disallow the same within twenty days. Any sheriff whose bond has been disallowed and not giving a satisfactory bond after reasonable notice, may be removed by the governor in council, and the sheriff for the preceding year shall continue in office, his sureties remaining liable. If he be the same person he shall act under his former appointment, and his former sureties shall continue until he find approved security or be removed from office.

Responsibilities of sureties, and substitution of others.

8. The sureties shall be responsible for the performance of the sheriff's duty until the approval of new security. They may at any time pray the governor to relieve them, and if, upon being required, the sheriff shall fail to substitute other approved sureties within one month, the governor in council shall remove him from office.

Sheriff's oath.

9. Before entering upon his duty, every sheriff shall subscribe the following oath:

"I, A. B., do solemnly swear that I will truly serve the queen in the office of sheriff for the county of ———, and promote her majesty's profit in all things which belong to my office, as far as I legally can. I will truly, to the best of my skill and judgment, execute the laws and statutes of the province, and in all things will act uprightly in my office for the honor of the queen and the good of her subjects."

Fine for neglecting to return accounts of forfeitures.

10. If any sheriff delay more than two months after his year of office expire to render an account on oath to the provincial secretary of all forfeitures and debts of the crown levied by him, with the names of parties paying, he shall forfeit twenty pounds to the use of the crown.

Suits upon sheriffs' bonds, how brought.

11. Any person injured by any act or omission of a sheriff, may sue on his bond in the name of the queen, and be entitled to the proceeds with costs. The defendant shall be entitled to costs if judgment be given in his favor, but no action shall be brought upon the bond until judgment shall first have been recovered against the sheriff.

Damages regulated for suits for escapes.

12. In an action brought against a sheriff, jailer, or other officer for an escape under an execution in a civil suit, the jury shall not be bound to find for the whole amount for which the prisoner was committed, but they shall find a verdict for the plaintiff for such sum only as they shall think right and proper under all the circumstances of the case, unless it shall appear on the trial that the escape was connived at, or the officer guilty of gross negligence, and in no case shall they find for more than the amount for which the prisoner was committed.

Writs returned to be endorsed with items of fees.

13. Sheriffs shall return all writs to them directed with the amount of their fees thereon indorsed, and the several items thereof specifically set forth, otherwise the same shall not be taxed or re-

coverable. Sheriffs shall indorse upon every writ returned by them an account of their doings thereon, and when and how executed, and the amount collected on all writs of execution.

14. All actions against sheriffs must be brought within three years from the accruing thereof. Limitation of actions.

CHAPTER 41.

OF CORONERS.

SECTION

1. Coroners, how appointed and sworn.
2. Inquisitions when and how returned.
3. Juries how summoned; inquisition may be on Sunday.
4. Fee for inquisition, how drawn and appropriated.
5. Extraordinary charges provided for.
6. Justices to act in absence of coroner.
7. Returns to board of statistics.

1. Coroners may be appointed by the governor in council, and shall be sworn into office before a judge of the supreme court or the custos of the county. Coroners, how appointed and sworn.

2. Coroners shall return their inquisitions to the clerk of the crown for the county at or before the then next sittings of the supreme court. The clerk shall file the same without fee, and give the coroner a certificate containing the date of the inquisition and the date of filing. Inquisitions when and how returned.

3. Coroners shall either personally or by a constable, furnished by them with a precept, summon a jury of the inhabitants of the county to attend inquisitions when requisite at a time and place appointed, and, if necessary, may hold inquests on a Sunday. Juries how summoned; inquisitions may be on Sunday.

4. Upon the certificate of such clerk of the crown being filed with the provincial secretary, the governor may draw a warrant on the receiver general in favor of the coroner for fifty shillings in full for each inquisition, twelve shillings thereof to be paid to the jury and two shillings and six pence to the constables, for their fees. Fee for inquisition, how drawn and appropriated.

5. If there be any further necessary or extraordinary charge on an inquest or burial it shall be defrayed by the county, the grand jury and sessions approving thereof. Extraordinary charges provided for.

6. In the absence of the coroner, an inquisition may be held before a justice, who shall be entitled in such case to the same fees as a coroner. Justices to act in absence of coroner.

7. Coroners shall return lists in triplicate of the inquests held by them, together with the findings of the juries to the board of statistics, on or before the tenth day of January in every year, under a penalty of five pounds. Returns to board of statistics.

CHAPTER 42.

OF CLERKS OF THE PEACE.

SECTION
1. Clerks of peace, how appointed and sworn
2. Vacancies, provisions for and how filled.
3. Book of rules and orders of session.
4. Returns to board of statistics.
5. Fees forbidden except in cases of licence

Clerks of peace, how appointed and sworn.

1. Clerks of the peace shall be appointed by the custos of the county or district during pleasure, and shall be sworn into office by the custos or a judge of the supreme court.

Vacancies, provisions for and how filled.

2. Upon the death or removal of the custos, and also upon the vote of a majority of the sessions, the office of the clerk of the peace shall become vacant.

Book of rules and orders of session.

3. Every clerk of the peace shall cause to be engrossed in a book kept for that purpose only, and properly indexed, all rules, regulations and orders of the sessions in force, or such as may be made, with their dates respectively, which book shall be open for inspection at all reasonable times.

Returns to board of statistics.

4. Every clerk of the peace shall annually on or before the tenth day of January return in triplicate to the board of statistics a list of all convictions had, and of all fines and penalties imposed by the sessions, the amount of fines and penalties collected and how appropriated, with the names of all offenders, under a penalty of five pounds.

Fees forbidden except in cases of license.

5. No clerk of the peace shall receive any fee for the duties of office except in cases of licenses only.

CHAPTER 43.

OF SURVEYORS OF LAND.

SECTION 1. Deputy surveyors empowered to administer oaths.

Deputy surveyors empowered to administer oaths.

1. All surveyors appointed by the surveyor general as his deputies shall administer an oath to their chainmen before they proceed upon any survey that they will well and truly perform the service according to the best of their skill and judgment under the directions they shall receive from such deputy surveyors.

CHAPTER 44.

OF THE TIMES AND PLACES OF HOLDING THE SESSIONS.

SECTION
1. Halifax sessions when held ; grand jury to attend.
2. Colchester, Cumberland, Pictou, Hants, Kings, Annapolis, Digby, Lunenburg, Queens, Shelburne, Yarmouth, Sydney, Guysborough, Cape Breton, Victoria, Inverness, Richmond ; grand jury's attendance when required.
3. Duration of the sittings of sessions ; of adjournments.
4. Indictments may be found and tried in Halifax sessions.
5. Cases may be prepared for supreme court.
6. Amendments ; adjudication provided for.

Halifax sessions when held ; grand jury to attend.

1. The general sessions of the peace for the county of Halifax shall be held on the first Tuesdays of March, June, September and December, respectively, and the grand jury are required to give their attendance thereat.

Colchester, Cumberland, Pictou, Hants, Kings, Annapolis, Digby, Lunenburg, Queens, Shelburne, Yarmouth, Sydney, Guysborough, Cape Breton, Victoria, Inverness, Richmond ; grand jury's attendance when required.

2. The general sessions of the peace in the other counties shall be held as follows :

For Colchester, on the second Tuesday of January.

Cumberland, first Tuesday of January.

Pictou, first Tuesday of February and first Tuesday of July.

Hants, first Tuesday of October.

Kings, last Tuesday of April and last Tuesday of October.

Annapolis, third Tuesday of April and last Tuesday of October.

Digby, at the sessions house at Clare, last Tuesday of April ; at Digby, first Tuesday of November. The grand jury shall attend each sitting.

Lunenburg, second Monday of April.

Queens, second Tuesday of January.

Shelburne : at Barrington, on the Monday next after the fourth Tuesday of April ; at Shelburne, on the Monday next after the last Tuesday of September. The grand jury shall attend each sitting.

Yarmouth : at Tusket Village on the last Tuesday of April ; at Yarmouth, the third Tuesday of September.

Sydney, second Tuesday of January.

Guysborough : at Guysborough on the first Tuesday of January and first Tuesday of May ; and at Saint Mary's on the first Tuesday of July. The grand jury shall attend in January and July.

Cape Breton, first Tuesday of March and second Tuesday of July. The grand jury shall attend in March.

Victoria, third Tuesday of November.

Inverness, third Tuesday of April and first Tuesday of October. The grand jury shall attend in April.

Richmond, third Tuesday of December.

In counties where two terms are held, except as above provided,

the grand jury shall attend only at the fall or winter term. In all counties where there is a single session for the year, the grand jury shall attend.

Duration of the sittings of sessions; of adjournments

3. The general sessions may be kept open in the county of Halifax fourteen days, but in other counties not more than ten days, and they may be adjourned from time to time during term as occasion shall require.

Indictments may be found and tried in Halifax sessions.

4. Bills of indictment may be preferred, found, and tried, and judgment thereon given in the general sessions of the peace for the county of Halifax as heretofore, and persons convicted thereat may be sentenced to confinement in the provincial penitentiary, in the same manner as if tried and sentenced in the supreme court.

Cases may be prepared for supreme court

5. When a question of law shall arise, and the sessions desire the opinion of the supreme court thereon, the clerk of the peace may be ordered to prepare a case, to be signed by the custos or the presiding justice, which may be filed and entered by either party interested therein, or by the clerk of the peace with the prothonotary, for argument at the next sitting of the supreme court in the county.

Amendments; adjudication provided for

6. The presiding judge may order the case to be sent back to be amended if he shall see fit. He may hear and determine the same, or he may, if he think the matter more fit for the determination of the whole court, grant a rule *nisi*, returnable at Halifax, to be argued and disposed of as other rules are. The judgment of the supreme court, whether in the county or at Halifax, shall be embodied in a rule and returned to the court of sessions by the prothonotary, and shall be final.

CHAPTER 45.

OF SPECIAL SESSIONS.

SECTION
1. Special sessions how called; what business transacted.
2. Number of justices necessary, records to be made out and filed.

Special sessions how called; what business transacted

1. The custos of his own authority may, and upon the written requisition of three justices specifying the particular objects thereof shall, call special sessions for the transaction of any business which may be legally transacted thereat, and he shall in all cases direct the clerk of the peace to convene the same, giving him at the same time the necessary information as to the objects thereof; and the clerk of the peace shall forthwith post up advertisements in at least five of the most public places in the township or settlement interested in the business to be transacted at such sessions, and if there

shall be any business affecting the interests of the county or district generally, then advertisements shall be posted in at least three of the most public places in each township of such county or district, and all such advertisements shall be posted up at least five days before the meeting of the sessions, and shall mention the particular business to be transacted thereat, and a copy of the notice shall be filed by the clerk of the peace, and no business shall be transacted at such sessions other than that contained in the advertisement. In case of the absence from the county or illness of the custos, any three justices may direct the clerk of the peace to call such special sessions.

2. Every special session, unless otherwise prescribed, shall be composed of five or more justices and the clerk of the peace, or in his absence, a fit person to be named by the justices present shall attend and make a record of such sessions and of all proceedings had thereat, to be filed in the office of the clerk of the peace. Number of justices necessary; records to be made and filed.

CHAPTER 46.

OF COUNTY ASSESSMENTS.

SECTION

1. County treasurer, how appointed.
2. Presentments for general purposes.
3. Presentments for local and for special purposes.
4. Amercements for necessary and specific objects in cases of grand jury's neglect.
5. Apportionment of county assessment upon towns and places.
6. Apportionment upon Halifax city, how assessed and payable.
7. Assessors and collectors, how appointed.
8. Apportionment in cases of amercement.
9. Assessors to be notified of appointment; fine for refusal to act.
10. Assessments, when and how made.
11. Unoccupied real estate, how assessed.
12. Assessment rolls to be furnished clerk of peace by assessors; assessors' fees.
13. Collectors to be furnished with copies of rolls.
14. To pay over to treasurer; general return of defaulters.
15. General warrant of distress may issue; constables' fees.
16. Constables' duty on warrant.
17. Commissions to collectors.

SECTION

18. Collector's duties; fine for neglect.
19. Amercements by supreme court on neglect of sessions.
20. Treasurer to receive and pay all county money.
21. Treasurer's accounts to be prepared annually or oftener, and audited.
22. Halifax accounts to be published in the royal gazette.
23. Commissions to county treasurers.
24. Appeals, when and how prosecuted.
25. Repayment provided when so ordered by sessions; appeal not to delay collection.
26. Overseers of works to render accounts with vouchers; proceedings for default.
27. Compensation to overseers, constables, &c.
28. Forfeitures and penalties, how collected and disposed of.
29. Limitation of action and venue.
30. Certiorari, when allowed and how obtained; rates, when quashed.
31. Overpayments not recoverable from collectors.
32. County to mean district in certain cases. Form of general warrant.

1. The grand jury shall annually at the general sessions present the names of three persons, being residents in the county, one County treasurer, how appointed

of whom shall be appointed by the court, treasurer for the county, who shall give bond to her majesty, with sureties to be approved of by the custos, in a sum to be named by the sessions, for the performance of the duties of his office, and shall be sworn into office; and such treasurer shall continue to hold office until a successor be appointed.

Presentments for general purposes

2. The grand jury, on their own knowledge, the recommendation of the court, or the representation of three or more freeholders of such county, shall present any sums of money necessary in their judgment, for any public purpose within the county; the same to be confirmed by the sessions.

Presentments for local and for special purposes

3. Upon the petition of twenty freeholders of any township or place, certified to be such by a justice of the peace, the grand jury may present any sums necessary for the erection or repairs of lock-up-houses, and the payment of keepers thereof; for the purchase, the erection, hiring, or repairing of market or town houses, for the providing of hay scales, weights, and appurtenances, for sets of weights and scales and for measures, long, liquid, and dry, for any township or place, and such sums when confirmed by the sessions shall be added to the apportioned assessment upon such township or place, and assessed and levied exclusively thereon. The sessions may make regulations for the use and management of such buildings and public property, and may appoint keepers thereof.

Amercements for necessary and specific objects in cases of grand jurys' neglect.

4. If any grand jury neglect or refuse to make a presentment when necessary for any of the following purposes, that is to say: for the building or repairing a jail or the appurtenances thereof, a court house or sessions house, and for fuel for the use of the same; for erecting and repairing pounds, and providing bolts, bars and shackles; also for conveying persons accused of crimes to jail when the distance shall be three miles or upwards, at a rate not over six pence per mile: for the decent support of poor criminals, or poor debtors in jail, for the salary to the treasurer of the county, for a salary to the clerk of the peace of not less than twenty pounds, for the maintenance of a jailer, for the paying of criers for the several courts, for defraying the expenses of poor witnesses on the trial of persons accused of any criminal offence, for defraying the charges of public executions and of conveying criminals under sentence to their places of confinement, for defraying the expenses of persons sentenced to confinement and labor within the county, and procuring materials for such labor: for paying extraordinary expenses ordered by the sessions to constables and incurred in execution of their duty in cases of riot or felony; for paying allowances to special constables ordered by the sessions about executing or assisting, or trying to execute warrants for felony or misdemeanor; for expenses incurred or necessary to be raised about repairing bridges within the county: for expenses incurred about removing county rates by certiorari or otherwise, or in prosecuting or defending any action or proceeding at law respecting such county affairs; the jus-

tices in session shall amerce the county for any sum which may appear to them necessary to be raised for any such purpose.

Apportionment of county assessment upon towns and places.

5. So soon as the amount to be raised in the county shall be determined, the sessions shall ascertain what portion each township and place shall contribute.

Apportionment upon Halifax city how assessed and payable.

6. The amount to be assessed upon the city of Halifax being so ascertained, shall be furnished by the clerk of the peace to the city clerk, and thereupon it shall be assessed upon the city, and collected at the same time and in the same manner as other city rates. The amount so collected shall be held payable to the order of the sessions. The city of Halifax is exempted from the operation of the remaining sections of this chapter.

Assessors and collectors, how appointed

7. When any presentment shall be made, the grand jury shall furnish to the court the names of such number of the freeholders of the county as the court shall direct, to be assessors and collectors respectively for the several townships and places in such county, and the court shall appoint not less than half the persons named.

Apportionment in cases of amercement.

8. In case of amercement where no assessors or collectors shall have been appointed, the sessions shall appoint the necessary number, being freeholders within the county.

Assessors to be notified of appointment; fine for refusal to act.

9. The clerk of the peace for the county shall in all cases notify the assessors of their appointment, and they shall be sworn into office; and in case of refusal to act, such assessors shall forfeit five pounds.

Assessments, when and how made.

10. The assessors for each township and place shall meet at a time to be appointed by the clerk of the peace, and shall, within twenty days after being sworn into office, assess the sums so proportioned upon the inhabitants of each township or place by an equal pound rate on the real and personal property in their respective occupation or possession within the county, whether the same be or be not in such township or place, regard being had to the value of the rents of the real estate, and the capability of the personal estate to produce profit, in which assessment the assessors shall be included.

Unoccupied real estate, how assessed.

11. Where real estate within the county is not in the occupation or possession of any inhabitant but produces some profit to the owner, such owner shall be liable for a due proportion of the pound rate in respect of such real estate, and if the same be not paid after reasonable notice to the owner or his agent, the collectors shall let so much of such real estate as will yield a rent sufficient to cover the rate and the expense of letting.

Assessment rolls to be furnished clerk of peace by assessors; assessors' fees.

12. The assessors shall, within twenty-five days after being sworn into office, furnish the clerk of the peace with rolls of the names of the inhabitants so assessed, with the sums assessed opposite each name, which assessment shall be made and rolls subscribed by a majority of the assessors making the same; and every assessor while employed shall receive at the rate of five shillings a day, not to exceed three days, to be added to the assessment, and shall forfeit five pounds for every neglect of duty.

Collectors to be furnished with copies of rolls.

13. Immediately after the assessments upon the townships and places shall have been returned by the assessors, the clerk of the peace shall furnish the collectors with rolls of the assessment for each township and place respectively.

To pay over to treasurer; general return of defaulters.

14. The collectors shall pay over the monies received without delay to the treasurer, who, if necessary, may maintain an action therefor: and every collector shall make a general return to a justice within the township or place, or if none reside there, to any justice of the county, of every person who, after demand made, shall not have paid his rate: and the collector shall make oath in writing before such justice, setting forth the name of every defaulter, the sum assessed, that demand has been made, and what portion of the rate is unpaid.

General warrant of distress may issue; constables' fees.

15. Such justice shall thereupon forthwith issue a general warrant of distress against the several defaulters in the form in the schedule directed to a constable not being such collector, commanding him to levy from the goods of each person named in the warrant the sum due by such person, with constable and justices fees. The justice's fee for such warrant shall be three shillings and six pence, and the constable's fee for each person in the warrant shall be one shilling, but the constable shall have no travelling fees or poundage, and the justice's fee shall be apportioned among the several persons, if more than one, in the warrant; and no suit shall be brought against such defaulters before any justice.

Constables' duty on warrant.

16. The constable shall forthwith execute such warrant, and pay over the amount collected thereunder to the collector for such township or place, who shall thereupon pay the same to the county treasurer.

Commissions to collectors.

17. The rate of commission to collectors shall not be more than five per cent., but the sessions shall have power to fix a smaller rate.

Collectors' duties, fine for neglect.

18. Every person appointed a collector who shall neglect to be sworn into office, or who shall not perform the duties thereof, shall forfeit forty shillings, recoverable in the name of the county treasurer, as other debts of the like amount are, which sum, when collected, shall be paid into the county fund.

Amercements by supreme court on neglect of sessions.

19. If the sessions shall neglect to make presentment as herein directed, the supreme court shall amerce the county in such sum as shall appear to them upon affidavit of a rate-payer to be necessary for the purpose of the fourth section, which sum shall be assessed upon the inhabitants of the county, collected, paid to the treasurer, and accounted for as other rates.

Treasurer to receive and pay all county money

20. All monies belonging to or due the county shall be paid to the treasurer thereof, and all money due from the county shall be paid by him on the order of the sessions.

Treasurer's accounts to be prepared annually or oftener, and audited

21. The treasurer shall once in every year make up his account and send the same to the clerk of the peace to be filed, and the same shall be laid before the justices and grand jury on the first day of the next sessions, to be audited; but the justices, either

in general or special sessions, may at any time before the sessions, if they see fit, order the county treasurer to make out and render his account up to any period named in such order.

Halifax accounts to be published in the royal gazette.

22. The accounts for Halifax county shall be laid before the December sessions, and after they have been audited shall be published in the royal gazette.

Commissions to county treasurers.

23. There shall be allowed to the treasurer five per cent. on all monies received by him.

Appeals, when and how prosecuted.

24. Any person aggrieved by the assessment or the levy may appeal to the next sessions held in such county, or to any special sessions to be held for hearing appeals, giving at least eight days' notice to the clerk of the peace of such appeal, who is required to appear in support of the assessment or rate; and the court of appeal, without prejudice to the whole or any part of the assessment, may either set aside or lower the rate on such person, or finally determine the appeal as they shall see fit.

Repayment provided when so ordered by sessions; appeal not to delay collection.

25. If any money has been paid by the appellant, and the sessions adjudge that the same or any part thereof be returned, the same shall by order of the sessions be repaid by the treasurer out of any money received from the general assessment of the county; but no appeal shall delay the collection or recovery of the sum assessed upon the appellant.

Overseers of works to render accounts with vouchers; proceedings for default.

26. Every person appointed by any presentment and order thereon, or by any amercement, to be an overseer of work or distributor of money so raised, shall at the next sessions, and within a reasonable time, by the sessions to be appointed, produce his account on oath if required, with vouchers, that the money by him received has been expended according to law; and if upon account made he shall be found to have money on hand, he shall forthwith pay the same to such person as the sessions shall appoint, and in default of such account or payment he shall, by warrant of the sessions, be committed to jail, there to remain in close confinement for three months, or until such account be made, and the balance be paid with costs, or sufficient security be given for the same.

Compensation to overseers, constables, &c.

27. The sessions, out of the money assessed, shall from time to time order a reasonable compensation to overseers, distributors of money, and constables employed under this chapter.

Forfeitures and penalties, how collected and disposed of.

28. Forfeitures and penalties hereby imposed, the collection of which is not otherwise provided for, shall be sued for by the clerk of the peace, by direction of two justices, and collected as other debts of like amount, with costs; but no suit shall be brought before a justice who shall have directed the same: and forfeitures and penalties when recovered shall be paid to the treasurer for county purposes.

Limitation of action and venue.

29. No action shall be commenced for any thing done in pursuance of this chapter after six months from the date of the act complained of; and every such action shall be laid where the cause of action arose.

Certiorari, when allowed and how

30. No certiorari to remove rates or orders, or other proceed-

obtained; rates, when quashed

ings of the sessions touching rates, shall be granted but upon motion in the first week of the next term in the county after the time of appeal has expired; and upon it being made to appear by affidavit that the merits of the question on such appeal or orders will by such removal come properly in judgment; and no certiorari shall be allowed till a bond with one surety to be approved by the treasurer be given to him in ten pounds to prosecute the same with effect, and pay the costs if the rates or orders be confirmed; nor shall any rates or orders be quashed for matter of form only, nor any general rate for any illegality in the rates of individuals, except as to such individuals.

Overpayments not recoverable from collectors

31. No action shall be brought against a collector or receiver of money on a rate subsequently quashed on a certiorari or otherwise, but the person who has overpaid shall have the amount refunded by the treasurer on the order of the sessions.

County to mean district in certain cases.

32. The word "county" in this chapter shall include a district wherever a county has been, or hereafter may be, divided into districts.

SCHEDULE.

Form of general warrant of distress.

County of } To A. B., one of the constables of the township of ———.

Form of general warrant.

Whereas by a rate and assessment made in conformity with law, the persons named in the schedule hereunto annexed have been assessed for county rates for the year ending the ———; and whereas it appears to me, one of the justices of the peace for such county upon the oath of C. D., one of the collectors for such township, that the several sums for which they have been assessed have been demanded from such persons respectively, and that the sums set opposite their names in such schedule remain unpaid: these are therefore to require you forthwith to make distress of the goods and chattels of the persons mentioned in the schedule; and if within the space of five days next after such distress by you taken the sums in the schedule set opposite their respective names, being the sums rated on them respectively, together with their proportion of justice's and constable's fees and the necessary charges of taking and keeping the distress be not paid by each of them respectively, that then you do sell the goods and chattels of such of them as shall not have paid such sums with fees as above mentioned, and out of the monies arising from such sale you do forthwith pay over the sums so due by them respectively to the said C. D., the collector, together with the justice's and constable's fees, if any, by him paid; and that you do render to the owners of the goods respectively upon demand the surplus remaining from such sale, the necessary charges of taking, keeping and selling the dis-

tress being first deducted, and if no such distress can be made, that then you certify the same to me.

Given under my hand and seal, the —— day of ———, A. D. 18—

(Signed) ———, J. P. (seal.)

CHAPTER 47.

OF JAILS AND OTHER COUNTY BUILDINGS.

SECTION

1. Jails, court houses and sessions, how erected and repaired.
2. Spirituous liquors forbidden within jail limits.
3. Penalties for a second conviction.
4. Prosecutions to be by clerk of license.
5. Liquors when prescribed medicinally may be furnished.
6. Exceptions where houses within the limits.
7. Jail limits and yards, as well as the conduct of sheriff's and officers, to be regulated by supreme court.
8. Orders touching county buildings, affecting jails, jailers and prisoners, made by sessions in certain cases.
9. Jailer's salary, how regulated; fees may be abolished.
10. Sessions' orders to be submitted to the supreme court for allowance.
11. Jail regulations to be posted in the building.

Jails, court houses and sessions, how erected and repaired.

1. County or district jails, court houses and session's houses, may be erected and repaired by order of the grand juries and sessions in the respective counties and districts.

Spirituous liquors forbidden within jail limits.

2. If a jailer or other person shall sell or deliver, or permit any person to sell or deliver to any prisoner or other person any spirituous liquors in any jail or jail yard, or within the limits of any jail, or in any room or part of a house or building where a jail is kept, or shall bring or suffer such liquors to be brought therein to be used by any prisoner there, such person shall forfeit a sum not exceeding three pounds.

Penalties for a second conviction.

3. Every jailer on a second conviction therefor, shall, in addition to paying a second fine, be disqualified for office, and be forthwith dismissed.

Prosecutions to be by clerk of license.

4. Prosecutions shall be in the name of the clerk of the licenses for the county or district, and on information given him it shall be imperative upon him to sue for such fine.

Liquors when prescribed medicinally may be furnished.

5. Nothing herein contained shall prevent the introduction of liquors for sick persons being in jail when prescribed in writing by a physician.

Exceptions where houses within the limits.

6. If the limits of a jail extend beyond the jail yard, and include any house or building other than the jail, nothing herein contained shall extend to such limits unless as respects delivering or carrying such spirituous liquors to prisoners confined within such jail or the limits thereof.

Jail limits and yards, as well as the conduct of

7. The supreme court in the different counties shall from time to time make and publish rules and orders for fixing and ascertain-

sheriffs and officers, to be regulated by supreme court.

ing the limits and boundaries of jail yards, and for directing and controlling the conduct of sheriffs, jailers and officers having the charge or custody of prisoners, and for their safe keeping and protection.

Orders touching county buildings, affecting jails, jailers, and prisoners, made by sessions in certain cases

8. The justices in sessions may make orders for the regulation of county buildings and for the internal regulation of jails, for the guidance of jailers and other subordinate prison officers, and for the comfort and control of prisoners; but the same shall not extend to interfere with or affect the security of prisoners there confined, nor the custody or control of the sheriff over his prisoners, nor to lessen his responsibility for their safe keeping.

Jailer's salary, how regulated; fees may be abolished.

9. The justices in session, with the assent of the grand jury, may regulate the salary of jailers and subordinate prison officers, and may regulate or abolish the payment by prisoners of fees.

Sessions orders to be submitted to the supreme court for allowance.

10. Certified copies of all such orders shall forthwith thereafter be furnished by the clerk of the peace to the prothonotary of the county, and thereupon the supreme court at its next term may alter, disallow or confirm the same. If not altered or disallowed at the next term, they shall immediately thereafter be in force.

Jail regulations to be posted in the building.

11. Every sheriff and every jailer shall keep a copy of the jail regulations posted in some conspicuous part of the building, and the clerk of the peace shall furnish him therewith upon demand.

TITLE XIII.

OF TOWNSHIPS AND TOWNSHIP OFFICERS.

CHAPTER 48.

OF TOWNSHIPS, THEIR POWERS AND DUTIES, AND THE APPOINTMENT, QUALIFICATION, AND DUTIES OF TOWNSHIP OFFICERS.

SECTION
1. Boundaries of townships confirmed.
2. Surveyors of township lines appointed; their duties.
3. Town officers, how nominated and appointed.
4. Surveyors of highways, how appointed in cases of omission of sessions.
5. Officers to be sworn in; fines for certain offences.
6. Provisions in case of death, absence, &c. for a successor.
7. Custody of town plans, grants, &c. provided; fee for inspection.

Boundaries of townships confirmed.

1. The boundary lines of townships, wherever the same have been established, are confirmed.

Surveyors of township lines appointed; their duties.

2. The grand jury for each county, when required by the court of general sessions, shall nominate out of the respective

townships within the county, or any of them, six persons, out of whom the justices shall appoint three to be surveyors of lines and bounds of such townships, who shall survey, examine, and ascertain the lines and bounds of such townships, in such manner as the sessions shall direct; and the lines of townships so surveyed, when confirmed by the sessions, shall be binding.

Town officers, how nominated and appointed.

3. The grand juries in the several sessions of the peace shall annually nominate such number of persons for town officers as the justices shall direct, out of whom the justices shall appoint such number as may be deemed expedient.

Surveyors of highways, how appointed in cases of omission of sessions.

4. If the grand jury and sessions shall not appoint a surveyor of highways for any particular district, any two justices of the peace of the township or settlement may make such appointment.

Officers to be sworn in; fines for certain offences.

5. The officers so appointed shall be respectively sworn to the faithful discharge of their duty before a justice, before entering thereon; and upon refusal to accept office or neglect to be sworn in within fourteen days, or misbehaviour therein, every such officer for each offence shall forfeit forty shillings.

Provisions in case of death, absence, &c. for a successor.

6. If any person so appointed shall die or leave the township during his term of office, or shall not perform the duties thereof, any two justices of the township or settlement may appoint a successor until another person shall be appointed by the grand jury and sessions at their next meeting.

Custody of town plans, grants, &c. provided; fee for inspection.

7. All plans, grants, title deeds and conveyances, belonging to any township, or in which the proprietors have a common interest, shall be kept in the custody of the clerk of such township, who may recover possession thereof in an action in his own name, and such documents shall be open for inspection to all persons on payment of a fee of six pence.

CHAPTER 49.

OF FENCES AND FENCE VIEWERS, AND IMPOUNDING OF CATTLE.

SECTION
1. Fences of enclosed lands, how constructed.
2. Height of fences.
3. Damages by cattle, by and from whom recoverable.
4. Of the appraisement.
5. Damages recoverable after notice, as a debt.
6. Partition fences, how erected; differences, how adjusted.
7. Fence viewers' charges; fine for neglect of duty.
8. Unimproved land; owner of, not liable to fence.
9. Cattle, &c. trespassing on inclosures liable to be impounded.
10. Pound-keepers duty in such case.
11. His fees and the mode of recovery.
12. Fines for rescue and pound breach; how recovered and appropriated.
13. Rivers, creeks, &c.; when deemed lawful fences.
14. Appeals from judgment of fence viewers
15. Damages recoverable if the portion of fence broken were lawful.
16. Owner liable for damage if his cattle break through his own portion of dividing fence.
17. Penalty for destroying railings, walls, and fences on sides of public grounds, bridges, &c.

Fences of enclosed lands, how constructed.

1. All fences of enclosed lands shall be built of stones, pickets, boards, logs, poles, brush, or posts and rails, unless the lands are bounded by ponds, unfordable rivers, or the sea, or surrounded by sufficient hedges.

Height of fences.

2. Such fences shall be at least four feet and a half high, except stone walls and picket and board fences, which shall be at least four feet.

Damages by cattle, by and from whom recoverable.

3. If any damage be done by horses, sheep, goats, swine or cattle, breaking into and destroying the product of such enclosures, the same being enclosed at the time with a sufficient fence in the judgment of the fence viewer, the owner of the animals trespassing shall pay to the party injured, the value of such damages.

Of the appraisement.

4. The damages shall be ascertained by an appraisement of three persons living in the neighborhood, being first sworn before a justice, truly to value the same.

Damages recoverable after notice as a debt.

5. If the owner refuse to pay the amount appraised, upon notice thereof, the party injured may maintain an action therefor as for any other debt.

Partition fences, how erected; differences, how adjusted.

6. The proprietor of a field adjoining another enclosed and improved, shall build and maintain his proportion of fencing on that part of such land which adjoins his own, and in case of neglect so to do, after three days notice to that effect, any fence viewer may forthwith cause such deficient fence to be made or repaired, as the case may be, and the person so neglecting shall pay double the expenses of making or repairing such fence, to be recovered by the fence viewer, with costs, as any other debt. If adjoining proprietors differ as to the part or proportion of a new division fence to be made by each, the nearest fence viewer shall decide the same.

Fence viewers' charges; fine for neglect of duty.

7. No fence viewer shall be allowed more than three shillings per day for his own trouble and time: and for each neglect of duty, when notified, he shall forfeit forty shillings.

Unimproved land, owner of not liable to fence.

8. No owner or proprietor of wood, or barren or burnt lands, not under improvements, shall be compelled to make any part of a fence against or on the same.

Cattle, &c. trespassing on inclosures liable to be impounded.

9. If any damage shall be done by horses, sheep, goats, swine or cattle breaking into and destroying the product of any enclosures, the persons whose fences have been broken and enclosures damaged may impound the cattle so trespassing till the owner shall claim the same.

Pound-keeper's duty in such case.

10. The pound keeper shall thereupon as soon as may be, advertise the same in three of the most public places in the settlement where the trespass has been committed, in order that the person injured may proceed against the owner of such animals refusing to pay the damages done thereby.

His fees and the mode of recovery.

11. The owner of such animals shall pay to the pound-keeper above the damages adjudged, one shilling for every horse or head of cattle, and six pence for every sheep, goat or swine for each day the same shall have been impounded for their support; and in case of refusal to pay the same within eight days after being impounded

with the charge of advertising, the animals shall be publicly sold; and the proceeds, after deducting the pound-keeper's charge for supporting them, and the damages, shall be paid to the owner if he appear within thirty days; if not, then to the overseers of the poor of the place where the trespass was committed.

Fines for rescue and pound breach; how recovered and appropriated

12. If any person shall rescue any animal from the person driving them to the pound, he shall forfeit to the party aggrieved twenty shillings above all damages sustained by the trespass committed by such animal. And if any person break any pound or by indirect means deliver any animals therefrom, he shall forfeit five pounds to any person who will sue for the same; which penalty and damages or penalty as the case may be, shall be sued for and recovered with costs, as if the same were a private debt, and the penalties for such pound breach, after deducting any expenses of repairing such breach of the pound, shall be paid to the overseers of the poor for the place where the offence shall have been committed.

Rivers, creeks, &c., when deemed lawful fences

13. Such rivers, creeks, bays, harbours, and inlets of the sea only shall be deemed lawful fences, as in the judgment of the fence viewers of the township or place where such lands lie, shall be sufficiently deep and inaccessible to prevent the passing of cattle.

Appeals from judgment of fence viewers.

14. If any person feel aggrieved by the judgment of the fence viewers as to the lawfulness of such last mentioned fence, or desire the decision of the court of sessions instead, such person may apply to the sessions, who shall inquire into the matter, and upon hearing the parties and their witnesses may make an order which shall be binding on all fence viewers and others interested.

Damages recoverable if the portion of fence broken were lawful.

15. In every case where damage shall be done to the enclosed lands of any person by any of the animals hereinbefore mentioned, breaking the fences enclosing the same, the owner of such animal shall be liable for the damage, if that part of the fence broken by such animal were lawful, although other parts of the enclosing fence may not be lawful.

Owner liable for damage if his cattle break through his own portion of dividing fence.

16. The owner of any of the animals hereinbefore mentioned breaking through a division fence which such person is bound to repair and keep up, shall be liable for any damage done by such animal upon the land of another person enclosed or partly enclosed by such division fence, although the same may not be a lawful fence.

Penalty for destroying railings, walls, and fences on sides of public grounds, bridges, &c.

17. If any person shall destroy or injure any railing, stone wall or fence of any kind, placed on the side of any public square, bridge or causeway, he shall forfeit for each offence not less than five or more than forty shillings in addition to any private damage sustained.

TITLE XIV.

OF THE SUPPORT OF PUBLIC WORSHIP.

CHAPTER 50.

OF THE CHURCH OF ENGLAND.

SECTION
1. Licensed clergymen only to officiate.
2. Licenses not to be refused without cause shewn in writing.
3. Parishes established; mode of allotting, dividing, and establishing future parishes.
4. Of the election of churchwardens and vestry, and their powers.
5. To be bodies corporate for purposes specified.
6. Of parishioners; their power of granting money; mode of assessment and collection.
7. Power of churchwardens and vestry over assessments.
8. Meetings for business when and how called.
9. Churchwardens, &c. refusing to act, others to be appointed.
10. Glebe lands how sold or leased.

Licensed clergymen only to officiate.

1. No minister of the church of England shall officiate as a clergyman of that church but such as shall be duly licensed by the bishop, and shall conform to the orders and constitution of the church of England, whereupon he shall be inducted into any parish which may make presentation of him.

Licenses not to be refused without cause shewn in writing.

2. No license shall be refused without the causes therefor being signified in writing and delivered to the applicant.

Parishes established; mode of allotting, dividing and establishing future parishes

3. The parishes already established shall remain as heretofore, and when any church shall be erected for divine service according to the rites of the church of England, the bishop of the diocese may allot a district which shall be the parish of such church, and may divide and subdivide any parish now established or hereafter to be allotted; but no parish shall be divided or subdivided by the bishop unless on the application of a majority of the parishioners of the parish proposed to be divided or subdivided, or by a majority of parishioners expressed at any public meeting of the parish called for the consideration of such a measure.

Of the election of churchwardens and vestry, and their powers.

4. The churchwardens and parishioners of every parish shall meet annually on Monday next after Easter-day, notice of the hour and place of meeting having been first given by the rector or officiating minister, at which meeting the parishioners shall choose two churchwardens and twelve vestry men, to whom the clergyman officiating as rector in the parish shall be added; and such churchwardens and vestry in all matters connected with the church, and persons usually attending its services and ordinances within their respective parishes shall have the like powers as they have heretofore exercised in this province.

To be bodies corporate for purposes specified.

5. Churchwardens and vestries are hereby constituted within their respective parishes bodies corporate, with power to sue and be sued, to receive grants of real and personal estate for the use of the church and all parish purposes, to improve the same and receive the rents thereof for the like use, and, with the approval of the bishop, to sell and convey such real and personal property, and to have a common seal, and to make bye-laws and regulations consistent with the laws of the province for the management of the temporalities of their church and the due and orderly conducting of their affairs.

Of parishioners, their power of granting money; mode of assessment and collection.

6. The parishioners shall consist of pew holders and others accustomed to attend upon the services of the church; and such parishioners who have previously paid up their pew rents and assessments, or the accustomed contributions to the church, may, if they think fit at their annual meeting by a majority of those present, grant money for the support of their ministers, and all other expenses which shall be required for the payment of such officers as may be found necessary, and for repairs and other services, which shall be assessed by the churchwardens and vestry in just proportions upon such parishioners being persons usually attending the services and ordinances of the church according to their respective abilities, and shall be collected in the name of the clerk of the vestry for the use of the parish as an ordinary debt; but no act of the churchwardens and vestry shall be valid unless it be agreed upon by seven of their members, nor shall the assessment be valid unless it be subscribed by that number at least; and the parishioners at their annual meeting shall appoint three of their number, by whom the churchwardens and vestry shall be assessed.

Power of churchwardens and vestry over assessments.

7. The churchwardens and vestry shall have power to abate any individual assessment if it should appear unequal, and to compromise the same for prompt payment or otherwise as it may be for the interest of the church, without affecting the general rate.

Meetings for business when and how called.

8. The churchwardens and vestry may meet for the transaction of business as often as occasion may require; and the churchwardens, vestry and parishioners may assemble for all business connected with the parish except the choice of officers or making assessments as often as it may be considered necessary, either upon the application of the rector, the churchwardens or the parishioners, provided that ten at least of the latter sign a requisition to that effect, notice of such meeting and of the business to be transacted thereat having been given by the minister of the parish during divine service in the church on some Sunday at least three days previously.

Churchwardens, &c. refusing to act, others to be appointed.

9. In case of refusal to act by persons nominated as churchwardens and vestry, the parishioners shall proceed to nominate others in their place until a sufficient number shall accept office.

Glebe lands how sold or leased.

10. No conveyance by lease or otherwise of any parsonage or glebe held by a minister of the church of England shall be valid

for a longer period than his own incumbency unless with the concurrence of the churchwardens and vestry expressed in writing under their common seal, and in no case for a longer period than twenty-one years; but with the concurrence of the bishop, the rector and the churchwardens and vestry, absolute sale may be made of any glebe lands or other real estate belonging to the parish if the same be thought for the interests of the church.

CHAPTER 51.

OF RELIGIOUS CONGREGATIONS AND SOCIETIES.

SECTION

1. Congregations formed by deed; trustees named; other particulars provided.
2. Deed to be registered; property how vested.
3. Trustees to sue and be sued.
4. Amount of real and personal estate to be held.
5. Meetings how held; bye-laws may be made thereat; proceedings to be recorded.
6. Membership how regulated.
7. Real estate held before deed executed; how conveyed to new trustees
8. Provisions for enabling congregations incorporated by special acts to avail themselves of this chapter.
9. Real estate how sold or disposed of.
10. Clergymen or ministers by whom engaged.
11. Agreement to be entered in congregation's books.
12. Funds how provided in case of deficiency to meet engagements.
13. Church of England excepted; limitation of provisions as regards church discipline.
14. Operation of chapter.

Congregations formed by deed; trustees named; other particulars provided.

1. When any number of persons, not less than twenty, capable of contracting, desire to form themselves into a congregation of christians for the public worship of God according to their peculiar rites and ceremonies, they may, by deed, executed by them in the presence of two or more witnesses, which shall be recorded in a book kept for that purpose, constitute themselves such congregations, and adopt a suitable name therefor, and declare the place where the same is established, and the particular denomination of christians with whose doctrines such congregation is connected; and they may name two or more persons of the congregation to be trustees thereof and give them a name of office, and describe in such deed by bounds the particular situation of all lands conveyed to or in trust for the congregation for all purposes connected therewith: And they may also set forth in such deed the constitution of the congregation, the mode of admission of future members, by whom the right of voting at meetings shall be enjoyed, how the votes shall be ascertained and given, the manner in which vacancies in the trust shall be supplied, and such other particulars as they may think proper.

Deed to be registered; property how vested.

2. The deed shall be duly registered in the office of the registrar of deeds for the county or district where the congregation is established; and after its registry all the lands described therein and all real and personal estate granted to the congregation, or to

their use shall be vested in the trustees named in the deed for the use of the congregation, and after the death or removal of any trustee or his becoming incapable to act shall vest in the succeeding trustees subject to the same trust without any assignment or conveyance except the transfer of stock and securities in the public funds; and shall also in any suit at law or in equity, or in any criminal prosecution, be deemed the property of the trustees.

Trustees to sue and be sued.

3. Such trustees in all cases concerning the real and personal estate of the congregation, may sue and be sued, by their name of office, and no action shall abate by the removal or death of the trustees or any of them, but shall be proceeded in by or against the succeeding trustees, who shall pay or receive the like monies and costs as if the action had been prosecuted in their names, for the benefit of, or to be reimbursed from, the funds of the congregation.

Amount of real and personal estate to be held.

4. Every congregation established under these provisions, may hold in the name of their trustees, real estate not exceeding the yearly value of two thousand pounds, and personal property not exceeding in the whole at any one time ten thousand pounds: And may use and dispose of such real and personal estate as the congregation shall deem expedient.

Meetings how held, bye-laws may be made thereat; proceedings to be recorded.

5. The members of every such congregation may meet when they shall think proper, and at such meetings by the votes of the majority of the members present, may make and put in execution such regulations not being contrary to the laws of this province, nor to any rule, or regulation embodied in the deed under which the congregation or society may be constituted, as the majority shall deem necessary for the government of the congregation, and such regulations may change as they may think proper; and such majority may also choose trustees to supply any vacancy in the trust, and may remove from office any of the trustees for the time being, and manage and superintend the affairs of the congregation, the time and place of meeting shall be duly notified as prescribed by rules therefor, and some fit person shall be chosen chairman at every meeting, and all proceedings thereat shall be entered in the books of the congregation, and signed by the chairman and clerk of the meeting, and proof of such entry so signed shall be deemed sufficient evidence of such proceedings, and of the regularity of the meetings.

Membership how regulated.

6. Every person admitted a member of the congregation after the registry of the deed shall execute the same in the presence of two witnesses before he shall be deemed a member.

Real estate held before deed executed; how conveyed to new trustees.

7. All real estate which at the formation of any congregation under this chapter shall be held therefor by any trustees not appointed under any act or deed of incorporation, shall, by such trustees or their survivors, or by such of them as then remain in this province, be conveyed unto the new trustees named in the deed by their name of office, and upon the conveyance being made and registered all the estate and interest of the original trustees or the survivors of them and their heirs, shall be vested in the new trus-

tees to the use of the congregation as effectually as if all the original trustees had joined in the conveyance.

Provisions for enabling congregations incorporated by special acts to avail themselves of this chapter.

8. Religious societies or congregations incorporated by special act of incorporation, or by deed under the provisions of the act heretofore in force for such purpose, may avail themselves of the provisions of this chapter, provided the parties executing the deed comprise two thirds at least of the members of the former corporation who at the time form a part of the congregation, and also by two thirds at least of the persons actually exercising the functions of trustees by their individual names as such trustees, and upon the new deed being registered the former act or deed of incorporation shall from thenceforth cease to be in operation, and the property held thereunder shall vest in the new trustees in accordance with the terms of the deed; but nothing herein contained shall affect the legality of any proceedings regularly had under the former act or deed of incorporation.

Real estate how sold or disposed of.

9. By the vote of the majority of the members of any congregation present at any regular meeting of the congregation, the trustees for the time being shall sell, mortgage, lease, or convey any real estate of the congregation for such estate, and on such terms as the meeting shall direct; and every conveyance thereof executed by the trustees for the time being, and signed by the chairman of the meeting which shall order such disposal, shall be valid in law to convey such estate in the lands therein described.

Clergymen or ministers by whom engaged.

10. Under the order of any such meeting, or of a meeting of the church members, when by the provisions of the deed of constitution or by the regulations of the congregation the choice of a minister shall be vested in the church members, the trustees may enter into agreements in writing with any clergyman or minister whom the congregation or church shall appoint to their spiritual charge, for such periods and salary as shall be agreed upon.

Agreement to be entered in congregation's books.

11. The trustees having agreed with any minister or clergyman, shall, without delay, cause the agreement to be entered at length in the books of the congregation.

Funds how provided in case of deficiency to meet engagements.

12. The trustees for the time being, by the vote of the majority of the members of the congregation at any such meeting shall in cases where the funds at their disposal are inadequate to the discharge of the claims upon them, sue for and recover from members a rateable share, to be fixed according to the rules of the congregation, of such amount or deficiency, by separate suit for their respective rateable proportion of the whole amount against the respective surviving and solvent members of the congregation, or the representatives of deceased members liable to such payment.

Church of England excepted; limitation of provisions as regards church discipline.

13. Nothing in this chapter shall extend to the church of England or to the parishes thereof, or shall affect the rights of its clergymen, officers, and parishioners, nor to interfere with the spiritual government and discipline of any church further than may be provided for in the deed under which the society or congregation is constituted.

14. This chapter shall come into operation immediately on the passing thereof. Operation of chapter.

CHAPTER 52.

OF ASSESSMENTS FOR THE REPAIRS OF MEETING HOUSES

SECTION
1. Repairs of meeting houses provided for by assessment.
2. Where assessment not paid, pews may be let for a limited time.
3. Possession, how given; rent recoverable.
4. A second assessment may be made if necessary.
5. Chapels of the church of England and Wesleyan Methodists excepted.

1. When funds are required for repairing, finishing, or painting any meeting-house or church, the proprietors thereof, at a public meeting whereof notice shall have been previously given during the time of divine service at such meeting-house or church on three several Sundays, may by vote of three-fifths of the proprietors present at such meeting declare what repairs are necessary and the amount required therefor, and may also nominate three or more persons a committee to assess and apportion the sum so voted on the several pews of the meeting-house or church according to the relative size and value of such pews at an equitable rate, of which assessment and apportionment public notice shall be given by putting up the same in some conspicuous place in the meeting-house or church, and also on the door thereof for three successive Sundays on which divine service shall be performed thereat, next after the making thereof. Repair of meeting houses provided for by assessment

2. If after such notice the persons interested in any of the pews shall not pay the sums assessed on such pews within three months thereafter, the committee after notice having been given on the previous Sunday immediately after divine service, may proceed to let such pews at auction for such period, not exceeding ten years, as may be sufficient to pay the sums so assessed thereon respectively; or they may, on giving the like notice, let such pews from year to year, until the rate or assessment be fully paid, so that such letting shall not extend beyond the term of ten years. Where assessment not paid, pews may be let for a limited time.

3. The persons who shall so lease the pews shall be put in possession thereof by the committee, and shall have the exclusive occupation thereof during the term of their lease, and the committee may sue for and recover the rent. Possession, how given; rent recoverable.

4. If the money arising from the leasing of the pews shall not amount to the assessment thereon, the committee may make a new assessment in the same way as the original amount is hereby directed to be assessed. A second assessment may be made if necessary.

Chapels of the church of England and Wesleyan Methodists excepted

5. Nothing in this chapter shall extend to any church or chapel belonging to or connected with the church of England, or to any meeting-house belonging solely to the denomination of christians called Wesleyan methodists.

TITLE XV.

OF THE PUBLIC HEALTH.

CHAPTER 53.

OF QUARANTINE.

SECTION
1. Quarantine orders to be made by the governor in council.
2. Disobedience thereto, a misdemeanor, in addition to any forfeiture prescribed.

Quarantine orders to be made by the governor in council

1. The governor in council may from time to time make quarantine orders, applicable to vessels, goods, persons, and things being within the province or expected hither from abroad, and may revoke, vary, or amend the same, and may affix penalties, forfeitures, and punishments for the breach thereof, which orders shall be notified by proclamation or be published in the royal gazette, and the production of any such proclamation or publication shall be evidence of the making, date, and contents of such orders.

Disobedience thereto, a misdemeanor, in addition to any forfeiture prescribed.

2. Persons disobeying any such orders may be prosecuted for a misdemeanor, punishable by fine or imprisonment, or both, as the court may direct; or otherwise such persons may be sued for the penalties contained in the order.

CHAPTER 54.

OF BOARDS OF HEALTH AND INFECTIOUS DISEASE.

SECTION
1. Sanatory orders to be made by the governor in council.
2. Health officers and boards of health, how appointed; their duties.
3. Vessels liable to such orders, how entered and cleared.
4. Healthwardens how appointed; their powers and duties.
5. Their powers to make written orders.
6. Violation of orders a misdemeanor; penalty.
7. Fine for wardens refusal to accept office, and for misconduct; duration of appointment, &c.
8. Cases of plague or imminent danger, how provided against.
9. Power of removal of persons sick of infectious disease, and of vacating houses when necessary.
10. General vaccinations, how ordered and provided for.
11. Returns of poor persons vaccinated; remuneration.

Sanatory orders to be made by the governor in council.

1. The governor in council may from time to time make sanatory orders, and the same revoke, renew, alter, or vary for the prevention of infectious or contagious diseases, for the relief of persons suffering thereunder, and for the interment of persons who may have died thereof, and such orders may be enforced by penalties therein expressed, not to exceed one hundred pounds for any one offence, and shall be notified by proclamation or be published in the royal gazette, and the production of any such proclamation or publication shall be evidence of the making, date, and contents of such order.

Health officers and boards of health how appointed; their duties.

2. The governor in council may appoint persons at the several ports of this province to act as health officers therefor, may establish in any place a board of health for carrying such sanatory orders into effect, and may prescribe the duties of such health officer and boards of health, and in case of vacancies may supply the same by new appointments.

Vessels liable to such orders, how entered and cleared.

3. No vessel subject by such sanatory orders to be examined shall be admitted to entry inwards at any custom house or office of entry until a certificate of such examination, signed by the health officer, shall he exhibited, nor shall such vessel be admitted to entry or clearance until the master, owner, or consignee shall have first paid to the officer appointed in that behalf all fees and charges authorised by such sanatory orders, to be duly accounted for and paid over as therein directed.

Healthwardens how appointed, their powers and duties.

4. The city council for the city of Halifax, and the courts of general or special sessions in other places, may from time to time appoint health wardens for the several townships or districts who may in the day time enter and examine all houses, buildings, and places, and all vessels and boats, and report their condition as required by any sanatory order in that behalf, they shall give directions to health inspectors for cleansing any house, building, place, vessel or boat, and generally for the preservation of public health, the maintenance of cleanliness, and the prevention of contagion and infection.

Their powers to make written orders.

5. The wardens, or any two of them, may by order in writing cause any house, building, place, vessel or boat, to be whitewashed, fumigated, or otherwise purified, and may cause any thing dangerous to the public health to be removed therefrom or destroyed.

Violation of orders a misdemeanor; penalty.

6. Every violation of this chapter, or disobedience of any sanatory order duly made thereunder, shall be deemed a misdemeanor, and every person guilty thereof shall incur a penalty not exceeding one hundred pounds.

Fine for warden's refusal to accept office, and for misconduct, duration of appointment, &c.

7. If any health warden, upon being notified of his appointment, shall refuse to accept the office, or when accepted, shall refuse to discharge the duties thereof, or to comply with any sanatory orders to him communicated, he shall forfeit five pounds, and another shall immediately be appointed in his place; but no appointment of health warden shall continue for more than one year,

nor shall any party be bound to serve oftener than once in four years.

Cases of plague or imminent danger how provided against

8. If any infectious plague, disease, or distemper shall have been introduced, or there shall be imminent danger of its introduction into any port or place, the board of health, or if there be no board of health, the general sessions, if then sitting, and if not, a special sessions of the peace may assemble and make sanatory orders, as occasion may require, with penalties as in the first section above mentioned, and may appoint persons to enforce the same; and thereupon, copies of such orders shall be forthwith transmitted to the provincial secretary's office, and the same, until altered or amended by the governor in council, shall continue in force.

Power of removal of persons sick of infectious diseases and of vacating houses when necessary.

9. Any board of health or health wardens, or where none exist any general or special sessions, may order to be removed from any dwelling house or place, or from any vessel or boat approaching near to or within any place or port, any person sick with any contagious or infectious disease, to any hospital, house, or place proper for that purpose; it being first certified in writing by two or more physicians of the port or place, or if there be but one there resident, then by him, that such removal is necessary for the public health;—and if any person be sick with infectious or contagious disease in any house or place, and such person cannot in the opinion of such physicians be removed, then the board or health wardens, or justices in session, as the case may be, may cause such house or place, or any contiguous house or place, to be vacated by other occupants for such time as the safety of the inhabitants shall require.

General vaccination how ordered and provided for

10. The general or any special sessions, consisting of not less than seven magistrates, on requisition from the board of health, or whenever they think it necessary, may order a general vaccination in any county or any part thereof, and may make orders for providing for the expense of the vaccination of such poor and indigent persons as are unable to pay therefor.

Returns of poor persons vaccinated and remuneration.

11. All persons who shall vaccinate the poor and indigent, as above, shall return to the grand jury and sessions, along with the particulars of their accounts duly attested to, the names and ages of the persons vaccinated, and the date of their vaccination, and such accounts when examined and allowed shall be assessed for and paid as other county charges are.

CHAPTER 55.

OF RABID ANIMALS.

SECTION
1. Sessions to make orders for preventing danger from rabid animals.
2. Rabid animals at large may be killed; if suspected, may be confined.

Sessions to make orders for preventing danger from rabid animals

1. The justices in general or special sessions may from time to time make orders for the protection of persons from the bite of dogs or other rabid or diseased animals, for the destruction of all animals, rabid or supposed to be rabid and running at large; and for the prohibition of the sale of the flesh of any animal affected by the symptoms usually attendant on canine madness, or otherwise diseased, and affix penalties for the breach thereof, not to exceed ten pounds for any one offence.

Rabid animals at large may be killed; if suspected, may be confined

2. Any person may kill or destroy any dog or other rabid animal found at large, and may secure and place in confinement all dogs or other animals at large and appearing to be rabid, or exhibiting symptoms of canine madness.

CHAPTER 56.

OF NUISANCES.

SECTION
1. Health inspectors how appointed; duration of office; limits of jurisdiction.
2. Court how constituted.
3. Powers of inspectors.
4. Duties of inspectors.
5. Their compensation, and how provided.
6. Dwelling houses and their conveniences; penalty for not providing.
7. Privies and vaults, how to be constructed.
8. Privies and vaults how cleansed when offensive.
9. Privies and vaults how and when to be emptied.
10. Waste water to be disposed of as inspector shall appoint.
11. Dwelling houses how vacated when public health endangered.
12. Cellars or vacant lots how cleansed.
13. Offensive matter; penalty for allowing; how to be removed.
14. Justice may make orders for removing or destroying offensive substances.
15. Penalty for sale of unwholesome food.
16. Uncleaned fish and offal how prohibited.
17. Limits for slaughtering animals to be regulated by sessions.
18. Penalties how recovered.
19. Forfeitures for violation of orders.
20. Limitation of actions; prosecutions removed to supreme court, how conducted.

Health inspectors how appointed; duration of office; limits of jurisdiction.

1. The general or any special sessions may by order appoint health inspectors and define the limits of their respective jurisdictions, and may fix the time, not to exceed one year, for which such appointment shall be in force; within the limits of the jurisdiction

of commissioners of streets, the commissioners shall exercise such powers instead of the sessions; all such inspectors shall be sworn into office.

Court, how constituted.

2. Every board of health, and in places where none exist, three or more health wardens, and where neither exist, a general or special sessions shall constitute a court under this chapter, and all orders by the court shall be forthwith executed, notwithstanding any appeal therefrom.

Powers of inspectors.

3. Health inspectors for the purposes of this chapter shall have charge of all streets, highways, passages, vessels, wharves, docks, wells, markets and market places, common sewers, drains, vaults, privies, and other places, and shall cause all nuisances and filth to be removed therefrom or destroyed, and may open and enter all places where noxious substances, dangerous to the public health, may be reasonably suspected to exist, subject, nevertheless, to the control of the commissioners of streets, if any there be, in all things relating to public streets, sewers, and drains within their jurisdiction, and to the control of the special court in all other matters.

Duties of inspectors.

4. Health inspectors shall execute and enforce all sanatory orders to them directed under this chapter, or the several chapters relating to infectious diseases and rabid animals.

Their compensation, and how provided.

5. Every health inspector shall be entitled to such adequate compensation for his services, and for charges incurred about his duties, as the justices in session or special court shall allow, and after deducting any sum collected and received under this chapter the balance, if any due him, together with all other necessary charges and expenses incurred under this chapter shall be added to the apportioned assessment upon such district or place, and assessed and levied thereon exclusively, and collected as the county rates now are.

Dwelling houses, and their conveniences; penalty for not providing.

6. Every dwelling house within the city of Halifax, or elsewhere within the limits of a health inspector, shall be furnished with a suitable underground drain for carrying off waste water, also with a suitable privy and underground vault attached thereto, and the owner of such dwelling house who shall neglect to provide the same shall forfeit a sum not exceeding five pounds.

Privies and vaults how to be constructed.

7. All privies and vaults shall be built so that the inside shall be at least two feet from the line of the adjoining lot, unless by consent of the owner thereof in writing, and shall be at least two feet distant from every street, lane, court, square, public place, or public or private passage way. There shall be no communication between a privy and any public sewer or drain. Every vault shall be tight, and the contents shall not be allowed to be within two feet of the surface of the ground. But the special court may give other directions relative to their construction.

Privies and vaults how cleansed when offensive.

8. When any privy or vault shall be reported offensive by the health inspector, the same, within a reasonable time after notice in writing to that effect given to the owner or his agent, or the occu-

pant of the land where situate, may be ordered by the special court or health warden to be cleansed and disinfected at the expense of the owner, agent, or occupant; and in case of neglect the same shall be done under the orders of the health inspector, who shall recover double the expense from the owner, agent, or occupant, as a private debt.

Privies and vaults how and when to be emptied.

9. No vault or privy shall be emptied without a permit from the health inspector, where such is appointed, and in no case between the fifteenth day of June and the fifteenth day of September, unless by order of the special court, and then only in cases where it is absolutely necessary.

Waste water to be disposed of as inspector shall appoint.

10. All waste water shall be conveyed through drains under ground to a common sewer, or to such reservoir as the health inspector shall appoint.

Dwelling houses how vacated when public health endangered.

11. When it shall appear to the special court that any tenement used as a dwelling house is so unfit for that purpose that the public health is endangered thereby, the court may make an order in writing for its being vacated within a reasonable time therein to be prescribed; which order shall be served upon the inmates, or left at such dwelling house, and in case of disobedience thereto, or of a re-occupation of the dwelling house without a permit to that effect, the court may direct a warrant to the sheriff or constables, or health inspectors, to enforce compliance with the terms of such order.

Cellars or vacant lots how cleansed

12. Whenever it shall appear to the special court that any cellars, lots or vacant grounds are in a state likely to endanger the public health, they shall cause a notice to be given to the owners, or the occupants, if any, and if there are no occupants and the owners do not reside within the jurisdiction of the court, may give notice by advertisement in one or more public newspapers, if any be there printed, or by posting the same, publicly requiring such owners or occupants to remove such cause of complaint as in such notice prescribed, and in case of neglect the court shall order the same to be removed and double the expense shall be recovered by the health inspectors from the owner or occupant as a private debt.

Offensive matter; penalty for allowing; how to be removed.

13. No person unless specially licensed in that behalf shall put in any place on land or water any offensive matter or thing likely to endanger the public health, under a penalty not exceeding five pounds for each offence, and if any person shall suffer any such matter or thing to remain upon his premises after notice in writing requiring him to remove the same, the health inspector may remove the same under the direction of the special court and at the charge of the owner or occupant of such place, and may recover double the expense as a private debt.

Justice may make orders for removing or destroying offensive substances.

14. Any justice, on the oath of one witness, may make an order in writing for the removal, burial, or destruction of any offensive substance being or likely to become a nuisance in any place or in any boat or vessel, and may direct the same to be done

by the party occasioning the offence, or by any other party whom the justice shall appoint, and the expense shall be recovered as in the order prescribed.

Penalty for sale of unwholesome food

15. No person shall sell, or offer for sale, or have in his possession in a public or private market, or any other place for the purpose of sale, any unwholesome, stale, or putrid article of food, under a penalty not exceeding ten pounds, and the article may be forthwith seized and destroyed by the health inspector.

Uncleaned fish and offal how prohibited

16. The board of health or general sessions may make orders for prohibiting the introduction into any city or town and for preventing the sale and the offering for sale of any kinds of uncleansed fish, and for preventing persons from throwing offal into any place likely to be offensive or dangerous to the public health.

Limits for slaughtering animals to be regulated by sessions

17. Justices in general or special sessions may from time to time make orders fixing the extent and limits within which the slaughtering and dressing of animals for food shall be prohibited or conducted, under penalties not to exceed ten pounds for any one offence.

Penalties how recovered

18. All penalties and expenses incurred under this chapter shall be recovered in the name of the health inspector, and if there be none for the place, then in the name of the clerk of the peace. In either case such inspector or clerk shall be a competent witness. The proceeds of every prosecution, after first deducting all reasonable charges, shall be paid into the city or county funds.

Forfeitures for violation of orders.

19. Any person who shall violate any of the orders made under this chapter, or shall obstruct any officer acting in discharge of his duty, shall forfeit a sum not exceeding ten pounds.

Limitation of actions, prosecutions removed to supreme court, how conducted

20. No action shall be commenced against any person for any thing done or omitted under this chapter, unless brought within six months from the date of the offence charged, and whenever any conviction shall have been removed into the supreme court at Halifax, or an appeal thereto granted, it shall be the duty of the law officers of the crown to conduct the prosecution or defence, as the case may be, on behalf of the public.

CHAPTER 57.

OF REGULATIONS CONCERNING THE PRACTICE OF PHYSIC AND SURGERY.

SECTION 1. Fees of surgeons and physicians in what case recoverable.

Fees of surgeons and physicians in what case recoverable.

1. No person shall recover any fee or reward for curing or attempting to cure any disease, or for performing any surgical operation who shall not previously have obtained the degree of doctor

of medicine or a certificate of his competency to practice as a surgeon from some college or other public institution, legally authorised to grant such degree or certificate, or who shall not have received a license under the hand and seal of the governor after having been examined and reported duly qualified by competent persons appointed by the governor for that purpose: which license shall specify that the person so licensed is qualified to practice physic or surgery or both; but nothing in this chapter shall extend to physicians or surgeons in the naval or military services of her majesty or to persons who shall have been regularly settled, and in the practice of physic and surgery in this province for seven years next preceding the performance of the services in respect of which the action shall be brought.

TITLE XVI.

CHAPTER 58.

OF INDIANS.

SECTION
1. Commissioners for indian affairs how appointed; districts to be allotted; security required.
2. Instructions to issue.
3. Duties of commissioners.
4. Compromises with persons who may have improved indian lands.
5. Encroachments how prosecuted.
6. Special instructions to commissioners.
7. Education of indian children.
8. Provisions for securing a permanent fund.
9. Reports of commissioners; their contents, &c.

1. The governor in council may appoint commissioners for indian affairs, and allot to them their respective districts, who shall give security for the faithful performance of their duties. Commissioners for indian affairs how appointed; districts to be allotted; security required

2. The governor in council may from time to time issue instructions to the commissioners for their guidance. Instructions to issue.

3. The commissioners shall take the supervision and management of all lands that are now or may hereafter be set apart as indian reservations or for the use of indians, they shall ascertain and define their boundaries and report to the governor all cases of intrusion, or of the transfer or sale of such lands, or of the use or possession thereof by the indians, and generally shall protect such lands from encroachment and alienation, and shall preserve them for the use of the indians. Duties of commissioners

4. Where valuable buildings or improvements have been or may be erected or made on such lands, the governor in council may Compromises with persons who may have improved indian lands.

make agreement with the persons who have made the same or those claiming under them by compromise and grants of other lands for the value of lands so improved, or otherwise as may be reasonable and just.

Encroachments how prosecuted.

5. In all cases of encroachment upon any such lands, it shall be lawful to proceed by information in the name of her majesty in the supreme court, notwithstanding the legal title may not be vested in the crown.

Special instructions to commissioners.

6. The commissioners shall communicate with the chiefs of the different tribes of the mic-mac race, and explain the wishes of the governor, and invite their co-operation in the permanent settlement and instruction of their people, and they shall parcel out a portion of the reservations to each family, with such limited power of alienation as may be authorised by the governor, and also shall aid them in the purchase of implements and stock with such assistance as they may deserve, in the erection of a dwelling for the chief, a school house and place of worship, and generally shall take such other measures as may seem necessary to carry out the objects of this chapter.

Education of indian children.

7. The commissioners may make arrangements with the trustees or teachers of any schools or academies for the board and tuition of indian children desirous of education, the expense to be paid out of the funds at their disposal.

Provisions for securing a permanent fund.

8. The commissioners may raise subscriptions and apply for charitable contributions to secure a permanent fund for the purposes of this chapter. The governor in council shall apportion such sums of money as may be granted by the legislature among the several commissioners.

Reports of commissioners; their contents, &c

9. The commissioners shall at the close of every year furnish the governor, for the information of the legislature, with reports of their proceedings and an account of their receipts and expenditure, with the names of the chiefs for the time being, the numbers of heads of families settled and children educated: and generally such other information as may enable the governor and legislature to judge of the value and correctness of their proceedings.

TITLE XVII.

CHAPTER 59.

OF IMMIGRANTS.

SECTION

1. Declaration of masters of vessels required before entry; its contents; penalty for offence.
2. Penalty for landing passengers before declaration.
3. Head money, and who liable therefor.
4. How collected
5. Mode of computing passengers.
6. Persons exempted from the operation of this chapter.
7. Governor in council may dispense with payment of quarantine monies.
8. Monies received, where and when paid, and how applied.
9. Provisions in case of passengers landed in, but not cleared for the province, having received aid.
10. Provisions in case of wrecked passengers.
11. Subsequent irregularities not to affect distress.
12. Definition of terms.

Declaration of masters of vessels required before entry; its contents; penalty for offence.

1. The master of any vessel arriving in this province, shall immediately and before being admitted to an entry, and before any passengers shall be landed, either subscribe a declaration before the collector of colonial duties, that no passengers came in the vessel on that voyage, or deliver to the collector a list in writing, signed by him, setting forth the name, age, trade, profession or employment of every passenger who may have sailed on board the vessel on that voyage; and every master violating the foregoing provision or fraudulently subscribing any such declaration, or delivering any such list which shall be false in any particular, shall forfeit fifty pounds.

Penalty for landing passengers before declaration.

2. Every master of a vessel arriving in this province, who, not being thereto compelled by absolute necessity, to be adjudged of by the collector, shall knowingly suffer any passenger to land before making the declaration or delivering the list hereinbefore required, shall forfeit ten pounds for every passenger so landed.

Head money, and who liable therefor.

3. The master of every vessel arriving in this province with passengers or from which any passenger shall have been landed in the province, shall at the time of reporting the vessel pay to the collector the following sums for every such passenger, viz.: If between the thirty first of March and the first of October, ten shillings, and between the thirtieth of September and the first of April, twenty shillings. And if the vessel shall have been placed in quarantine, on any other account than merely for the purpose of cleaning or observation, the further sum of five shillings for every passenger then on board, and if detained in quarantine more than ten days, a further sum of five shillings for every such passenger, and the owner and charterer shall also be answerable for all such payments.

How collected.

4. Upon non-payment of any of the sums mentioned in the preceding section, the collector shall sue for the same before two justices of the peace in a summary way, and on conviction the same shall be levied by warrant of distress under the hands and seals of the justices and by sale thereunder of such vessel, her tackle, apparel or furniture, and the overplus, after deducting costs, shall be paid to the owner, or in his absence to the master, and no vessel shall be cleared out or proceed to sea until all sums payable on account of such passengers shall have been liquidated.

Mode of computing passengers.

5. For the purposes of this chapter, two children, each being under fourteen years of age, shall be computed as one passenger, and children under the age of one year shall not be reckoned.

Persons exempted from the operation of this chapter.

6. This chapter shall not apply to passengers who shall have been born or domiciled in the province, nor to any inhabitant of the United States or of the British North American colonies who may come to this province for a temporary purpose, and shall satisfy the collector thereof, nor shall it extend to vessels in the employment or service of her majesty's government.

Governor in council may dispense with payment of quarantine monies

7. The governor in council may relieve from the payment of the quarantine monies under the third section in whole or in part and on such terms as may be deemed reasonable.

Monies received, where and when paid, and how applied

8. Collectors shall at once pay into the public treasury monies received under this chapter, and the same may be drawn by warrant of the governor, and applied for the benefit of poor immigrants, but an account of the application shall be submitted to the legislature of the next session.

Provisions in case of passengers landed in, but not cleared for this province, having received aid.

9. If any passenger landed from a vessel which shall not have been cleared for this province shall have received aid either from the public treasury or the immigrant fund, or from any overseers of the poor the owner and charterer and also the master of the vessel shall be liable for the monies advanced, and the vessel shall not be cleared out or be permitted to depart until the monies have been repaid.

Provisions in case of wrecked passengers

10. If any vessel be wrecked on the coasts of the province with passengers likely to become chargeable on the province: and any part of the vessel, her furniture or appurtenances be saved, and the owner, charterer, or master, shall not provide for the sustenance of the passengers and their transport to their place of destination, the collector shall take charge of the wreck and furniture and appurtenances thereof, and sell the same, and out of the proceeds, after paying expenses and any amount due for salvage and wages of the seamen, deduct the sum required for the support of the passengers and their expenses to the place of their destination, and pay over the balance, if any, to the owner or in his absence to the master.

Subsequent irregularities not to affect distress

11. No distress under this chapter shall be deemed unlawful, nor the party making the same be deemed a trespasser from the beginning on account of any irregularity afterwards committed by the party distraining, but the person aggrieved by such irregularity

may recover satisfaction for any special damage in an action on the case.

12. The word "master," when used in this chapter, shall include the person having charge of any vessel, and the word "collector" shall mean the collector of colonial duties for the port or place, and shall also include any person appointed by the governor in council for the purposes of this chapter, and which appointments are hereby authorised. Definition of terms.

TITLE XVIII.

CHAPTER 60.

OF PUBLIC INSTRUCTION.

SECTION

1. Superintendant and commissioners of schools, and trustees of academies, how appointed.
2. School districts established.
3. School districts and subdivisions, how laid off.
4. Trustees to be elected.
5. Clerk to be appointed; his qualifications and bonds; his duty and fees.
6. Schools entitled to be entered for participation in public allowance.
7. Of the examination of teachers, and the granting of licenses.
8. Trustees' accounts how rendered to obtain allowance.
9. Penalty for false returns.
10. Assessments for schools where a majority agree.
11. Amount of public allowance for academies and grammar schools.
12. Allowance for grammar schools, how divided.
13. Common school allowance how drawn and apportioned.
14. Free scholars to be taught in schools and academies.
15. Commissioners to return annually to the governor their accounts.
16. Conditions upon which allowance is payable.
17. Grammar schools required to teach the higher branches.

SECTION

18. Amount of salary, and number of scholars to qualify a grammar school for allowance.
19. French, German, and Gælic schools entitled to aid.
20. Academies required to teach certain branches.
21. Academy bye-laws how made.
22. Returns by trustees of academies required.
23. Examinations of academies and grammar schools.
24. Conditions for receiving academy allowance.
25. Trustees of academy incorporated.
26. Superintendant's duty.
27. Meetings to be held by him; instructions for proceedings.
28. Lists of teachers; distinctions of merit.
29. Instructions for, and general duty of, superintendant.
30. Academies to be visited by superintendant.
31. Amount granted to purchase school books.
32. Amount for school libraries granted; its appropriation, &c.
33. Salary of superintendant, and contingencies.
34. Real estate may be held by commissioners for the benefit of schools.
35. Clergy and magistrates appointed visiters.
36. Commissioner not to be a teacher or clerk
37. Superintendant and teachers exempted from certain public duties.
38. Limitation of chapter.

Schedules.

Superintendant and commissioners of schools, and trustees of academies, how appointed.

1. The governor in council shall appoint a provincial superintendant of education, and for each of the places named in schedule A, five or more commissioners of schools; and for every academy now or hereafter to be established, three or more trustees.

School districts established.

2. School districts shall remain as now established, until altered.

School districts and subdivisions how laid off.

3. The commissioners, except those for the city of Halifax, may form new school districts, and subdivide or alter the limits thereof, and of those now established; but no subdivision or alteration shall be made until after public notices of the intended subdivision or alteration, to be posted up for ten days at least within the district, and after considering such objections as may be raised by persons interested therein.

Trustees to be elected.

4. Three school trustees shall be elected for each district by the rateable inhabitants thereof, at public meetings to be called by the commissioners for that purpose, by public notices to be posted up for ten days at least within the district.

Clerk to be appointed; his qualifications and bonds; his duty and fees

5. The commissioners shall appoint a clerk, who shall not be engaged in trade, and who shall give bond to her majesty with two sureties for the performance of his duties, and he shall keep the accounts, monies, and records of the board of commissioners. He shall receive for each license to teachers two shillings and six pence, and five per cent. on the actual disbursements, not to exceed in the whole twenty-five pounds in any one year.

Schools entitled to be entered for participation in public allowance.

6. When the inhabitants of any district shall have provided one or more sufficient school houses, and the trustees shall have engaged by written contract one or more competent teachers for the district, male or female, at a specific remuneration, to give instruction in reading, writing, and arithmetic, the elements of English grammar and geography, for a period not less than three months, the commissioners, upon application of the trustees, shall enter the school on a list, to be kept by them, for participation in the sums allowed for the support of common schools.

Of the examination of teachers and the granting of licenses.

7. The commissioners shall examine all school teachers, and grant to such as they consider qualified and of good character, licenses to teach within the respective districts, and no teacher shall without such license receive any part of the money hereby granted.

Trustees' accounts how rendered to obtain allowance.

8. The trustees of every school seeking aid hereunder shall render half yearly to the commissioners an account of the number, names, sexes, and ages of the scholars, and the average number who have attended since the last return; the branches in which they have been instructed, the books they have used, their progress in education, the amount and particulars of the income and expenditure of the school, the amount of the salary of the teacher, and how paid; and shall certify that the sum to be received from the commissioners by the trustees is payable to the teacher for his own use, and that the engagements of the persons applying for such school have been performed, and shall furnish to the commissioners a certificate from the teachers respectively, under oath, that

no part of their salary has been collusively withheld, and that the representations and engagements have been made in good faith, and not merely to procure a portion of the allowance under this chapter.

Penalty for false returns.

9. If a trustee or teacher of any school or academy wilfully render an incorrect account or statement in any return, report, certificate or affidavit, required under this chapter for the purpose of obtaining provincial aid for any school, or for any teacher or trustee, he shall be liable to a penalty of five pounds, to be recovered by the clerk as a private debt, one half to his own use and the other to be paid to the commissioners and added to the school fund.

Assessments for schools where a majority agree.

10. The trustees of any school district may call a public meeting of the rateable inhabitants, after written notice by the trustees for at least twenty days in five of the most public places there, and if a majority present agree to raise money for the support of one or more schools by assessment, or for the purchase of land whereon to erect school houses, or for the building or repairing them, they shall then appoint three assessors, who shall forthwith assess the amount voted by an even rate upon the inhabitants of such district by an equal pound rate on the real and personal property in their respective occupation or possession within the county, whether the same be or be not in such district, regard being had to the value of the rents of the real estate and the capability of the personal estate to produce profit, and shall return such assessment to the general sessions, or to any special sessions held for that purpose, where appeals shall be heard and determined, and all such rates shall be collected and such other proceedings had, in relation thereto as prescribed in case of poor rates.

Amount of public allowance for academies and grammar schools.

11. The sum of one thousand seven hundred pounds shall be granted towards the support of academies and grammar schools, to be applied as specified in schedule A; and the further sum of one thousand one hundred and seventy pounds towards the support of common schools, to be applied as specified in schedule B.

Allowance for grammar schools how divided.

12. The sums allotted for grammar schools shall be subdivided among not less than two nor more than four schools in each county, in such proportions as may be directed by the commissioners, except as may be otherwise provided in schedule A, but no grammar school shall receive less than twenty-five pounds.

Common school allowance how drawn and apportioned.

13. The commissioners shall draw half yearly from the treasury the sums allowed for the places respectively, and shall apportion the same for common schools according to the sums raised by the inhabitants of the district, and the number of useful branches of knowledge taught therein, having regard to the nature, amount, and quality of the instruction, and the amount paid by the people towards the salary of the teachers. The commissioners shall exclude any district from participation in the public grant if the inhabitants have not according to their ability provided and paid for a teacher and kept the school house in repair. Before distributing

the common school fund, the commissioners shall apply such sum, not exceeding one-sixth of the whole fund at their disposal, as may be necessary for schools in poor or thinly peopled settlements, on such terms as they think reasonable.

Free scholars to be taught in schools and academies.

14. There shall be always gratuitously taught in every school or academy receiving aid under this chapter, as many poor scholars, not exceeding eight, as the commissioners and trustees respectively shall see fit to send.

Commissioners to return annually to the governor their accounts.

15. The commissioners shall return to the governor, on or before the thirty-first day of December next, a true account of the monies received and distributed by them, and a report of their proceedings, with such other returns as may be directed by the governor, and shall certify that the same are to the best of their knowledge correct, and that they have distributed the provincial money impartially and faithfully.

Conditions upon which allowance is payable

16. The allowance shall only be paid under the conditions following:—That a good and substantial school house, in an approved situation, shall be erected and completed to the satisfaction of the commissioners; that a salary not less than forty pounds a year for the teacher shall be subscribed by the inhabitants and secured to the satisfaction of the commissioners; that the teacher, before such school shall be admitted on the list of grammar schools, shall be qualified, examined, and approved as herein mentioned, and shall be competent to teach, in addition to the ordinary branches, algebra and land surveying, and, when the same shall be required by the commissioners, navigation, the classics, agricultural chemistry, one or more of the modern languages, and some of the practical branches of the mathematics.

Grammar schools required to teach the higher branches.

17. At grammar schools receiving aid under this chapter, in addition to reading, writing, arithmetic, geography, English grammar, history, and composition, there shall be taught, when any pupil shall require to be instructed therein, land surveying, navigation, and the mathematics, and whenever it shall be found practicable to introduce the same, the classics, one or more of the modern languages, and agricultural chemistry.

Amount of salary and number of scholars to qualify a grammar school for allowance.

18. No grammar school shall receive any allowance unless the trustees shall have actually received by the contribution of the people, and the tuition fees, at least forty pounds per annum towards payment of the teacher, and unless at least twenty scholars shall be regularly taught therein throughout the year, of whom not less than ten shall constantly receive instruction in the above higher branches, or some of them.

French, German, and Gaelic schools entitled to aid.

19. Schools wherein the ordinary instruction may wholly or in part be communicated in the French, German, Gaelic, or other languages, shall participate equally in the provincial allowance with schools wherein the English language is exclusively used, provided such schools are in other respects entitled to such participation.

Academies required to teach certain branches.

20. At all academies receiving assistance hereunder, instruc-

tion shall be given in the classics, agricultural chemistry, the practical branches of the mathematics, algebra, geography, English grammar, history, and composition, and also in one or more of the modern languages.

Academy bye-laws how made.

21. The trustees of academies may make bye-laws for the regulation thereof, to be transmitted within a month thereafter to the governor, for his approbation in council, and they shall have no effect until such approbation be signified.

Returns by trustees of academy required

22. The trustees of academies receiving aid hereunder shall make an accurate return, on or before the thirtieth day of June and thirty-first of December, in every year, of all sums received and expended by them, whether from legislative grant or otherwise, with a report of the names and ages of the pupils and the course of instruction and other particulars concerning such academy, its progress and management, in such form as the governor in council may direct.

Examinations of academies and grammar schools

23. The trustees of academies and grammar schools receiving aid hereunder shall hold public examinations twice in every year, of which examination public notice shall be given.

Conditions for receiving academy allowance.

24. No academy shall receive any allowance unless the trustees shall have actually received, by contribution and tuition fees, at least one hundred pounds a year towards the payment of the teacher and the support of the academy, and unless at least twenty-five scholars shall be constantly taught therein through the year, of whom not less than ten shall regularly receive instruction in the classics, agricultural chemistry, one or more of the modern languages, the practical branches of the mathematics, algebra, and arithmetic, English grammar, history, geography, composition, and other branches of a higher English education.

Trustees of academy incorporated.

25. The trustees of academies respectively shall be a corporate body, and possess the academy and its property so far as to prosecute and defend all actions relating thereto, and shall be designated "the trustees of the academy."

Superintendant's duty

26. The superintendant, as often as may be, shall visit the different schools, personally inspect their discipline, inquire into the qualification of schoolmasters, the books in use, and the accuracy of returns and accounts; and shall make a half yearly report of the general state of education throughout the province.

Meetings to be held by him; instructions for proceedings.

27. Meetings shall be held at least once a year at some time and place to be appointed by the superintendant, at which the commissioners for the county or district, and all the licensed teachers, may attend. At such meetings, commissioners and teachers may discuss the subject of education, and offer suggestions and move resolutions. The superintendant shall preside, and the proceedings of the meeting shall be recorded by the school clerk, who shall furnish the superintendant with a copy of the same, to be appended to the general report.

Lists of teachers; distinctions of merit.

28. A list shall be kept by the clerks of all the licensed teachers within their jurisdiction, the length of service of each being

noted, and the most meritorious five having a mark set opposite their names, such distinction to be conferred by the superintendant and commissioners, and a copy of such list shall be annually furnished by the clerk to the superintendant for the information of the executive.

Instructions for, and general duty of, superintendant.

29. The superintendant shall furnish the commissioners, trustees, and teachers, with such necessary information as may tend to improve the structure of school houses, their free ventilation, the embellishment of the grounds on which they stand, the supply of the best maps, books, forms of returns, and means of illustration; and generally shall exert himself to encourage the formation of teachers' institutes, to supply desitute districts with teachers, and to establish, so far as may be done without undue interference with the functions of the commissioners and trustees, an efficient and uniform system of instruction.

Academies to be visited by superintendant.

30. The superintendant may visit all academies drawing support from the public funds—inspect their discipline and accounts—offer suggestions for their improvement, and report on their state and efficiency for the information of the executive and legislature.

Amount granted to purchase school books.

31. The governor may advance upon the requisition of the superintendant the sum of six hundred pounds, to be expended in the purchase of improved school books, maps, apparatus and educational reports, to be distributed amongst the boards of commissioners of the respective counties and districts in the same proportion as the money appropriated for common schools is divided, to be gratuitously distributed by the commissioners among the poor schools in their respective counties or districts, or otherwise sold at cost price.

Amount for school libraries granted; its appropriation, &c.

32. The governor may draw from the treasury a sum not exceeding five hundred pounds, and apply the same in proportion to population for the establishment of school libraries in central and suitable places in each county under such regulations as to the governor in council may seem proper, to be under the charge and control of the commissioners, and open to the inspection of the superintendant. Catalogues of the books selected shall be returned to the legislature, upon whose vote any book deemed objectionable shall be withdrawn.

Salary of superintendant, and contingencies.

33. The superintendant shall be allowed two hundred and fifty pounds for his salary, and a further sum of one hundred pounds for the contingencies of his office and travelling expenses, exclusive of postage.

Real estate may be held by commissioners for the benefit of schools.

34. Any person may convey or devise real estate to the commissioners for the place where the lands are situate, and duly vest in the commissioners and their successors in office the legal estate therein in trust for the purpose of erecting and keeping in repair a school house thereon; and the commissioners may sue and be sued in respect thereof, but shall have no control over any school house on such lands as against the trustees of the school district or the inhabitants other than may be conferred by the conveyance or devise.

35. The clergy and magistrates of each county shall be visiters of the schools within the same. Clergy and magistrates appointed visiters.

36. No commissioner shall during his continuance in office be teacher or clerk. Commissioner not to be a teacher or clerk.

37. The superintendant, the teachers of academies, and every licensed teacher of schools while employed, shall be exempted from the performance of statute labor on the highways and from militia duty, from serving in any town office or on juries, and from the payment of all rates. Superintendant and teachers exempted from certain public duties

38. This chapter shall continue in force till the first day of May, in the year of our Lord one thousand eight hundred and fifty-two. Limitation of chapter.

SCHEDULE A. Schedules.

THE DISTRICT OF HALIFAX.—*Eastern district of the county of Halifax.*—Fifty pounds for one or two grammar schools.

Western district of the county of Halifax.—Fifty pounds for one or two grammar schools.

County of Lunenburg.—One hundred pounds for grammar schools.

County of Queens County.—One hundred pounds for two or three grammar schools.

County of Annapolis.—One hundred pounds for four grammar schools, namely, Annapolis, Bridgetown, Paradise and Nictaux.

County of Kings County.—One hundred pounds for grammar schools.

County of Pictou.—One hundred pounds for grammar schools, to be divided equally between the townships of Pictou, Egerton, and Maxwelton.

District comprising the township of Parrsborough.—and such other portions of the county of Cumberland as are south of a line to be drawn from the south-west corner of Franklin Manor to the centre of Sand Cove, in the Cumberland bay.—Twenty-five pounds for one grammar school.

District comprising the residue of the county of Cumberland.—Seventy-five pounds for two or three grammar schools.

County of Colchester.—One hundred pounds for an academy.

District of Rawdon and Douglas, in the county of Hants.—Thirty-three pounds six shillings and eight pence for one grammar school.

District comprising the residue of the county of Hants.—Sixty-six pounds thirteen shillings and four pence for two grammar schools, one to be situate in Newport and one in the town plot of Windsor.

District of Clare, in the county of Digby.—Thirty-three pounds six shillings and eight pence for one grammar school.

District comprising the residue of the county of Digby.—Sixty-six pounds thirteen shillings and four pence for one or two grammar schools.

District of Yarmouth in the county of Yarmouth.—Sixty-six pounds thirteen shillings and four pence for one or two grammar schools.

District of Argyle, in the county of Yarmouth.—Thirty-three pounds six shillings and eight pence for one grammar school.

District of Barrington.—Fifty pounds for one or two grammar schools.

District of Shelburne.—Fifty pounds for one or two grammar schools.

District of Saint Mary's, in the county of Guysborough.—Thirty-three pounds six shillings and eight pence for one grammar school.

District of Guysborough.—Sixty-six pounds thirteen shillings and four pence for two or three grammar schools.

County of Sydney.—One hundred pounds for grammar schools.

County of Cape Breton.—One hundred pounds for three grammar schools.

County of Richmond.—One hundred pounds for two grammar schools.

Northern district, county of Inverness,—to commence at Angus McIsaac's, number one, on the shore, thence to run by the road to Loch Bar, thence by the waters of the lake, western side, to Ainslie Glen, and thence by the main road to the head of the bay.—Thirty-three pounds six shillings and eight-pence for one grammar school.

Southern district of Inverness.—comprising the remainder of the county.—Sixty-six pounds thirteen shillings and four pence for two grammar schools.

SCHEDULE B.

City of Halifax.—Seven hundred pounds.

Eastern district of the county of Halifax.—Three hundred and eighty-nine pounds.

Western district of the county of Halifax.—Three hundred and eighty-nine pounds.

County of Lunenburg.—Six hundred and fifty-two pounds.

Queen's county.—Three hundred and ninety pounds.

County of Annapolis.—Six hundred and forty-nine pounds.

King's county.—Six hundred pounds.

County of Pictou.—One thousand one hundred and twenty-two pounds; one half to the northern district, composed of the township of Pictou, and the other half to the southern district, composed of the townships of Egerton and Maxwelton.

District of the township of Parrsborough.—as described in the schedule A.—One hundred and eight pounds.

District comprising the residue of the county of Cumberland.—Four hundred and thirty-two pounds.

District of Stirling, in the county of Colchester.—One hundred and forty-two pounds.

District comprising the residue of the county of Colchester.—Four hundred and seventy-nine pounds.

The district of Rawdon and Douglas, in the county of Hants.—Two hundred and thirty-two pounds.

District comprising the residue of the county of Hants.—Three hundred and eighty-seven pounds.

District of Clare, in the county of Digby.—One hundred and seventy-one pounds.

District comprising the residue of the county of Digby.—Three hundred and forty-two pounds.

District of Yarmouth, in the county of Yarmouth.—Two hundred and ninety-four pounds.

District of Argyle, in the county of Yarmouth.—Two hundred and fifteen pounds.

District of Barrington.—One hundred and ninety-five pounds.

District of Shelburne.—One hundred and ninety-five pounds.

District of Saint Mary's, in the county of Guysborough.—one hundred and twenty pounds.

District comprising the remainder of the county of Guysborough.—Three hundred and two pounds.

County of Sydney.—Six hundred pounds.

County of Cape Breton.—Eight hundred and fifty-five pounds.

County of Richmond.—Four hundred and thirty-three pounds.

Northern district of Inverness, as described in Schedule A.—Two hundred and fifty-nine pounds.

Southern district of the county of Inverness.—Five hundred and eighteen pounds.

TITLE XIX.

OF HIGHWAYS, STREETS, BRIDGES, PUBLIC LANDINGS AND FERRIES.

CHAPTER 61.

OF LAYING OUT CERTAIN GREAT ROADS.

SECTION
1. Roads to which this chapter applies.
2. Private lands, when crossed by agreements.
3. Mode of procedure where no agreement can be made.
4. Commissioner may proceed immediately upon agreement or appraisement.
5. Fences to be made before compensation.
6. Damages from treasury restricted to roads in the first section described.
7. Width of road.
8. Site of road, when held as surrendered.

Roads to which this chapter applies.

1. The provisions of this chapter shall extend to the following roads only, viz: The main post road from Halifax to Pictou,

thence to Antigonishe, Guysborough, and Saint Mary's; the great eastern road from Halifax to Saint Mary's; the eastern shore road from Dartmouth to Saint Mary's; the road from Antigonishe to Auld's, at the Gut of Canso; the road from Guysborough to the Gut of Canso; the road from McMillan's, east side of the Gut of Canso, to Saint Peters, thence by the Bras d'Or to Sydney, and thence to the Sydney mines, Boularderie, Baddeck, Middle River and Margaree, thence to Broad Cove, Port Hood, and McMillan's, at the Gut of Canso; the road from Arichat to Grandance: the road from Truro to Amherst, and thence to the boundary of the province: the road from Truro to River Philip, by Tatamagouche; the road from Amherst to Parrsborough; the road from Pictou to River Philip, by Wallace; the road from Halifax to Windsor, thence to Kentville, Annapolis, Digby, Yarmouth, Shelburne, and Liverpool; the road from Liverpool to Mills Village, thence to Bridgewater and Mahone Bay, and thence to Chester and Windsor; and the road from Chester to Halifax, by Saint Margaret's Bay.

Private lands, when crossed by agreement.

2. Commissioners to expend monies for the opening of new roads or altering old ones when it shall be necessary to cross private lands for that purpose, the proprietors whereof claim damages, shall, if deemed for the public benefit, make an agreement in writing with the proprietors; the agreement to state the length of the road and the amount agreed on for damages and cost of fences, and to have a plan annexed of the road and land through which it is intended to be carried; and the same shall be laid before the general sessions of the peace for the county or district, or a special sessions: and if the sessions approve of the agreement or portions thereof, they shall return the same with their certificate to the provincial secretary's office, to be laid before the house of assembly, and the house having considered may confirm the agreement, or any portion thereof, in which case the same shall be returned to the provincial secretary's office, and the governor may draw warrants on the receiver general for the amounts which may be confirmed.

Mode of procedure when no agreement can be made.

3. Where no agreements shall be made, or any part thereof shall not be confirmed, one appraiser shall be appointed by the governor in council, a second by the persons interested in the lands, and on their default after three days' notice, by the commissioner, and a third shall in any case be appointed by the commissioner: and the three appraisers shall be sworn to the faithful discharge of their duties, and shall enter upon the lands and lay out the road in the manner most advantageous to the public and least detrimental to the persons interested in the land, and measure and mark the same and appraise the lands, taking into account the improvement, and assess the damages to the owners and tenants therefor, and for fencing the sides of the road, which appraisement shall be reduced to writing and accompanied by a plan and admeasurement of the road, shall be returned to the clerk of the peace, to be laid before

a general or special sessions; and further proceedings shall be had thereon in conformity with the provisions of the last section.

Commissioner may proceed immediately upon agreement or appraisement.

4. After any agreement shall have been made or an appraisement had under the second or third sections, the commissioner may enter upon the lands and proceed with the road, leaving the compensation to be paid to the proprietor, to be finally determined in the manner in such sections respectively directed.

Fences to be made before compensation.

5. No payment for fences shall be made under this chapter until the proprietors of the land shall have made oath that the same has been put up in a proper manner and at least thirty-three feet from the centre of the road, and encloses in whole or in part some of his lands, and that the same shall not be removed with his assent, nor shall any compensation for such fencing be made unless claimed within one year after the road shall have been opened.

Damages from treasury restricted to roads in the first section described.

6. No money shall be drawn from the provincial treasury for damages on the completion or running out of any new road, or alteration of any old one, other than on the roads specified in this chapter.

Width of road.

7. The road shall be at least sixty-six feet in width.

Site of road, when held as surrendered.

8. When roads have been or shall hereafter be altered without any demand for compensation by the proprietors of land through which the new road runs and for which no compensation shall have been afterwards made, such acquiescence on the part of the proprietors shall be held a voluntary surrender to her majesty forever, for a public highway, of all the land through which the new road passes to the breadth of sixty-six feet.

CHAPTER 62.

OF LAYING OUT ROADS OTHER THAN CERTAIN GREAT ROADS.

SECTION

1. Roads to which the chapter applies.
2. Mode of laying out new, or altering old roads.
3. Sessions to confirm or disallow proceedings.
4. Special sessions may act where general sessions sit only once a year.
6. Appeal from the decisions of sessions.
6. Fines for non-attendance of jurymen.
7. Value of old roads may be allowed in appraisement.

SECTION

8. Old roads to be shut up only by order of sessions
9. Damages and expenses to be a county charge.
10. Width of roads.
11. Sites of roads, when held as surrendered.
12. Open and pent roads, how laid out.
13. Gates and bars on private ways, by order of sessions.
14. Fences to be made before compensation.

Roads to which the chapter applies.

1. The provisions of this chapter shall be applicable to roads other than those mentioned in the last chapter.

Mode of laying out new, or altering old roads.

2. Twenty or more freeholders of the county may petition the sessions for the making of a new road or alteration of an old one,

and the sessions, if satisfied of the propriety thereof, shall order a precept to be directed to three disinterested freeholders resident within the county, directing them within a convenient time to examine into the propriety of the desired new road or alteration; and if they shall be satisfied thereof, then to lay out and mark the same in the way most advantageous to the public and least prejudicial to the proprietors of lands through which the road may pass, and the freeholders, if satisfied of its propriety, shall ascertain the length of the new road or alteration, and taking into consideration the distance which it may run through the lands of different parties, and the nature of the soil and the improvements, and the fencing which will be rendered necessary, shall make an appraisement of the damages to be paid to each person through whose lands the road will run, specifying separately the damage to soil, and for improvements, and for fencing, and shall make return of their proceedings to the clerk of the peace, who shall file the same and forthwith post notices, containing the substance of such return, in at least six places of public resort in the county, and also near the contemplated new road or alteration, for the space of thirty days previous to the next sessions.

Sessions to confirm or disallow proceedings.

3. At the next sessions the proceedings shall be considered, and objections, if any, heard thereto; and the sessions shall confirm or disallow the proceedings, and, if confirmed, they shall be recorded.

Special sessions may act where general sessions sit only once a year.

4. In counties where there shall be only one general sessions in the year, a special sessions shall have all the powers of a general sessions, subject to the like approval.

Appeal from the decisions of sessions.

5. Any person who may have objected to the proceedings, may appeal from the decision of the sessions, in which case a precept shall be by the clerk of the peace directed to the sheriff or his deputy, who shall thereupon summon and swear a jury out of the adjoining townships, who shall lay out the road or alteration, and make an appraisement in manner hereinbefore prescribed; and the sheriff, or his deputy, shall return the same under his hand, and the hands of the jurors, to the then next sessions, when the same shall be confirmed and recorded; but no appeal shall be allowed until the appellant shall give bond to her majesty, with two sureties in a sum to be ordered by the sessions, upon condition that if the jury who may be summoned to lay out or alter the road shall confirm the return of the freeholders, or shall not give greater damages to the appellant by one-sixth more than was allowed by the return of the freeholders; into all which the jury are hereby empowered to inquire, then the appellant shall pay the expenses consequent on the appeal, to be taxed by the sessions.

Fines for non-attendance of jurymen.

6. If a juror shall not attend and perform the duties required by this chapter when summoned, he shall forfeit twenty shillings.

Value of old roads may be allowed in appraisement.

7. The freeholders in making their appraisement in case of alteration of a road, may apportion the old road or parts thereof to proprietors of land through which the alteration runs, and put a

value thereon as compensation in whole or in part for the land taken for the alteration, and shall include the same in their return; but the land so apportioned must run through or adjoin the land of the proprietor to whom it is apportioned.

Old road to be shut up only by order of sessions

8. When the proceedings shall be finally confirmed the land apportioned under the last section shall become the absolute property in fee of the person to whom the same shall have been allotted, but it shall not be shut up or the public excluded from the free use thereof until closed by order of sessions, under the law in reference to the closing of old roads.

Damages and expenses to be a county charge.

9. The damages appraised and expenses incurred shall form a county charge.

Width of roads.

10. The roads hereinbefore referred to shall be laid out at least sixty-six feet in width.

Sites of roads, when held as surrendered.

11. Where roads have been, or shall hereafter be, altered without any demand for compensation made by proprietors of land through which the new road runs and for which no compensation shall have been afterwards made, such acquiescence on the part of the proprietors shall be held a voluntary surrender to her majesty forever, for a public highway, of all the land through which the new road passes to the breadth of sixty-six feet.

Open and pent roads, how laid out.

12. The sessions, upon application, may order two surveyors of highways to lay out a private way, either open or pent, and the surveyor may agree with the proprietors of land through which the same runs as to the damages, or otherwise the sessions shall direct a jury to be summoned, who shall appraise the damages in manner hereinbefore prescribed; the amount of damages in either case, with the expenses incurred, shall be included in the next poor-rate of the place where the road runs, and when collected shall be paid to the clerk of the peace for the parties entitled thereto.

Gates and bars on private ways, by order of sessions.

13. The sessions may direct gates and bars to be placed on private ways, and make regulations respecting the placing and keeping thereof; and persons guilty of a breach of the regulations shall for every offence forfeit not less than five nor more than forty shillings.

Fences to be made before compensation.

14. No compensation for fencing shall be made under this chapter until the proprietor of the land shall have made oath before a justice that the fence has been put up in a proper manner and at least thirty-three feet from the centre of the road, and encloses, in whole or in part, some of his lands, and that the same shall not be removed with his assent.

CHAPTER 63.

OF SURVEYORS OF HIGHWAYS AND HIGHWAY LABOR, EXCEPT IN HALIFAX.

SECTION
1. City of Halifax excepted throughout this chapter.
2. Road districts as established confirmed.
3. Districts, how altered; new ones, how established.
4. Persons liable to perform statute labor, and the amount.
5. Labor of horses and teams.
6. Fine for neglecting to send teams, &c.
7. Persons above sixty years, having teams, required to send them.
8. Truck or waggon to be sent if party own such.
9. A day's work shall be eight working hours.
10. Lists, how made out.
11. Persons how and when summoned; season for repairing roads.
12. Certain counties excepted, and season specified.
13. Absent persons liable on return.
14. Obstructions of roads, bridges, &c. from unforeseen causes.
15. Commutation of labor.
16. Fines for non-attendance.
17. Relief to poor persons.
18. Persons residing on islands.
19. Sessions may order labor on particular roads.
20. Highways not to be altered without the consent of two justices.
21. Winter labor.
22. Returns of surveyor, how made.
23. Fines, how recovered and appropriated.

City of Halifax excepted throughout this chapter.

1. The provisions of this chapter shall not extend to the city of Halifax.

Road districts as established confirmed.

2. The districts as now established for the performance of statute labor on the roads are confirmed.

Districts, how altered; new ones how established.

3. The sessions may erect new districts, or alter the limits of those established.

Persons liable to perform statute labor, and the amount

4. Persons over sixteen and under sixty years of age, being able to do a reasonable day's work for themselves, or being freeholders able to pay the commutation, or hire the labor in this chapter prescribed, without injury to their families, and not being military persons, or holding commissions from her majesty in the military or civil department of the army, nor teachers of academies or grammar schools, nor licensed schoolmasters, shall annually perform upon the highways the number of days labor following, by themselves or sufficient substitutes to be approved by the surveyor of highways or commissioners of streets, and provided with the tools by him or them directed, viz: — Every person above twenty-one years and under sixty years of age, being a householder and the owner or possessor of real or personal estate, and not being a hired servant, journeyman, or day laborer, nor residing with his parents, shall perform six days' labor.

Every person above twenty-one years of age, being a hired servant, journeyman, or day laborer, shall perform two days' labor; masters of vessels and hired seamen, not being freeholders, to be considered as hired servants.

Every person above twenty-one years of age residing with his parents shall perform three days' labor.

Every person above twenty-one, and under sixty years of age, not being a householder, hired servant, journeyman or day laborer, nor residing with his parents, shall perform four days labor.

Every minor and apprentice, above sixteen and under twenty-one years of age, shall perform two days' labor.

Labor of horses and teams.

5. In addition to the labor in the last section mentioned, every such person over twenty-one and under sixty years of age, owning working oxen, or saddle or draught horses, shall perform one day's labor for every pair of working oxen, and every saddle or draught horse; but no person shall be liable to perform more than four days' labor on account of any number of oxen or horses by him owned.

Fine for neglecting to send teams, &c.

6. Every such person so owning any such working oxen or draught horses shall, when required by the surveyor or commissioners, send such oxen or horses, properly yoked and harnessed, to labor upon the highways under a penalty of three shillings a day for every such pair of oxen and every such horse respectively, and for every pair of oxen and every horse so sent to labor, or the penalty therefor paid, every such person shall be allowed one day's labor.

Persons above sixty years having teams required to send them.

7. Every person above sixty years of age, being a householder and owning working oxen or draught horses, shall, when notified, send to labor upon the roads a pair of oxen or one draught horse, at the option of the surveyor or commissioners, properly harnessed, for four days, or, at the option of the person, such pair of oxen or draught horse, with a driver, for two days: and every such person so notified who shall not send the same shall forfeit for every day's omission three shillings for the pair of oxen or draught horse, and six shillings for the pair of oxen or draught horse with a driver, to be commuted or sued for and recovered in manner as hereinafter directed as respects claims for non-performance of days' labor.

Truck or waggon to be sent, if party own such.

8. When any person owning oxen or draught horses shall be so required to send any such oxen or horses, such person shall also, if required by the surveyor or commissioners, send therewith a cart, truck, or waggon, if he shall own one, which the surveyor or commissioners consider fit, and in case of neglect shall forfeit two shillings for every day.

A day's work shall be eight working hours.

9. A day, when mentioned in this chapter, shall mean eight working hours.

Lists, how made out.

10. The surveyors and commissioners shall make out lists of persons liable to perform highway labor, whether by themselves or in respect of owning oxen or horses, and shall be responsible for the correctness thereof.

Persons how and when summoned, season for repairing roads.

11. The surveyors and commissioners shall cause to be summoned the persons contained in their lists to labor upon the highways at the most seasonable time, between the first day of June and the first day of September in every year, seed time and har-

vest excepted, by giving them six days' notice of the time and place where they are to be employed, and of the tools to be brought for such labor; the notice to be given either by the surveyors or commissioners, or by any person by them authorized, and to be left verbally or in writing, with some person of the age of discretion, at the usual place of abode of the party; and at the time and place appointed, the surveyors and commissioners shall attend and oversee the persons so summoned to labor in making and repairing the highways and bridges in the most useful manner during the number of days required by this chapter for each person to labor, and the surveyors and commissioners shall be excused from any other service upon the highways than that of overseeing the persons employed thereon.

Certain counties excepted, and seasons specified.

12. In the following counties instead of the time prescribed in the last section, the labor shall be performed within the times following in every year, viz: In the counties of Yarmouth, Shelburne, Queens and Lunenburg, between the fifteenth day of May and the fifteenth day of September; in the county of Cape Breton between the first day of June and the fifteenth day of October, and in the county of Richmond between the first day of May and the fifteenth day of October.

Absent persons liable on return.

13. Every person liable to perform labor under this chapter who has been duly notified but who may have left the district and shall be absent therefrom during the time appointed for the performance of his labor, and shall not have provided a sufficient substitute or paid the commutation therefor as hereinafter prescribed, or shall not adduce satisfactory proof of his having performed or so commuted, or otherwise paid for his statute labor in some other district, shall, if he shall return to his usual place of abode within the year, pay three shillings for every day's labor to which he was liable.

Obstructions of roads, bridges, &c. from unforseen causes.

14. In case a highway shall become obstructed, or a bridge broken down or carried away, or the road rendered impassable by any unforeseen cause except by the falling or drifting of snow, the surveyors of highways or commissioners of streets, under the direction of two justices of the peace, shall notify such persons within the district as may be deemed necessary, to attend immediately either by themselves or with their teams as may be considered advisable to remove the obstructions or make such repairs upon the highway or bridge as may be, by the justices, considered absolutely necessary to render the same passable; and every person so attending and laboring shall be allowed for the labor by a reduction of the like number of days from the labor to be by him performed under this chapter either for that or the subsequent year, as the same may occur, before or after the time limited for the performance of highway labor in the district, in the same manner and to the same extent as if the labor had been performed at the usual time: and every person duly notified to attend and labor under this section who shall neglect so to do, shall be liable to the same

forfeitures as if he had neglected to attend and labor at the regular time, such forfeiture, for each day, when paid to reckon for one day's labor of such person under this chapter.

Commutation of labor.

15. If any person liable to perform labor hereunder shall prefer paying money to doing the labor, he may, at or before the day on which he shall be notified to attend and labor, pay to the surveyor or commissioners a commutation for the whole labor to be by him performed, but not for any part thereof, at the rate of two shillings and six pence for every day's labor, to which he may be liable for the current year; and if any person so offering commutation shall be sued for not performing his labor, on proof of the tender of the commutation, and on the same being paid at or before the trial the plaintiff shall be nonsuited.

Fines for non-attendance

16. Every person duly notified, who shall not labor agreeably to the notice, or tender the commutation therefor as in the last section directed shall forfeit three shillings for every day's labor to be by him performed.

Relief to poor persons.

17. Two justices of the peace for the county may, by a certificate under their hands, relieve any person from a portion of his labor hereunder, if they shall be satisfied from his circumstances and situation in life he is really entitled to such relief.

Persons residing on islands

18. No person residing upon an island whereon there are any highways upon which the performance of labor under this chapter may be enforced, shall be obliged to work or furnish any labor hereunder upon the main land, or be liable to any penalty for not so doing, but every person so residing upon an island, and liable to perform labor under this chapter, shall perform the same upon some highway or bridge on the island; and where the island shall be connected with the main land by a causeway or bridge, such portion of the labor as may be required to keep the causeway or bridge in repair, or to rebuild the same, shall be performed thereon.

Sessions may order labor on particular roads.

19. The sessions may grant permission in writing to persons to perform their labor upon such roads as they shall direct, and the faithful performance by such persons of the labor as directed by the sessions shall be held to be the performance of their ordinary highway labor under this chapter, but they shall, within one week after the performance of the labor, obtain from the surveyor or commissioners for the district, who, if the labor has been faithfully performed, are hereby required to grant the same, a certificate of the due performance thereof; which permission and certificate shall be a bar to any action brought against any such person for non-performance of his ordinary highway labor under this chapter.

Highway not to be altered without the consent of two justices.

20. No surveyor shall alter any highway without the consent of two justices of the peace for the county, although the owner of the land required for the alteration may assent thereto.

Winter labor.

21. The surveyors and commissioners shall, as often as they shall deem necessary during the winter, order the inhabitants to

work with their shovels, horses, oxen and sleds upon the highways, in order that the same may be rendered passable, and every inhabitant not complying with the order shall, for every omission, forfeit five shillings, but no person shall be obliged to furnish more than one day's labor of himself and team for any one fall of snow, or work in any case when the fall or drift of snow shall not exceed twelve inches in depth.

Returns of surveyor, how made.

22. Every surveyor shall, annually, on or before the first day of the sessions which shall happen next after the time herein limited for the performance of highway labor, make a true and faithful return in writing, under his hand, to the clerk of the peace, of the labor performed under his directions, designating the names of the persons and the labor performed by each, and shewing the commutations and fines by him received and the expenditure thereof, and the amount of monies then in his hands, and which latter he shall at the same time pay over to the clerk of the peace, to be expended under the direction of the sessions upon the roads.

Fines, how recovered and appropriated

23. Forfeitures, except under the fourth and fifth sections of this chapter, shall be sued for and recovered by the surveyor or commissioners by their name of office, as surveyor of highways or commissioners of streets for the place for which they have been appointed, or in the individual names of them, or any of them, or by and in the name of any person who will sue therefor, and in any case in the same manner and with the like costs as if they were private debts; and, when recovered, shall be applied by the surveyor or commissioners to the repair of the highways.

CHAPTER 64.

OF COMMISSIONERS OF STREETS.

SECTION

1. Commissioners for certain places named, to retain office.
2. Commissioners for Milton, how appointed.
3. Rosters to be provided.
4. Vacancies, how filled up, &c.
5. Jurisdiction of Commissioners defined.
6. Sections applicable to the city of Halifax.
7. Clerk and receiver appointed; subdivision of districts.
8. Duty of commissioners.
9. Accounts of commissioners.
10. Further duties of commissioners.
11. Fine for neglecting to keep gutters and street in front of premises clean.
12. Persons building may occupy streets for placing materials.
13. Wells and pumps, how provided.
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SECTION

15. Line of street, how protected in case of new buildings.
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17. Soil of street to be broken only by permission in writing; fine for offences.
18. Fine for driving or riding on side path.
19. Duties on licenses appropriated in part to repair of streets, except in Halifax.
20. Annapolis river bridge under charge of commissioners.
21. Powers of commissioner.
22. Monies and fines, how recovered and applied.
23. Notice of action against commissioners; limitation.
24. Definition of terms.

1. The commissioners of highways in the towns and villages following, that is to say: Maitland, Windsor, Bridgetown, Annapolis Royal, Digby, Liverpool, Port Medway, Lunenburg, Chester, Dartmouth, Pictou, New Glasgow, Guysborough and Sydney, shall remain commissioners of streets during the pleasure of the governor. Commissioners for certain places named to retain office.

2. The governor in council shall appoint three freeholders, inhabitants of the village of Milton, in Queen's County, to be commissioners of streets for that place during pleasure. Commissioners for Milton, how appointed.

3. A roster of the commissioners shewing the date of their respective appointments shall be formed by them annually and forwarded to the provincial secretary's office, and the commissioner first appointed shall annually go out of office; and where the earliest appointments are of the same date, then such one shall go out as the governor shall direct, and the person going out shall not be eligible to be re-appointed that year. Rosters to be provided.

4. Upon a vacancy in any commission the governor in council shall appoint some inhabitant and freeholder of the place where the vacancy occurs to supply the same, so that the commissioners may continue five for the town of Pictou and three for each of the other towns and villages. Vacancies, how filled up, &c.

5. The jurisdiction of the commissioners shall be confined to the limits following, that is to say: Jurisdiction of commissioners defined.

FOR MAITLAND.

From Richard Anthony's east line to the Five Mile River, and along the Kennetcook road to Rocky brook.

FOR WINDSOR.

To such parts of the town as extend from Smith's island to the northward and eastward as far as the bridge over the Trecothick creek, on the main road leading out of the town of Windsor, as far as the church, and on the southward and westward to Falmouth ferry.

FOR BRIDGETOWN.

Within the bounds following, that is to say: beginning at the western boundary line of the late William Ruffee, one half a mile to the northward of the Granville main road as now situate, thence westwardly until it meets the eastern boundary line of the late Henry Troop, thence southwardly until it meets the Annapolis river, thence by the course of the river to the western line of William Ruffee, thence northwardly the course of that line to the bound first mentioned.

FOR ANNAPOLIS ROYAL.

To such parts of the town as extend eastwardly to the intersection of the main road to Halifax, by the old road leading to the

Dalhousie settlement, southwardly to the General's bridge, westwardly to Allen's creek, and northwardly to Hog Island, including the same.

FOR DIGBY.

To all the roads and streets which are comprehended within a circuit of two miles extending from the court house in the town of Digby in every direction.

FOR LIVERPOOL.

To such parts thereof as extend from Fort Point by the western side of Liverpool harbor to the bridge crossing the main road leading to the falls near More's tan-yard, thence south-west one mile, thence south-east one mile, thence north-east until it strikes the harbor of Liverpool, and thence by the harbor to Fort Point.

FOR MILTON.

Beginning on the eastern side of Liverpool river at a bridge called Salmon Island Bridge, thence running at right angles to the river eastwardly half a mile, thence northwardly parallel to the river until it comes opposite to Thomas Etherington's house, thence running one mile and a quarter on a course about north forty-five degrees west, in the direction of and past the house of Joseph Ford, jnr., including such house, thence southwardly parallel to the river until it comes opposite to the residence of Freeman Tupper inclusive, thence to the river, thence down the river to Salmon River Bridge.

FOR PORT MEDWAY.

From the Western Head to South West Cove, and extending back from the river one mile.

FOR LUNENBURG.

Within such parts of the town as extend eastward to the south-west angle of the garden lots nearest to the town, west to the road leading to Burns' tan-yard, and north to the bridge in the rear of the town.

FOR CHESTER.

To the town plot.

FOR DARTMOUTH.

Within the distance of one mile, measured in a southwardly, eastwardly and northwardly direction, from the public landing or steamboat company's wharf.

FOR PICTOU.

On the west, by the west side of the Town Gut, on the east, by the west side line of the farm lately occupied by the late David Lowden, on the south by the harbor of Pictou, and on the north to the rear line of the original lots laid out and fronting the harbor.

FOR NEW GLASGOW.

To such part as is comprehended within the bounds following, that is to say: — To be bounded on the south by a line running on the south line of the property of the widow of Alexander Fraser, deceased, and extending eastwardly and westwardly to the east and west lines and boundaries hereinafter mentioned; on the north by a line running on the north line of the property of John Rose, and extending eastwardly and westwardly as hereinbefore mentioned; on the east by a line running on the front line of Edward Graham's house, and extending northwardly and southwardly to the north and south lines hereinbefore mentioned, in a parallel course with the river; and on the west by the road leading from the Albion mines to the point.

FOR GUYSBOROUGH.

To the town plot.

FOR SYDNEY.

To the peninsula of Sydney, extending to the southward and eastward to Fresh Water River Creek, the old Saint Peter's road, and thence in an eastwardly direction to Copitt's mill brook, and thence to be bounded by the brook until it meets the waters of Malony's creek.

Sections applicable to the city of Halifax.

6. The subsequent provisions of this chapter shall extend to the city of Halifax, and the commissioners of streets therein, unless where specifically excepted.

Clerk and receiver appointed, subdivision of districts.

7. The commissioners shall appoint a clerk and receiver of monies, and subdivide their districts and assign a part to each commissioner.

Duty of commissioners

8. The commissioners shall remove all incumbrances upon the streets, prevent encroachments thereon, make repairs, alterations, and improvements therein as required; open and make new streets when authorized, make and repair bridges, and cause to be observed the laws touching the streets and bridges or the work to be performed thereon; and especially shall call out, sue for, levy and receive from the inhabitants liable to perform highway labor, the monies, services, highway work and penalties, and composition therefor, due, payable, or to be performed by them: and shall prosecute for offences committed against the laws relating to highways, and sue persons holding monies appropriated to the repair of the streets, or not paying any penalty appropriated thereto.

Accounts of commissioners

9. The commissioners shall keep an exact account of monies received by them, and services performed under their direction; and shall, under a penalty of five pounds, annually on or before the first day of the sessions which shall happen first after the time limited for the performance of statute labor, render under their hands to the clerk of the peace, to be laid before the sessions, a general, regular, and fair account in writing of all monies received and paid by them as commissioners for the past year, to the end

that the same may be audited and passed by the sessions. This section not to extend to the city of Halifax.

Further duties of commissioners.

10. The commissioners shall from time to time cause the streets within their divisions to be cleared, repaired, raised, sunk, altered or paved, as they may deem proper, and may also cause to be dug and carried out of or brought into the streets, materials from the shores of the harbors, doing as little injury as possible in any case to the proprietors of the soil, and may employ and pay boatmen, carts, and laborers, as they may judge conducive to the accomplishing the designs of this chapter; and may also make contracts for the repairing and paving of the streets; and may compound with persons by the year for such sum in advance as they may deem reasonable for the proportion of highway labor or payments to which such persons may be liable; and may put up bars and fences to shut up streets while undergoing repairs; and may raise, sink, alter, or new lay, drains, water-courses, pipes, and sewers, as they may think proper, causing as little detriment to individuals as the case will admit of; and may cause the course of gutters, water-courses and channels, running in or through the streets, to be altered as they shall think proper.

Fine for neglecting to keep gutters and streets in front of premises clean.

11. Persons residing within the foregoing limits respectively, shall keep the gutters and streets before the houses, buildings, or land inhabited or occupied by them, free from dirt, filth, and nuisance of every kind; and whenever any incumbrance or nuisance shall be found in any of the streets, the persons before or nearest whose house, building, or land the same shall be, shall forfeit twenty shillings, and also pay the expense of removing the same; and any commissioner may cause the removal thereof without giving notice to the owner, or being in any way answerable therefor; but no person shall be liable to this penalty unless he shall have placed the nuisance or incumbrance in the street where found, or not having so placed it shall suffer the same to continue twenty-four hours.

Persons building may occupy streets for placing materials.

12. Persons by leave of the commissioners may place in the streets materials for building, and erect posts, bars, or enclosures for securing such materials, and continue the same for such time as the commissioners may give leave, and in manner as they shall direct, and not longer or otherwise on pain of forfeiture.

Wells and pumps, how provided.

13. The commissioners may cause wells to be dug, and pumps to be placed therein, in the streets where they shall judge necessary and convenient, in manner as they shall direct.

Nuisances and encroachments liable to removal.

14. The commissioners shall cause all things belonging to any building or cellar, or to any ground or enclosures thereof, which may occasion any nuisance, encroachment, or annoyance in any street, to be removed or altered in manner approved by them or their surveyor; or, if it can be done without particular inconvenience to the public, may suffer the same to remain, upon the proprietor giving security that it shall not be repaired or rebuilt, and also paying to the commissioners a reasonable annual ground rent

for the part of the street encroached on during the continuance of the encroachment.

Line of streets, how protected in case of new buildings.

15. Persons intending to build upon, or close to, the line of a street, shall, before digging a foundation or beginning the building, apply to the commissioners to cause the line of the street to be defined and laid out, and shall defray the expense of a surveyor if necessary to employ one, and shall dig the foundation and erect the building within the line, avoiding any encroachment; and if any person shall erect a building upon the line of the street without making such application, and having the line so ascertained, he shall forfeit ten pounds, and shall also remove the encroachment, or otherwise the commissioners may remove the same, or take the steps by law allowed in cases of common nuisances.

Lines settled by jury in case of dispute; return, how confirmed.

16. When the commissioners shall have proceeded to ascertain the line of the street on the application of any person about to build thereon, and he shall be dissatisfied with the line pointed out by the commissioners, a judge of the supreme court shall, upon application of either party, issue a precept to the sheriff or his deputy, to summon a jury of twelve disinterested freeholders to meet at some convenient day therein mentioned, to view and lay out the line; and the jury shall have an oath administered to them by the sheriff or his deputy, well and truly to lay out and establish the line of the street according to their best judgment, and the witnesses tendered shall be sworn by the sheriff or his deputy; and if the jurors or either party require it, a new survey of the line shall be made, and the sheriff or his deputy shall make a return forthwith under the hands of himself and the jurors, to the judge, who, if he shall approve thereof, shall confirm the return, and the same shall be filed in the office of the clerk of the peace; but if the judge shall not approve of the return, a new precept shall be issued and further proceedings had thereon in manner prescribed as to the first precept, and so on until a return be confirmed; and the judge shall direct how and by whom the expenses of the proceedings shall be paid, and the same shall be taxed by the judge and shall not exceed ten pounds.

Soil of streets to be broken only by permission in writing; fine for offences.

17. No person shall break up the soil of a street without first making application to the commissioners in writing, specifying the purpose for which such breaking up is required, and obtaining their permission therefor in writing; and the commissioners may impose such terms upon the person applying as the security of passengers shall appear to them to require; and any person acting contrary to this section or to the terms imposed by the commissioners, shall for every offence forfeit five pounds.

Fine for driving or riding on side path.

18. Every person who shall drive any carriage or ride over a side path, or roll or place heavy articles over or on the same to the injury or obstruction of the side path, shall for every offence forfeit not less than five nor more than forty shillings.

Duties on licenses appropriated in part to repair of

19. The county treasurer shall pay to the commissioners out of the county treasury, quarterly, three-fifth parts of the monies

streets, except in Halifax.

arising from duties on licensed houses and shops within their jurisdiction, to be applied by the commissioners to the repair of the streets or the purposes of this chapter. This section shall not extend to the city of Halifax.

Annapolis river bridge under charge of commissioners.

20. The whole of the bridge over the Annapolis river at Bridgetown shall continue under the charge of the commissioners there, whose duty it shall be to see to the proper keeping and repair thereof; and they shall take such measures for preventing injury to the bridge and for bringing to punishment persons guilty of wilfully injuring the same as to them may appear expedient.

Powers of commissioners.

21. The commissioners shall have all the powers by law vested in surveyors of highways, and no surveyor of highways shall have any power within their jurisdiction.

Money and fines, how recovered and applied.

22. Monies and forfeitures payable under the foregoing sections may be sued for and recovered by the commissioners in their name of office as commissioners of streets for the place for which they have been appointed, or in the individual names of them or any of them, in the same manner and with the like costs as if they were private debts, and when recovered shall be applied by the commissioners to the repair of the streets, or other the purposes of this chapter.

Notice of action against commissioners; limitation.

23. No action shall be commenced against the commissioners or persons acting under them until twenty days' notice in writing shall be given to one or more of the commissioners, nor after six months next after the act committed for which the action shall be brought, and every such action shall be laid and tried in the county within which the commissioners have jurisdiction.

Definition of terms.

24. The word "commissioners," when used in this chapter, shall include the commissioners of streets, or the major part of them within their respective jurisdictions, unless otherwise expressed or repugnant to the sense; and the word "streets" shall include highways, lanes and bridges.

CHAPTER 65.

OF HIGHWAY LABOR IN THE CITY OF HALIFAX.

SECTION

1. Labor of teams, &c. in Halifax.
2. Persons liable to labor two days.
3. Persons liable to labor six days.
4. List of persons exempted.
5. Persons over sixty years liable for team labor.
6. A day's work in Halifax to be ten working hours.
7. Winter labor.
8. Substitution of men for teams.
9. Extra liability where more than two horses kept.
10. Horses not employed with trucks or carts, how rated.
11. Fine for neglect to labor.
12. How recovered and applied.

Labor of teams, &c., in Halifax.

1. Every person within the city of Halifax keeping a cart, team, or truck, shall at the time notified by the commissioners of streets, send one cart, team, or truck, with two oxen or two horses, or with one horse, if he shall own no more, and one able bodied man to drive the same, to labor on the streets of the city, for four days in every year; and if he shall not attend and labor, he shall, for every day's omission, forfeit, if owning two or more horses, ten shillings, and if owning only one horse, seven shillings.

Persons liable to labor two days.

2. Every hired servant, minor, apprentice, journeyman, and day laborer shall, at the time notified by the commissioners, and provided with the necessary tools directed by the commissioners, work for two days.

Persons liable to labor six days.

3. Every other person able of body between the ages of sixteen and sixty, shall at the time notified by the commissioners, and provided with the necessary tools directed by the commissioners, work for six days in every year.

List of persons exempted.

4. The following persons are exempt from the provisions of this chapter: — Military persons, and persons holding commissions from her majesty in the civil or military departments of the army; teachers of academies or grammar schools, and licensed schoolmasters; the officers, clerks, and persons employed and borne on the books of her majesty's ordnance department, naval yard, victualling establishment, and naval hospital establishment, in Halifax. This latter class of exemptions not to extend to more than forty persons in all, whose names shall be from time to time furnished by the heads of the departments to the city clerk.

Persons over sixty years liable for team labor.

5. Persons within the city keeping carts, teams, or trucks, who being sixty years old or upwards are exempt from labor under the foregoing provisions, shall, nevertheless, when summoned so to do, send their carts, teams, or trucks, to labor four days.

A day's work in Halifax to be ten working hours.

6. A day's labor, when mentioned in this chapter, shall mean ten working hours, and the labor shall be performed by the person liable, either by himself or his hired yearly or monthly servant, to be approved of by the overseer.

Winter labor.

7. The commissioners shall, as often as they deem necessary during the winter, order the inhabitants to work with their horses, oxen, and sleds, on the streets, in order that the same may be rendered passable; and every inhabitant not complying with the order shall, for every omission, forfeit ten shillings, but no person shall be compelled to furnish more than one day's labor of himself and team for any one fall of snow, or to work in any case where the fall or drift of snow shall not exceed twelve inches in depth.

Substitution of men for teams.

8. When the commissioners shall deem the labor of men more useful than the employment of carts, teams, or trucks, then the persons by this chapter required to furnish carts, teams, or trucks, shall, instead thereof, be required under the like penalties to send two men provided with the necessary tools, and to labor for the time hereinbefore prescribed.

Extra liability where more than

9. Every person resident in the city, and keeping carts or

two horses kept.

trucks with more than two horses, shall, besides the performance of labor hereinbefore prescribed, pay for the additional horses over two the following sums annually, viz: for a third horse seven shillings, and for a fourth and every other horse five shillings each.

Horses not employed with trucks or carts, how rated.

10. Every person resident in the city who may keep horses not employed with trucks or carts, or for which he may not be subject to the labor or payments hereinbefore provided, shall pay for such horses annually, as follows, viz: for one horse seven shillings, for each additional horse five shillings.

Fine for neglect to labor.

11. Persons not performing the labor on the streets under this chapter, when summoned six days previously by a notice in writing from the commissioners, or any person acting under them, and delivered personally or at the usual place of abode of the party, shall forfeit for each day's labor to which he may be liable three shillings.

How recovered and applied.

12. Monies and forfeitures under this chapter shall be recovered in the name of the city in the same manner and with the like costs as private debts, and the proceeds shall belong to the general funds of the city.

CHAPTER 66.

OF THE EXPENDITURE OF MONIES ON THE ROADS.

SECTION
1. Commissioners, how appointed.
2. Commissioners' bonds where sums over twenty pounds.
3. Sums under twenty pounds not to be drawn till expended; over that amount, one third only.
4. Money, how to be expended; accounts, form of oath, &c.
5. Contracts, how to be entered into and when to be fulfilled. Form.
6. Contracts in cases under twenty pounds. Form.
7. Return of commissioner in cases of monies expended by contract. Oath.
8. Two justices may certify where work is not faithfully performed; proceedings thereupon.
9. Materials, how provided, where the owner of the soil is absent or obstinate.
10. Number of laborers under one commissioner; wages, how paid.
11. Foremen may be appointed.
12. Commissioners' per centage and pay; pay of men and teams; working hours.
13. Encroachments and incumbrances, how proceeded against.

Commissioners, how appointed.

1. The governor in council shall annually before the fifteenth day of May, and thereafter in cases of necessity, appoint commissioners for superintending the expenditure of monies granted for the making and repairing of roads and bridges, and may remove them at pleasure and appoint others in their place; and the provincial secretary shall furnish the receiver general with a list of the names of the commissioners and the sums to be by them ex-

pended, and shall give the receiver general notice of alterations made in the commissions, and shall, within twenty days after the appointments, have the commissions and the bonds to be entered into by the commissioners, where required, transmitted ready for execution.

Commissioners' bonds where sums over twenty pounds.

2. The commissioners, when the amount to be expended shall exceed twenty pounds, shall, before entering upon the duties of office, give security by bond, with two sureties to the satisfaction of two justices of the peace for the county in double the amount of the sum to be by them expended, faithfully to lay out and account for the money according to law; and the justices shall certify their approbation and the sufficiency of the sureties upon the back of the bond.

Sums under twenty pounds not to be drawn till expended; over that amount one-third only.

3. The receiver general shall retain in his hands, where the amount shall not exceed twenty pounds, the whole, and in other cases two-thirds of the amount to be expended, until the whole sum shall have been duly laid out.

Money how to be expended; accounts, form of oath, &c.

4. The monies shall be expended by tender and contracts, unless it shall appear to the commissioner that the same or parts thereof cannot be so advantageously expended in that manner as by day's work, in which case the monies or parts thereof required may be expended by day's work; but the commissioner who shall expend any monies by day's work shall render an account thereof in writing, under oath, to the receiver general, the oath to be administered by a justice of the peace, without fee, and to be, as near as may be, as follows:

"I, A. B., do swear that the annexed [*or foregoing account*] is just and true, and that the monies by me expended have been fairly and honestly applied for the purposes for which they were granted; that I procured the best labor in my power to procure, and at the lowest rate of wages, and that the day's work charged in the account has been, in my opinion, more advantageous to the public than if the expenditure of the sum had been made by tender and contract.

(Signed) A. B., commissioner.

Sworn to at ———, this —— day of ———, 18—, before me. (Signed) C. D.—J. P."

Contracts how to be entered into, and when to be fulfilled.

5. Before entering into any contract, the commissioner shall give notice thereof by advertisement posted up for ten days previously in the places usual for public notices in the county, and he shall receive sufficient security from the contractor for the performance of the contract within the time specified; and he shall, where the whole amount to be expended exceeds twenty pounds, pay the contractor as the work shall be proceeded in, monies on account, until one third of the amount of the contract shall have been paid; but shall not pay the remaining two-thirds until the work shall be completed agreeably to contract. Contracts shall be made to expire on or before the last day of September in the year in which they are entered into, except those for the opening of new roads

and the improving such as have not been used for wheel carriages, and for erecting bridges which may be extended until the thirty-first day of October, and the contracts shall be as near as may be in the words following, and shall be binding on the parties thereto:

Form

"Articles of agreement made this —— day of ———, one thousand eight hundred and ——, between A. B., commissioner of —— of the one part, and C. D. of ——, and E. F. and G. H. of ———, as sureties of the said C. D. of the other part, as follows, viz: the said C. D., E. F. and G. H. agree with the said A. B. that the said C. D. will, on or before the —— day of ——— next, in a good and workmanlike manner, well and sufficiently ————————, to the satisfaction of the said A. B.; and the said A. B. agrees with the said C. D. that he, the said A. B., will pay unto the said C. D. the sum of ———, in manner following, that is to say: one third thereof from time to time as the work shall be proceeded in, and the remaining two-thirds when the work shall be completed according to this contract."

Contracts in cases under twenty pounds.

6. Where the sum to be expended on any particular work shall not exceed twenty pounds, it shall not be imperative on the commissioner to require the contractor to enter into the formal contract hereinbefore prescribed, but it shall be sufficient to make a memorandum in writing, which shall be binding upon the contractor and his surety, for the due performance of the contract, and upon the commissioner for the payment of the monies agreed on. And the memorandum shall be, as near as may be, in the words following:

Form.

A. B. of ——— hereby agrees with C. D. of —— to perform the following work, viz: ———— and to complete the same in a good and workmanlike manner, on or before the —— day of ——— next. For the due performance whereof, E. F. of ——— hereby becomes surety for the said A. B. And the said C. D. as commissioner for the performance of the work, hereby agrees with the said A. B. on the due performance of his contract, to the satisfaction of the said C. D. to pay him the sum of ——— therefor.

Dated this —— day of ——— 18—.

(Signed) A. B.
C. D.
E. F.

Return of commissioner in cases of monies expended by contract.

7. Commissioners expending any monies by contract, shall make return under oath to the provincial secretary's office, stating the amount of the different contracts entered into by them,—the oath to be administered by a justice of the peace, without fee, and to be, as near as may be, as follows:

Oath

"I. A. B., do swear that the contract referred to in the annexed [*or foregoing*] account, has been faithfully executed, and the money voted for the work has been laid out properly, and to my entire satisfaction. (Signed) A. B.

Sworn to at ——— this —— day of ——— 18—, before me.
(Signed) C. D.—J. P."

And they shall also make return of the contracts, or copies thereof, when exceeding ten pounds.

Two justices may certify where work is not faithfully performed, proceedings thereupon.

8. If two justices of the peace for the county shall certify to the governor that the work upon any road or bridge hath not been faithfully performed, or that any contract hath not been faithfully executed, the commissioner shall not draw the money entrusted to him to expend, or the remaining two-thirds thereof, as the case may be; but the general sessions for the county, or a special sessions to be called for the purpose, shall inquire into the expenditure of the money, the performance of the labor, and the execution of the contract, where one has been entered into, notwithstanding the same may have been performed to the satisfaction of the commissioner, and shall certify to the governor the particulars of the expenditure, and the sum which, in their judgment, ought to be paid to the commissioner, which sum only the commissioner shall receive from the treasury.

Materials how provided where the owner of the soil is absent or obstinate.

9. Where it may be necessary or expedient to procure materials for the repair of the roads, the commissioner, if from the absence or obstinacy of the owner or possessor of the soil, no agreement can be made with him, may enter with workmen, carts, carriages and horses, upon any lands, and therefrom, for the repair of the road, dig up and carry away stones and gravel, and cut down and carry away trees, brushes, logs, poles, and brush wood; and the damage done thereby shall be appraised by three indifferent freeholders, nominated by the nearest justice of the peace for the purpose; and the sum appraised shall be paid by the commissioners to the owner of the soil, if demanded, within three months after.

Number of laborers under one commissioner, wages, how paid.

10. There shall not be employed in any one day more than forty laborers to work under one commissioner, and the wages of laborers shall be paid in cash only.

Foreman may be appointed

11. For every ten laborers daily employed by one commissioner, the commissioner may employ a foreman, who shall work with the laborers, and take charge of those put under his direction, and shall work with and superintend the laborers generally in the absence of the commissioner.

Commissioners' per centage, and pay; pay of men and teams; working hours.

12. Commissioners shall be entitled to charge and retain, after the rate of five per cent. on the monies to be by them expended; and also four shillings per day for every day they shall have been actually employed superintending day laborers, and shall have had at least ten laborers at work throughout the day. No foreman or laborer shall be paid more than four shillings per day. No owner of a team, consisting of a cart, driver and two horses, or four oxen, shall be paid more than ten shillings per day;—and, of a team consisting of a cart, driver, and one horse or two oxen, more than seven shillings and six pence per day. The day to consist of at least ten working hours; and the foregoing wages to be paid only where suitable day laborers, teams and drivers, cannot be had at lower rates for cash.

Encroachments

13. The commissioners shall examine the breadth of the roads

and incumbrances, how provided against

within the limits of their commission; and if it shall appear that any encroachment or incumbrance hath been made or placed upon the same, shall forthwith give notice to the owner or possessor of the land adjoining, that unless the road be opened and cleared to its proper width, within thirty days, the person who shall have caused or continued the encroachment or incumbrance will be prosecuted as the law directs; and the commissioners shall make an accurate return of the breadth of the roads and of incumbrances thereon to the supreme court or sessions for the county, at its next sitting after their appointment, in order that such proceedings may be thereupon had by the court as may be deemed proper to carry into effect the laws in relation to encroachments and incumbrances on the highways.

CHAPTER 67.

OF THE PRESERVATION OF ROADS.

SECTION

1. Fine for alterations or encroachments.
2. Justice on his own view, or the oath of a witness, may fine for incumbering roads; fine how levied.
3. Side paths preserved by order of sessions.
4. Fine for destroying trees, &c., between rivers and highways.
5. Bedford Basin road protected.
6. Incumbrances on the above road forfeited.
7. Bridges protected.
8. Carriges on runners to be driven with bells.
9. Width of carriages on runners.
10. Width of loads of hay.
11. Unloaded sleds not to have pointed stakes, &c.
12. Centre of highway to be left on the right.
13. Persons passing in carriages to leave sufficient space on the left.
14. Carriages standing, not to be within eighteen inches of the centre of the road.
15. Fines for offences when to be prosecuted.
16. How applied.

Fine for alterations or encroachments

1. If any person shall illegally alter or encroach on a public highway or private road laid out and established by law, he shall forfeit five pounds.

Justice on his own view, or the oath of a witness, may fine for incumbering roads, fine how levied.

2. A justice of the peace on his own view, or on the oath of a witness, may impose a fine not exceeding twenty shillings on any person who shall encumber any road or bridge by placing any thing thereon, to be levied by warrant of distress on the offender's goods; or in case the offender shall not be known, by sale of the incumbrance, the overplus, if any, being retained for the owner when discovered. If the incumbrance shall be continued, it shall be deemed a new offence.

Side paths preserved by order of sessions.

3. The sessions may make regulations for preserving the side paths of any public highway, except within the city of Halifax, from being injured; and every person guilty of a breach of the regulations, shall forfeit not less than five nor more than fifty shillings.

Fine for destroying trees, &c., between rivers and highways.

4. If any person shall destroy or injure any trees or underwood growing upon the land lying between any river, lake or arm of the sea, and any public highway running within thirty feet of the margin thereof, he shall forfeit a sum not exceeding forty shillings.

Bedford Basin road protected.

5. If any person shall injure or destroy any trees or underwood growing between the road leading round Bedford Basin from the three mile house to Sackville bridge, and the waters of the basin, at any place where the bank shall not be of greater width than twenty feet from the eastern side line of the road, or shall, from any place above high water mark, where the bank shall not be of greater width than before mentioned, unless for agricultural purposes, in a cultivated part thereof, carry away from the bank any earth or stones, or shall take from out of the bank, where not of greater width than before mentioned, any earth or stones near the roots of any trees or underwood, whereby the trees or underwood shall be injured or destroyed, he shall forfeit, for every offence, forty shillings; and in default of payment, or goods whereon to levy, he shall be committed to jail for not less than ten, nor more than thirty days.

Incumbrances on the above road forbidden.

6. All incumbrances found on the ditches or tract of the road, in the last section mentioned, shall be forfeited, and may be disposed of by the surveyor of highways, without any legal proceedings, and the proceeds shall be applied by the surveyor to the repair of the road.

Bridges protected.

7. No person shall trot or gallop any horse over a bridge within, or partly within this province, of greater length than twenty-five feet.

Carriages on runners to be driven with bells.

8. Carriages on runners driven on the highway shall have affixed to the harness two good open bells, or four good round bells, such as are commonly used in sleighs.

Width of carriages on runners.

9. Carriages on runners used for the conveyance of loads on the highway, shall be not less than four feet wide from outside to outside.

Width of loads of hay.

10. No load of hay or straw of greater width than fourteen feet, shall be drawn on a highway.

Unloaded sleds not to have pointed stakes, &c.

11. No unloaded sled shall have pointed stakes standing, or frames or projecting pieces outside.

Centre of highway to be left on the right.

12. Persons in driving upon the highway shall leave the centre of the road on their right hand.

Persons passing in carriages to leave sufficient space on the left.

13. Persons attempting, when driving, to pass another carriage on the highway leading in the same direction, shall leave a sufficient way open on their left hand for the carriage which they are about to pass.

Carriages standing, not to be within eighteen inches of the centre of the road.

14. Carriages standing on the highway shall not be nearer the centre of the road than eighteen inches, and on the proper side thereof.

Fines for offences when to be prosecuted.

15. Persons violating any of the provisions of the last eight sections shall, for every offence, forfeit ten shillings; and in default of payment, or goods whereon to levy, shall be committed to jail

for not more than forty-eight hours; but the prosecutions must be commenced within forty-eight hours after the offence.

How applied

16. Forfeitures under this chapter, not specifically appropriated, shall be applied under the directions of the sessions to the repair of the roads and bridges.

CHAPTER 68.

OF SUPERVISORS OF PUBLIC GROUNDS.

SECTION

1. Supervisors how appointed.
2. Title of public grounds, &c., to be vested in supervisors.
3. Leases of, how made; accounts to be filed; rent how applied.
4. Lands and property excepted from the operation of this chapter.
5. Encroachments upon roads, how dealt with; proceedings in cases of dispute.
6. Fine for disobeying supervisor's or sessions' order.
7. Expenses how borne and recovered.
8. Order of supervisors, how proved.
9. Record to be signed, and filed.
10. Appeal from order.
11. Costs of appeal how paid if order confirmed.
12. When order reversed, costs how paid.
13. Supervisors may take order for widening roads.
14. Proceedings to be had at sessions.
15. Sessions may appoint three freeholders to lay off road; subsequent proceedings.
16. Width of road.
17. Roads affected by this chapter.

Supervisors how appointed.

1. The grand jury in each county or district shall, on the application of twenty freeholders of any township, appoint six persons resident in such township, out of whom the sessions shall appoint three to be supervisors of public grounds, and the sessions, upon the recommendation of the grand jury, may remove them, or any of them, and vacancies shall be supplied by the grand jury recommending double the number of persons necessary to supply the same, out of whom the sessions shall appoint the number required, and the clerk of the peace shall keep a record of such appointments, removals, and vacancies, and the dates thereof; and such supervisors shall be a body corporate, by the name of "the supervisors of public grounds for the township of ———."

Title of public grounds, &c., to be vested in supervisors.

2. The legal title of and in all public parade grounds and public landings within the township, and of all commons and other lands not belonging to the county or district at large, but which may be acquired or had for the general purposes and uses of the inhabitants of such township, and of and in all buildings thereon being, and appurtenances thereto belonging, shall, on their appointment, vest in the supervisors for the original purposes for which they were intended.

Leases of, how made, accounts to be filed; rent how applied.

3. The supervisors may, by direction of the grand jury and sessions, lease any such lands not required for public uses for any period not exceeding seven years; and they shall annually render

to the sessions an account of monies by them received for rents, and of expenses connected with the letting, to be audited by the grand jury and sessions and then filed in the office of the clerk of the peace; and the balance of such rents, after deduction of the expenses, shall be by the supervisors paid to the overseers of the poor for the township, or where there shall be more than one poor district in the township then such balance shall be equally divided among the different districts, and paid to the overseers thereof respectively.

Lands and property excepted from the operation of this chapter.

4. Nothing in the preceding sections contained shall extend to any place of divine worship, burial ground, college, academy, school, or any land thereto belonging, or any land belonging to any religious congregation or society, or shall deprive any person of any right lawfully acquired, or affect any lands or buildings now vested in trustees.

Encroachments upon roads, how dealt with; proceedings in cases of dispute.

5. Whenever the supervisors shall deem a road encroached upon or encumbered, and in all cases where a doubt or dispute shall exist as to the true line of a road, or as to which side is encroached upon, the supervisors, after ten days' notice in writing to the parties in possession of the land on both sides of the road where the line is in dispute, or the parties who may have caused the encroachment or incumbrance, of the time and place at which they will investigate the matter, shall repair to the place where the encroachment or incumbrance shall be alleged to exist or the line be in dispute, and there inquire into the facts, and, if necessary, may then, or at a future day, have a survey made of the road, and examine witnesses on oath, to be administered by a supervisor, touching the matter, and shall, after completing the investigation, determine and mark out the true line of the road, and direct the same to be opened to the full width of sixty-six feet, or to any less width to which it may have been confined by its dedication, and shall, by order in writing, direct and cause all encroachments or incumbrances to be removed to such distance as they shall determine on, but they shall not cause to be removed any building erected upon the road; but where a building shall be found to encroach thereon, they shall report the same to the next sessions, and the sessions shall make such order in relation thereto as may be deemed proper.

Fine for disobeying supervisor's or sessions' order.

6. If any person shall not obey the order of the supervisor or sessions delivered to him in writing, within thirty days after receiving the same, he shall forfeit twenty shillings; and if the encroachment or incumbrance be suffered to remain for a further space of twenty days after the imposition of the fine, the continuance shall be held a new offence, and shall subject the party to a further fine of twenty shillings; and so in like manner shall every further continuance of the encroachment for twenty days be held a new offence, and the further fine of twenty shillings be imposed therefor.

Expenses how borne and recovered.

7. The supervisors may apportion and order the payment of the expenses incident to the proceedings hereinbefore mentioned, among

and by such persons as shall appear advisable, and the same shall be recoverable by the parties entitled thereto, as if it were a private debt of the like amount.

Order of supervisor, how proved.

8. In any suit under either of the two preceding sections, the production of a copy of the order of the supervisors under their hands, or of the order of sessions, under the hand of the clerk of the peace—proof of the hand writing being in either case given, shall be good evidence of the order, and shall suffice to establish the claim of the plaintiff.

Record to be signed, and filed.

9. The supervisors shall make a record of their investigations and order, setting out therein the lines of road by them established, which record shall be signed by them, and be returned to the clerk of the peace to be filed in his office.

Appeal from order.

10. Any person dissatisfied with the order of the supervisors, or of the sessions, may appeal therefrom to the next supreme court of the county, where the matters in dispute shall be tried and determined by the verdict of a jury, if a jury shall be ordered by the court, and pending the appeal, no further proceedings shall be had under the order.

Costs of appeal, how paid if order confirmed.

11. If judgment, on appeal, shall confirm the order, then the cost of appeal shall be paid by the appellant, and having been taxed in the usual manner, shall be recovered by execution.

When order reversed, costs how paid.

12. If the order shall be reversed on appeal, the costs consequent thereon, as well as the expenses attending the making of the order, shall be paid in the first instance by the supervisors, but shall form a county charge, and be refunded to them, together with their own reasonable charges.

Supervisors may take order for widening roads.

13. Where a road shall have been opened and used as a public highway, and the same, although not encroached upon, has been originally laid off too narrow, or shall have been made public by use only, and the supervisors shall deem it proper to widen the same, they shall notify the parties in possession of the lands on both sides of their intention to widen the road, and that application for that purpose will be made to the next sessions.

Proceedings to be had at sessions.

14. The supervisors shall, at the next sessions, submit to the court their application for widening the road, stating the then breadth thereof and the width to which they propose to open the same; and, if they shall have made any agreement with the proprietors of the land as to compensation for land and fencing, shall at the same time submit it; and if the court are satisfied of the propriety of widening the road, and shall approve of the agreement so made, they shall make an order for widening the road, specifying the breadth to which it shall be extended, and confirm the agreement made—which order shall be final, and the supervisors shall proceed to widen the road accordingly.

Sessions may appoint three freeholders to lay off road; subsequent proceedings.

15. In case no agreement shall have been made, or the sessions shall not approve of the agreement, but shall be satisfied of the propriety of widening the road, they shall appoint three disinterested freeholders, one to be nominated by the supervisors, one to

be nominated by the possessors of the lands, or, on their omission, by the sessions, and the third to be nominated by the sessions, and shall issue their precept to the three freeholders, directing them to lay off and mark out the road to the width directed, in the way most conducive to the public good, and least prejudicial to the proprietors of the lands. And all further proceedings in reference to the widening of the road, whether upon appeal or otherwise, shall be had in the manner prescribed by the sixty-first chapter of this act, in regard to opening new roads or altering old ones, except that the propriety of widening the road shall not be inquired into, and the damages appraised shall form a county charge; but no fencing shall be paid for except as directed under the last mentioned chapter.

Width of road.

16. No road shall be opened under the last three sections to a greater extent than sixty-six feet.

Roads affected by this chapter.

17. The provisions of this chapter shall extend to roads upon which grants of monies may have been made by the legislature—to roads which have been open for the use of the public for twenty years, and to roads upon which statute labor may have been performed, except private or pent roads, whereon the statute labor may have been performed by direction of the sessions, but shall in no case apply to roads which have been abandoned.

CHAPTER 69.

OF CLOSING ROADS.

SECTION
1. Old roads may be closed by sessions on petition; proceedings prescribed.
2. Parties who may be heard; appeal allowed.
3. Where owner of adjoining lands is dead, who to be considered the proprietor.

Old roads may be closed by sessions on petition; proceedings prescribed.

1. Where a line of road has been altered, and the old road has been abandoned by the public as a general thoroughfare, any of the proprietors of land adjoining the old road, may, by petition stating the facts, and the names of all persons interested in the lands on either side of the road, apply to the sessions to shut up or otherwise dispose of the same,—which petition shall be accompanied by an affidavit that at least thirty days' previous notice in writing of the application has been given to the parties interested, and posted up in two public places near the road; and the sessions shall hear the parties applying, and their witnesses, and also the parties notified, if they shall desire it, and their witnesses; and shall make an order, either dismissing the application, or granting, or modifying the same. Persons dissatisfied with the order, may appeal there-

from within ten days, to the next sitting of the supreme court, and the clerk of the peace shall thereupon return the proceedings to the supreme court, who shall examine them, and if deemed advisable, hear the parties appearing, and their witnesses, and shall make order as shall seem right therein. The order of the sessions, if not appealed from, and the order of the supreme court in case of appeal, to be conclusive.

Parties who may be heard, appeal allowed

2. Persons, although not interested in lands adjoining or near the road, and their witnesses, may be heard against the closing or disposing thereof, and may appeal from the order of sessions.

Where owner of adjoining lands is dead, who to be considered the proprietor.

3. If any land adjoining the road shall have been the property of a person deceased, and be not divided among his heirs, the representatives of the deceased person, and the guardian of his minor children, if any, and the person in possession of the land, shall, for the purposes of this chapter, be considered the proprietors.

CHAPTER 70.

OF RAILROADS.

SECTION

1. Bells or whistles to be kept on engines—when to be rung or sounded.
2. Painted boards, at crossings.
3. Gates and keepers at crossings may be ordered by sessions.
4. Fine for violation of preceding sections.
5. Fine for obstructing railroads.
6. Fine for going upon, or leading animals on, rail road.
7. Fine for cattle trespassing on rail road limits.
8. Imprisonment when no goods to satisfy fine.
9. Special constables how appointed; their badge and duty.
10. Definition of terms.

Bells or whistles to be kept on engines—when to be rung or sounded.

1. The proprietor of any railroad whereon any locomotive engine shall be run, shall cause a suitable bell or steam whistle to be kept on every engine while running, and which shall be rung or blown at the distance of at least eighty rods from every place where the rail crosses any other road upon the same level with the rail, and shall be kept ringing or sounding until the engine has crossed.

Painted boards at crossings.

2. The proprietor of every such railroad shall cause boards to be placed, well supported by posts and constantly maintained, across every road at every place where crossed by the rail on the same level; such boards and posts to be of a height to be easily seen by travellers without impeding the travelling; and on each side of the boards shall be painted, in capital letters at least nine inches high, the following inscription, to be kept always plainly legible: "railroad crossing, — look out for the engine."

Gates and keepers at crossings may be ordered by sessions.

3. Upon application to the sessions, setting forth that in addition to the foregoing provisions it is necessary for the security of

the public that gates should be placed across any such railroad where the same shall cross any road on the same level therewith, and that persons should be stationed at such gates to open and close the same when required for the passing of the engine, the sessions shall investigate the application and hear evidence thereon, and if they shall be of opinion that the placing of such gates and the stationing of such persons thereat is necessary for the security of the public, shall make an order accordingly, with which order the proprietor shall comply; but no such order shall be made unless a summons, to be issued by the clerk of the peace, setting forth the nature of the application, shall be served on the manager or person having charge of the railroad, or some known agent of the proprietor thereof, actually employed in and about the railroad, at least fourteen days before the first day of the sitting of the sessions at which the investigation shall take place, requiring cause to be shewn against such application.

Fine for violation of preceding sections.

4. If any proprietor shall violate any of the provisions of the three preceding sections, he shall, for every offence, forfeit a sum not exceeding fifty pounds.

Fine for obstructing railroads.

5. If any person shall maliciously obstruct the passing of any engine or carriage along any railroad, or shall maliciously place any thing on such railroad calculated to obstruct the passing of any engine or carriage, or to injure or endanger the same, or shall maliciously injure such railroad or any thing thereto appertaining, or any materials or implements for the construction or use thereof, such person, and also every person abetting the offence shall forfeit a sum not exceeding fifty pounds.

Fine for going upon, or leading animals on, railroad.

6. If any person, after any such railroad shall be opened for use, shall himself go thereon, or shall ride, drive, or lead any animal thereon without the consent of the proprietor, he shall for every offence forfeit twenty shillings; but nothing in this section shall prevent the passing across the railroad where the same is crossed by any other road on a level therewith.

Fine for cattle trespassing on railroad limits.

7. If any animal shall be found going at large within the limits of any such railroad after the same is opened for use, the person through whose neglect the same shall occur shall for every offence forfeit five shillings; provided the railroad shall have on the sides thereof where it shall not cross some other road on the same level, a lawful fence.

Imprisonment when no goods to satisfy fine.

8. If any person convicted under any of the three preceding sections shall not pay the judgment, and no goods can be found whereon to levy, he may be imprisoned for a term not exceeding one day for every five shillings of the amount of the judgment; such term in no case to exceed three months.

Special constables how appointed, their badge and duty.

9. In order more effectually to prevent breaches of the foregoing regulations, the general sessions or any special sessions, not interested in the railroad or connected therewith, may appoint and swear in constables for such railroad, to be nominated by the proprietor; and such constables shall be stationed at such places

as may be deemed necessary, at the expense of the proprietor, and shall carry such distinguishing badge when on duty as the general or special sessions shall direct, and shall have all the powers of constables in preventing such breaches, and for apprehending offenders and taking them before justices of the peace, and for preserving public peace and order on and within the limits of the railroad.

Definition of terms.

10. The word "proprietor," when used in this chapter, shall include his agents and servants; and the word "road" shall include streets, lanes, and highways.

CHAPTER 71.

OF CERTAIN BRIDGES AND PUBLIC LANDINGS.

SECTION

1. Wharves, landings, and certain bridges to be under the control of the sessions.

Wharves, landings, and certain bridges to be under the control of the sessions.

1. The sessions shall have the control of all public wharves and public landings, and of all draw bridges, and also of the following other bridges, viz:—Lake Porter bridge, in the county of Halifax, the bridge over Sissaboo River, in the county of Digby, and Bear River, dividing the counties of Annapolis and Digby, which latter bridge, for the purposes of this chapter, shall be considered wholly in the county of Digby, and the sessions may make orders for the preservation and proper keeping thereof, and may appoint persons to superintend the same, who shall in such case be sworn to the faithful discharge of their duties before a justice of the peace, and the sessions may affix penalties for the breach of any such orders, not exceeding in any one case three pounds, and may also impose charges on vessels lying at, and goods landed on, such wharves or landings, and may direct the mode of recovery and application of such penalties and charges; but nothing herein contained shall affect rights conferred by any act of incorporation in relation to any such draw bridge, public wharf or public landing.

CHAPTER 72.

OF FERRIES.

SECTION
1. Ferries and ferriage to be established and regulated by sessions.
2. Lennox Passage, and the Gut of Canso, to have a ferryman on each side.
3. Duty of ferrymen.
4. Fine for neglect of duty, further liability.
5. Fine for interfering with ferrymen's privileges.

Ferries and ferriage to be established and regulated by sessions.

1. The sessions may establish ferries over harbors, bays, rivers and creeks within their counties or districts, and agree with and grant licenses to ferrymen on one or both sides thereof, under the regulations, and at the rates of ferriage by the sessions established or to be established.

Lennox Passage, and the Gut of Canso, to have a ferryman on each side.

2. At the Lennox passage, in the Island of Cape-Breton, and at the Gut of Canso, there shall be at least one ferryman appointed on each side.

Duty of ferrymen.

3. Ferrymen shall keep safe and good boats, or vessels in good repair, and suitable for the ferry, and give ready attendance on passengers, according to the regulations.

Fine for neglect of duty; further liability.

4. Ferrymen not complying with the regulations, or receiving more than the established rate of ferriage, or neglecting to keep boats or vessels, or to give attendance as hereinbefore directed, shall forfeit for every offence not less than ten nor more than forty shillings, and shall be further liable to an action on the case for damage by any person sustained from the neglect.

Fine for interfering with ferrymen's privileges.

5. When a ferry has been established, and the ferryman licensed, if any other person shall carry over the harbor, bay, river or creek, whereon the ferry is established, any person, cattle or carriage, for hire, unless by consent of the licensed ferryman, or on his not giving due attendance, he shall for every offence forfeit not less than five nor more than twenty shillings, to the use of the person suing; and in default of goods whereon to levy, the person convicted shall be committed to jail, for not less than five nor more than ten days, to be in the execution expressed, unless the amount shall be sooner paid; but if the licensed ferryman shall not give attendance pursuant to the regulations, then any other person may supply his place, and receive pay as if licensed, until another shall be appointed.

TITLE XX.

OF SEWERS, COMMONS, AND COMMON FIELDS.

CHAPTER 73.

OF COMMISSIONERS OF SEWERS AND THE REGULATING OF DIKED AND MARSH LANDS.

SECTION

1. Commissions already issued to continue in force.
2. Commissioners how appointed and sworn in; clerk to be appointed and sworn.
3. Commissioners how chosen to carry on work; how dismissed.
4. Powers of commissioners for carrying on works; new works how begun.
5. Overseers may be appointed; how sworn.
6. Notice to be given proprietors.
7. Assessment to be made, and for what purposes.
8. Rates exceeding seven shillings and six pence per acre, how assessed.
9. Meadow and swamp lands assessed for original draining as in last section.
10. Assessment when agreed to unanimously shall be valid as other rates.
11. Fines, rates and assessments, how recovered; private set off disallowed.
12. Lands may be leased for payment of rates.
13. May be sold, if rents not sufficient.
14. Land only liable where owner hath not agreed to the works.
15. Deficiencies of rates, how levied and collected.
16. Actions by owners, &c., against commissioner for work, &c. when sustainable.
17. Owners and occupiers required to furnish labor; fine for neglect.
18. Damage for sods or soil how assessed.
19. Record to be kept by clerk; fees for inspection and extracts.
20. Salt marshes liable in certain cases to expenses of breakwaters.

SECTION

21. Expense to be assessed upon the parts benefitted.
22. Competency of clerks and other officers as witnesses.
23. Commissioner shall not be clerk.
24. Plans when necessary, how obtained.
25. Outer dikes protecting lands enclosed by inner dikes, how kept in repair.
26. Outer dikes ceasing to protect inner dikes.
27. Proprietors interested in inner dikes may take proceedings to compel repairs of outer dikes.
28. Dikes injured by pasturage or roads, how repaired.
29. Applications for drainage, how made; duty of commissioners thereon.
30. Proprietors dissatisfied with rates may have assessors chosen, whose decision shall be final.
31. Mode of procedure where the provisions of last section are not complied with.
32. Damages to lands of persons not applicants, how valued and assessed.
33. Cases of two proprietors, but neither owning two thirds, how provided for.
34. Certiorari for removing proceedings into supreme court.
35. Fines for clerks and other officers neglecting duty.
36. Notices may be verbal, unless otherwise specified.
37. Two thirds of proprietors may choose collectors and other officers, settle rates of wages, &c. &c.
38. Commissioner how far liable for his predecessor's acts.

Commissions already issued to continue in force.

1. All commissions issued for the appointment of commissioners of sewers shall continue in force till the governor in council shall otherwise direct.

Commissioners how appointed and sworn in;

2. The governor in council, at the request of any of the proprietors of any marsh, swamp, or meadow lands, may appoint one or

more commissioners of sewers for the county, township, or place where such lands lie, who shall be sworn into office by a justice of the peace, and such swearing shall be entered in the commissioners' book of record, which shall be evidence of the fact; and the commissioners shall appoint a clerk, who shall be sworn into office by one of the commissioners, and the swearing shall be entered in the book of record, which shall be evidence of the fact. Clerk to be appointed and sworn.

3. Two thirds in interest of the proprietors of any marsh, swamp, or meadow lands within the jurisdiction of such commissioners may, by themselves or their agents, select one or more commissioners to carry on any work for reclaiming such lands; and they may at any time add to or diminish the number of commissioners selected, or supersede any or all of them, and choose others instead; and the choice or dismissal of any commissioners for or from the management of any particular land shall be made in writing, under the hands of two-thirds of the proprietors in interest in such lands, and shall be entered in the book of record or filed by the clerk. Whenever any marsh, swamp, or meadow lands lie partly in two counties, one or more commissioners of sewers may be chosen therefor out of one or both the counties in which such lands lie. Commissioners how chosen to carry on work, how dismissed.

4. The commissioners so chosen may require the proprietors of such lands to furnish men, teams, tools, and materials to build or repair any dikes or wears necessary to prevent inundation, to dam, flow, or drain such lands, or to secure the same from brooks, rivers, or the sea, by aboiteaux or breakwaters, or in any way they may think proper, and in case of neglect may employ men and teams, and provide tools and materials for that purpose at the expense of such proprietors; the commissioners so chosen shall consult such other commissioners within the township, county, or place, as two thirds in interest of the proprietors of the lands in question, personally or by their agents, shall name, as to the practicability of the work, or any thing relating to the same. In case of the commencement of any new work, two thirds in interest of the proprietors of the lands shall first agree thereto. Powers of commissioners for carrying on works; new works how begun.

5. Commissioners may appoint from among the proprietors of such lands one or more overseers to assist them, who shall be sworn by one of the commissioners. Overseers may be appointed; how sworn.

6. Commissioners shall in ordinary cases cause three days' notice, exclusive of Sundays, to be given to the proprietors of lands, or to their known agents where they reside within ten miles of the place where the labor is required to be done, to attend and furnish labor and materials; but in cases of sudden breaches in any works, or apprehension thereof, the immediate attendance of each proprietor may be required. Notice to be given proprietors.

7. The commissioners so chosen may assess the owners or occupiers of such lands for any expenses incurred by them or their predecessors, whose accounts remain unsettled, for dikes, wears, drains, aboiteaux, or breakwaters, including seven shillings and Assessment to be made, and for what purposes.

six pence per day for every commissioner while actually employed, and a reasonable sum for the payment of the clerk, overseers, and collector, having regard to the quantity and quality of land of each owner or occupier, and the benefit to be by him received.

Rates exceeding seven shillings and six pence per acre, how assessed.

8. Where any rate shall exceed seven shillings and six pence an acre on the whole quantity of rateable land the commissioners shall summon the owners or occupiers of such land, or their known agents, or such of them as shall reside within ten miles of the work, to meet at a certain place and at a certain time, not less than three days exclusive of Sunday, after service of such summons, when two thirds in interest of the owners or occupiers present may elect not less than three nor more than five disinterested persons as assessors, who shall be sworn into office in the same way as the clerk, and they, or a majority of them, shall, with the commissioners, assess the owners or occupiers for the expenses incurred, including a sum not exceeding seven shillings and six pence a day for each assessor while actually employed.

Meadow and swamp lands assessed for original draining as in last section.

9. An assessment may be made in the same way in respect of meadow lands and swamps for the original opening or draining thereof, although the rate be less than seven shillings and six pence an acre on the quantity of rateable land.

Assessment when agreed to unanimously shall be valid as other rates.

10. If the owners or occupiers, or their agents, attending such meeting shall unanimously agree to an estimate and assessment in writing, to be entered in the books of the commissioners, it shall be valid and binding, as any other rate or assessment.

Fines, rates, and assessments, how recovered; private set off disallowed.

11. All fines, rates and assessments, shall be recovered by and in the names of the commissioners so appointed and chosen, with costs as if the same were private debts; and a copy of the assessment, or of such part as may relate to the particular rate sued for, shall be sufficient proof of the assessment having been made, and of the liability of the owner or occupier of the land in question to pay the same; and no fine, rate, or assessment shall be subject to any set off of a private nature, or be connected with any private claim on the part of the plaintiff.

Lands may be leased for payment of rates.

12. When no goods of any owner or occupier of such lands can be found within the county where they lie, or the commissioners shall not think prudent to proceed under any judgment so obtained against such goods, the commissioners may let so much of the land as will pay the rate and expenses thereon, first giving twenty days' notice, by handbills, posted in at least three of the most public places in the township where the lands lie.

May be sold, if rents not sufficient.

13. If any such lands cannot be let for a sufficient sum to pay the rate and expenses, the sheriff or his deputy, at the request of the commissioners, shall sell the same, or so much thereof as is necessary to pay the rate and expenses, having given three months' previous notice of the time and place of such sale, by handbills, posted in at least three of the most public places in the township where such lands lie; and shall execute and deliver to the purchaser a valid deed of such lands,—for which deed, and his atten-

tion about the sale, he shall be entitled, out of the proceeds, to ten shillings. A recital in the deed of such handbills having been duly posted, shall be presumptive evidence of the fact. No school or glebe lands shall be sold under this chapter.

Land only liable where owner hath not agreed to the works.

14. Where the present or former owner or occupier of any land, or his known agent, shall not have agreed to the building of any dike, wear, aboiteau or breakwater, or to the damming, flowing or draining of such land, the land only shall be liable for the rate or assessment.

Deficiencies of rates, how levied and collected.

15. Any deficiency in the amount of a rate may be levied and collected as an original rate.

Actions by owners, &c. against commissioner for work, &c. when sustainable.

16. No commissioner shall be liable to an action for any demand for work or materials furnished by the owner or occupier, or his agent, until all rates and expenses thereon against the lands of such owner or occupier shall have been paid, nor until after a reasonable time for making up the rate bill and collecting the same; and before any letting or sale shall take place, the amount due to the owner or occupier of such lands, for work or materials, shall be deducted from the amount due from such owner or occupier.

Owners and occupiers required to furnish labor: fine for neglect

17. Every owner or occupier of such lands, or their agents, shall, when required by the commissioners, provide, at a certain time and place named, a sufficient number of laborers, with tools, carts and teams, in proportion to the quantity of land owned or occupied; and for each day's neglect, in case of a sudden breach, or the apprehension of one, shall pay, besides his rate or assessment, a fine of five shillings for each laborer, and a like sum for each cart or team so required. All fines when recovered to be applied for the benefit of such lands generally.

Damage for sods or soil how assessed

18. When sods or soil shall be cut off the land of any proprietor, diked in common with other proprietors, for diking the same, or such lands shall be washed away, or diked out, or injured by carting over the same by order of the commissioners, such damage shall be valued, assessed and paid as other dike rates. If there be any lands so reclaimed, lying undivided and in common, the same shall be, as far as it may be available, allotted to the party injured, and the balance only, if any, assessed as above.

Record to be kept by clerk; fees for inspection and extracts

19. The clerk of the commissioners shall keep a record of all their proceedings, and a fair account of all monies expended by them, open to the inspection of all persons interested therein, on payment for each search and examination of the book at one time of one shilling; and a copy shall be furnished to every person interested, when demanded, on payment of six pence for every ninety words.

Salt marshes liable in certain cases to expenses of breakwaters.

20. Whenever by the making or repairing of a breakwater, salt marsh lying outside the same shall be benefitted thereby, the same shall be taxed and assessed, towards the expense of the breakwater, in proportion to the benefit derived.

Expense to be assessed upon the parts benefitted.

21. Whenever in the draining of any swamp or meadow land a part shall be benefitted, the proportion of the expense shall be assessed on that part only.

Competency of clerks and other officers as witnesses

22. A clerk or overseer or collector shall be a competent witness to prove any fact connected with the duties of his office, although a proprietor in the land included in the assessment, except in a matter touching the particular rate or assessment upon his own land or himself in relation thereto.

Commissioner shall not be clerk.

23. No commissioner of sewers shall hold the office of clerk or collector.

Plans when necessary, how obtained

24. When any commissioner of sewers, having the charge of any land, shall think it necessary to have a plan thereof shewing the several lots and boundaries, and the names of owners or occupiers, he may employ a surveyor to make such plan, and order the expense to be laid on the land so surveyed as other charges; and may require the owners or occupiers, or their agents, to point out to the surveyor the boundaries of their respective lots, and the owners, occupiers, and agents so called upon, shall be bound by such survey and plan.

Outer dikes protecting lands enclosed by inner dikes, how kept in repair

25. Where any lands enclosed by dikes shall, by other dikes erected outside the same, be enclosed and protected, the commissioner in charge of the lands reclaimed by outer dikes shall call a meeting of all the proprietors of the land within the whole level contained and enclosed by the outer dikes, who shall reside within the township or within ten miles of the place where such lands lie, giving six days' notice of the time and place of meeting to each proprietor or his known agent; and two thirds in interest of such owners or occupiers present, or, in case of their neglect, then the commissioners shall elect not less than three nor more than five disinterested freeholders, who, being sworn before a justice, shall determine what proportion or degree of benefit hath accrued or is likely to accrue to the old or inner dikes and the lands lying within the same, from the new or outer dikes, and shall settle and declare the proportion of expense the proprietors of the lands within the old dikes ought annually to contribute and be assessed towards the maintenance and repair of the new dikes; and such persons, or two thirds of them, shall make a report in writing of their proceedings, which shall be entered in the book of record for such outer dikes, and every sum or proportion of expenses so settled and declared shall be borne upon the lands within the inner dikes and assessed and collected as other dike rates.

Outer dikes ceasing to protect inner dikes.

26. If such outer dikes shall at any time cease, in whole or in part, to protect such inner dikes, the lands within the inner dikes shall not for such time contribute or be assessed to the support or repair of the outer dikes.

Proprietors interested in inner dikes may take proceedings to compel repairs of outer dikes.

27. If at any time two thirds in interest of the proprietors of the lands within the inner dikes shall be apprehensive that the outer dikes are unsafe or out of repair, two thirds in interest of the proprietors of the whole level may call upon one or more commissioners to examine the outer dikes; and if it appear to him or them to require repair, he or they, with the assent of such two thirds in interest of the proprietors of the whole level, shall forthwith cause

the same to be repaired, or otherwise, with the like consent, put the inner dikes in a state of repair, as shall seem most advisable. If the inner dikes be repaired, then the proprietors of the lands enclosed thereby shall bear the expense.

Dikes injured by pasturage or roads, how repaired.

28. If any person shall pasture marshes or other lands enclosed by a common dike, or without and adjoining such dike, or shall make a road over such dike whereby it shall be injured, the commissioners may make an order on such person as often as occasion may require for repairing the injury by a certain day to be named therein; and, in case of refusal of obedience to such order, the commissioners shall cause the injury to be repaired, and the person disobeying the order shall forfeit for every offence ten shillings, which, with the costs of the repair, may be recovered and applied as other dike rates.

Applications for drainage, how made; duty of commissioner thereon.

29. On application by any proprietor of marsh, swamp, or meadow lands, in writing, signed by him or his agent, to the commissioners for a county or township in which the lands lie, or in case there has been a commissioner or commissioners selected by two thirds in interest for carrying on work over the lands whereof the same forms a part, then to such commissioner or commissioners, setting forth that the same are frequently overflowed and rendered unproductive, the commissioners, or any three of them, or the commissioner or commissioners so selected, as the case may be, shall inquire into the merits of the application, and may direct such lands to be drained by causing new or old drains to be opened through the same or any adjacent land, and such commissioner or commissioners may order such measures as they may deem proper for rendering the lands productive, and may require the proprietors or occupiers of the lands through which the drainage shall be ordered, to perform a just proportion of the labor necessary for the purpose, and shall have power to tax all lands benefitted by such drainage, and the proprietors or occupiers thereof, for the expenses incurred, and for damage arising therefrom, in proportion to the benefit to be received by such lands respectively, by a rate according to the quantity and quality of the lands owned by the proprietors respectively; which rate shall be levied and recovered as other dike rates are; but no such rate shall be payable until ten days after notice given by the commissioner or commissioners, or his or their collector or clerk, to the proprietors or occupiers, or their known agents respectively, residing within ten miles of the lands drained, of the amount thereof, or, in case of an appeal, until after the decision thereon.

Proprietors dissatisfied with rates may have assessors chosen, whose decision shall be final.

30. If any proprietor or occupier taxed shall, within seven days after being notified thereof, give notice to the commissioner or commissioners in writing, signed by himself or his agent, that he is dissatisfied with the rate, such commissioner or commissioners shall summon the owners or occupiers of such lands, or their known agents, or such of them as shall reside within ten miles of the work, to meet at a certain place and on a certain day, being at

least three days, exclusive of Sunday, after service of such summons, when a majority in interest of those present shall elect not less than three nor more than five disinterested persons as assessors, and the assessors, or a majority of them, having been first sworn into office in the same way as the clerk, with such commissioner or commissioners, shall assess such owners or occupiers for the expenses incurred, including a sum not exceeding seven shillings and six pence a day for each assessor while actually employed, and the decision of the assessors, or any three of them, shall be final.

Mode of procedure where the provisions of last section are not complied with.

31. In case the proprietors neglect to meet at the time and place appointed, or to appoint assessors, or in case the assessors or a majority of them neglect to perform the duties imposed upon them, the commissioner or commissioners shall forthwith submit and refer such rate to three other disinterested commissioners of sewers of the county or township within which the lands lie, by name, who shall forthwith revise, and, if they see fit, amend such rate, and the decision of the revising commissioners, or any two of them, shall be final.

Damages to lands of persons not applicants, how valued and assessed.

32. When the land of any proprietor within such marsh, swamp, or meadow land, other than that of the applicant, shall have been injured by such drainage or other measures ordered, the damage shall be valued, assessed, and paid in the same manner as directed for the expenses incurred in such drainage.

Cases of two proprietors, but neither owning two-thirds, how provided for.

33. Where any diked marshes are owned by two persons in such proportions that neither is interested to the extent of two thirds, either party may require one or more commissioners to take charge of and carry on any work necessary for repairing the dikes thereof.

Certiorari for removing proceedings into supreme court

34. If any owner or occupier of land think himself aggrieved by the proceedings of the commissioners, or of any person acting under this chapter, he may remove the proceedings of such commissioners by certiorari into the supreme court, where they shall be examined if necessary, and such determination made as shall be proper; but sufficient security shall be first given by the applicant to the prothonotary of the court for payment of costs to be awarded and taxed.

Fines for clerks and other officers neglecting duty.

35. All clerks, collectors, overseers, and assessors, who shall neglect or refuse to comply with their duties, shall be liable to a fine of ten shillings for each offence, to be collected and appropriated as other fines under this chapter.

Notices may be verbal unless otherwise specified.

36. Every notice required to be given, unless herein otherwise directed, may be a verbal notice to be given to the parties in person, or left at their dwelling houses if known, and within the distance limited in this chapter.

Two-thirds of proprietors may choose collectors and other officers, settle rates of wages, &c. &c.

37. Two thirds in interest of the proprietors of any marsh, swamp, or meadow land, may make choice of a collector, overseers, and assessors; may order, confirm, or disallow any plan of lands, and settle the wages to be paid to or for the collector, overseers,

laborers, carts, or teams, and the price to be paid for materials, and cause the same to be entered in the book of record for the guidance of the commissioners.

38. No commissioner shall be liable for any act of his predecessors in office about any work in which such commissioner is engaged, unless for money he might or could have collected on account of work done by his predecessors.

Commissioner how far liable for his predecessor's acts.

CHAPTER 74.

OF COMMONS.

SECTION
1. Sessions to have the management of commons.
2. Halifax common, and commons regulated by special acts, exempted.

1. The sessions shall make regulations respecting commons in the several townships, and enforce the same by penalties, not exceeding forty shillings; and they shall have the general management of the commons, and the control of the surpervisors in the discharge of their duties in relation thereto.

Sessions to have the management of commons

2. Nothing in this chapter contained shall extend to the city of Halifax, nor to any commons regulated by a special act remaining unrepealed.

Halifax common, and commons regulated by special acts, exempted.

CHAPTER 75.

OF COMMON FIELDS.

SECTION
1. Lines and boundaries how kept up.
2. Regulations to be made at general annual meeting.
3. Regulations to be recorded.
4. Fine for non-compliance with regulations.
5. Proceedings to compel the erection of fences.
6. Brands to be entered in clerk's book; fee therefor.
7. Fine for a second entry of same mark.
8. Fine for unauthorized or counterfeit brands.
9. Proceedings to compel proprietor of adjoining lands to repair his fences.
10. Proprietors in common fields desirous of fencing, shall bear the whole expense unless two-thirds in interest consent.
11. Committee of management, how appointed, their duty.
12. Instructions as to assessments for various purposes.
13. Collectors appointed by committee; their duty.
14. Allowance to committee to be included in assessment.

1. Each proprietor of lands lying unfenced, or in a common field, shall, once in two years, on six days' notice given him or

Lines and boundaries how kept up.

his agent, by the adjoining proprietor, run the lines, and make and keep up the boundaries of such lands, by stones or other sufficient marks, and any person neglecting so to do shall forfeit twenty shillings.

Regulations to be made at general annual meeting.

2. The proprietors of common fields shall meet annually on the first Monday of September, or on some other day, to be appointed at a general meeting, at some convenient place, and by vote of a majority in interest of those present, may make regulations respecting the managing, fencing, and improving the same, and keeping the fences thereof in repair, and the making and repairing of roads and bridges in and across such common fields, as may from time to time appear expedient.

Regulations to be recorded.

3. The regulations shall be entered in a book to be kept for the purpose, and shall be signed by the chairman of the meeting, and the production of the book, and proof of the entry made therein, shall be sufficient evidence of the regulations.

Fine for non-compliance with regulations.

4. If any person shall not comply with the regulations, he shall forfeit a sum not exceeding ten shillings.

Proceedings to compel the erection of fences.

5. In addition to any penalty imposed by this chapter, if any proprietor shall, after thirty days' notice from another proprietor, neglect to obey any regulation of the proprietors, under which he shall be bound to make or repair any fence, the fence-viewer shall, on application, make or repair such fence, if he shall think it insufficient, and the person so refusing shall pay double the expense to the fence-viewer.

Brands to be entered in clerk's book; fee therefor.

6. Every brand or mark adopted by the proprietors of any common field by their regulations, for branding or marking animals to be turned thereon, before being used, shall be entered in the town clerk's book, and he shall receive one shilling therefor.

Fine for a second entry of same mark.

7. The town clerk, after entry of such brand or mark, shall not enter any other brand or mark similar thereto, under a penalty not exceeding ten pounds.

Fine for unauthorized or counterfeit brands.

8. If any proprietor in a common field, or any person by his direction shall, with a brand or mark not recorded or entered by the town clerk, brand or mark any animal for the purpose of turning the same into a common field, or shall counterfeit any such brand or mark for the purpose of branding or marking any animal, every person so offending, or being accessory thereto, shall forfeit a sum not exceeding five pounds.

Proceedings to compel proprietor of adjoining lands to repair his fences.

9. Every proprietor of any field adjoining a common field, enclosed and improved, in case his part of the fence dividing his land from such common field shall become defective, shall immediately make the same a legal fence; and in case of his neglecting so to do within three days after notice given him by the field-keeper or any proprietor, any fence-viewer, on application, may forthwith cause the same to be repaired; and the person who ought to have repaired the same shall pay double the expense thereof to the fence-viewer.

Proprietors in

10. If any proprietor in a common field shall desire to have

his land separately fenced, he shall, unless otherwise assented to by two-thirds in interest of the whole proprietors, bear the whole expense of fencing the same, and shall be bound to keep such fence in repair at his individual expense.

common fields desirous of fencing, shall bear the whole expense unless two-thirds in interest consent.

11. At the annual meeting the proprietors shall appoint from among themselves a committee of not less than three, nor more than five, to carry into effect the regulations made respecting such common field for the ensuing year.

Committee of management how appointed; their duty.

12. Whenever the committee shall find it necessary to raise money to carry into effect any regulation not applying to the making or repairing of roads or bridges in or across such common field, they shall assess the amount on the several proprietors or occupiers of the common field, by an equal and even rate, according to the quantity and quality of land held; and in cases of regulations applicable to the making and repairing of roads and bridges in or across such common field, the committee shall assess the amount on the proprietors or occupiers, by an even and equal rate, according to the benefit to be derived from such roads and bridges by each proprietor or occupier respectively.

Instructions as to assessments for various purposes.

13. The committee may, by writing, appoint a person to collect from the proprietors or occupiers the several sums assessed upon them respectively; and the collector, upon neglect of any party assessed to pay the amount for which he shall have been rated, after due notice of such assessment, may collect the same, as if it were a private debt due him.

Collectors appointed by committee, their duty.

14. The committee may include in any sum to be assessed, five shillings for the attendance of each of their number, for every day actually employed in carrying the regulations into effect.

Allowance to committee to be included in assessment.

TITLE XXI.

OF THE REGULATION OF TRADE IN CERTAIN CASES.

CHAPTER 76.

OF SHIPPING AND SEAMEN.

SECTION
1. Shipping articles in what cases necessary; their form, contents, attestation, &c.
2. Fine for shipping seamen contrary to the first section, and for non-compliance with its provisions.
3. Articles not to lessen seaman's lien for wages.
4. Proceedings where seamen refuse to join ship after articles signed.
5. Sureties liable for advance and expenses where seamen refuse to proceed on the voyage.
6. Execution of articles by surety; advance, how recovered back when forfeited.

SECTION
7. Forfeitures incurred by seamen for absence and other offences; mode of proof.
8. Mode of computing forfeiture where agreement is by the year.
9. Forfeiture in case of desertion.
10. Harboring or secreting seamen, how punished; seamen's debts, how and when recoverable.
11. Seamen's wages when and how recoverable.
12. Payment to seamen valid, notwithstanding previous assignments.
13. Seamen entitled to certificate; fine for refusing.
14. Proceedings for wages where seamen about to proceed on a voyage.
15. Wages how collected when under twenty pounds.
16. Costs to be disallowed in the vice admiralty, where wages might be recovered before a justice.
17. Medicines to be kept on board vessels.
18. Crews discharged abroad only on certificates.
19. Crews not to be left abroad unless for good cause duly certified.
20. In case of action the burden of proof as to certificates to be borne upon the master.
21. Entering the naval service shall not be held desertion.
22. Seamen's right to wages and effects when entering the naval service.
23. Court's power to reduce penalties; limitation of actions
24. Coasting vessels not affected by this chapter.
Form of agreement.

Shipping articles, in what cases necessary; their form, contents, attestation, &c

1. The master of any vessel registered in and belonging to this province, trading to parts out of the province, shall not carry to sea, as one of his crew, any person, apprentices excepted, without entering into an agreement in writing with such person, specifying what wages he is to receive, the capacity in which he is to act, and the nature of the voyage intended. The agreement shall contain the date when made, and shall be signed by the master, in the first instance, and by each person shipped, at his port of shipment:—it shall be in the form, and shall contain, as far as possible, the particulars in the schedule hereto annexed; and a copy, attested by the signature of the master, shall, on reporting the arrival of the vessel, be deposited in the customs there. A clause may be inserted therein providing for the sale of the vessel during the voyage intended, and for the discharge of the crew in the event of such sale; but such clause must state the amount of wages to be paid to the seamen upon such sale.

Fines for shipping seamen contrary to the first section, and for non-compliance with its provisions.

2. The master of any such vessel carrying to sea any such person, apprentices excepted, without having entered into the agreement hereby required, shall forfeit five pounds for every such person; and the master not depositing, as hereby required, a true copy of the agreement, shall forfeit five pounds.

Articles not to lessen seaman's lien for wages.

3. The entering into the agreement shall not deprive any seaman of his lien on the vessel, or of any legal remedy for the recovery of his wages: no agreement made contrary to the above provisions, and no clause depriving seamen of their right to wages in the case of freight earned, by a vessel subsequently lost, shall be binding on the seaman. No seaman shall be obliged to produce the agreement, or a copy of it, to support his claim for wages.

Proceedings where seamen refuse to join ship after articles signed.

4. If a seaman, having signed the agreement hereby required, shall not join his vessel, or shall refuse to proceed to sea in her, or shall absent himself therefrom without leave, any justice of the peace near the place shall, upon complaint made upon oath by the master, mate or owner, by his warrant, cause such seaman to be

apprehended and brought before him; and if such seaman shall not satisfy the justice as to such neglect, refusal or absence, the justice shall, upon due proof, commit such seaman to jail, there to be kept at hard labor, for a period not exceeding thirty days; but if such seaman shall consent to join his vessel and proceed on the voyage, the justice, if requested by the master, shall, instead of committing such seaman, cause him to be conveyed on board the vessel, or delivered to the master, and shall award to the master the costs incurred in such apprehension, not exceeding the sum of two pounds, exclusive of jail fees, which shall be deducted from the wages to grow due to such seaman.

Sureties liable for advance and expenses where seamen refuse to proceed on the voyage.

5. If any seaman having received an advance on his shipping, and signing the agreement, and for whom any person shall have become surety, and as such subscribed the agreement, shall not proceed on the voyage, such surety shall repay such advance; and if the master or owner shall be compelled to procure another seaman, and thereby incur additional expense, the surety shall also repay the same—provided it do not exceed half the sum originally advanced.

Execution of articles by surety; advance, how recovered back when forfeited.

6. The party becoming surety shall subscribe his name to the agreement in the proper column thereof, opposite to the name of the seaman for whom he becomes surety, and such signature shall render him liable to the extent above declared; and the amount shall be sued for as debts of the like amount by law are: and on production of the agreement, and proof of the execution thereof by the seaman and by the surety, and of the refusal of the seaman to proceed to sea, judgment shall be given against the surety for the advance paid to the seaman, and for the additional expense, to the extent above named, together with costs, as allowed by law in cases of debts of the like amount.

Forfeitures incurred by seamen by absence and other offences; mode of proof.

7. If any seaman after having signed the agreement, and during the period for which he has agreed to serve, shall, without leave, absent himself from the ship, or from his duty, he shall, in cases not of absolute desertion, or not treated as such by the master, forfeit out of his wages, to the master or owner, the amount of two days' pay for every twenty-four hours' absence, and in like proportion for a less period of time, or, at the option of the master, the expenses incurred in hiring a substitute to perform his work;—and any seaman, without sufficient cause, neglecting to perform the duty required by the person in command, shall be subject to a like forfeiture for every such offence, and for every twenty-four hours' continuance thereof;—and if any seaman, after having signed the agreement, or after the ship's arrival at her port of delivery, and before the discharge of her cargo, shall quit the ship without a discharge or leave from the master, he shall forfeit to the master or owner one month's pay out of his wages. No such forfeitures shall be incurred unless the fact of the seaman's absence or neglect, and the time and duration thereof, be entered in the log book: this entry the owner or master shall, in cases of dispute, be obliged to substantiate by evidence of the mate, or other credible witness.

Mode of computing forfeiture where agreement is by the year.

8. Where the seaman has contracted by the voyage or by the run, the amount of forfeitures shall be ascertained thus: — If the duration of the voyage shall exceed one month, the forfeiture of one month's pay shall be considered a forfeiture of a sum bearing the same proportion to the whole wages as a month bears to the whole time spent in the voyage; a forfeiture of two days' pay, or less, shall be considered a forfeiture of the sum bearing the same proportion to the whole wages as that period bears to the time spent in the voyage; if the whole time does not exceed one month the forfeiture of one month's pay shall be considered a forfeiture of the whole wages; if such time does not exceed two days, the forfeiture of two days' pay shall be considered a forfeiture of the whole wages. The master shall deduct all forfeitures from the wages of the seaman incurring the same.

Forfeiture in case of desertion.

9. A seaman deserting his vessel shall forfeit to the owner or master all his effects remaining on board, and the wages due to him: provided the circumstances of the desertion be at the time entered in the log-book, certified by the signature of the master and mate, or other credible witness. The absence of a seaman within twenty-four hours immediately preceding the vessel's sailing, without leave of the master, or at any time under circumstances shewing an intention not to return, shall be considered an absolute desertion; and if such desertion shall take place out of this province, and the master shall be obliged to engage a substitute for the deserter at an increased rate of wages, he shall recover from such deserter the excess of wages paid to such substitute as wages are hereby made recoverable.

Harboring or secreting seamen, how punished; seamen's debts, how and when recoverable.

10. Any person harboring or secreting a seaman who shall have signed the agreement hereby required and absented himself from his vessel without leave, knowing or having reason to suspect him to be so absent, shall forfeit twenty shillings. No debt over five shillings incurred by a seaman after signing the agreement shall be recoverable until the conclusion of the voyage. The keeper of a public house shall not detain any effects of a seaman for any debt contracted by him. In case of such detention, any justice shall, on complaint on oath by or on behalf of such seaman, inquire into the matter, and he may, by warrant, cause such effects to be delivered to such seaman.

Seamen's wages when and how recoverable

11. The master or owner shall pay every seaman his wages, if demanded, within three days after the delivery of the cargo, or ten days after the seaman's discharge, whichever shall first happen. The seaman, on his discharge, shall be entitled to receive one-fourth of the estimated balance due to him; and in default thereof the master or owner shall forfeit to the seaman two days' pay for each day, not exceeding ten days, that such payment without sufficient cause is withheld. This forfeiture shall be recoverable in the same manner as seamen's wages; but this provision shall not apply to cases where the seaman by the agreement is paid by a share in the profits of the adventure.

Payment to seamen valid notwithstanding previous assignments.

12. The payment of wages to a seaman shall be valid notwithstanding any bill of sale or assignment thereof, or any attachment or incumbrance thereon. No assignment or sale of wages made prior to the earning thereof, and no power of attorney to receive wages expressed to be irrevocable, shall be valid or binding on the party making it.

Seamen entitled to certificate; fine for refusing

13. A seaman shall on his discharge, be entitled to a certificate, signed by the master, of his period of service, and the time and place of his discharge; and a master refusing such certificate, without reasonable cause, shall forfeit five pounds.

Proceedings for wages where seaman about to proceed on a voyage.

14. If a seaman, having been three days discharged, and desiring to proceed again to sea, shall require immediate payment of his wages,—any justice, on his application, and proof that delay would hinder him of employment, shall summon the master or owner of the vessel to shew cause why immediate payment should not be made, and if cause be not shewn, he shall order payment forthwith; and in default of such payment the master or owner shall forfeit five pounds.

Wages how collected when under twenty pounds.

15. When the wages due to a seaman do not exceed twenty pounds, any justice in the neighborhood, on complaint upon oath, by or on behalf of such seaman, shall summon the master or owner to appear and answer such complaint: and on his appearance, or in default thereof, on proof of his having been summoned, the justice shall, on the oath of the parties and their witnesses, examine into the complaint, and order payment of the amount due; and if such order be not obeyed within two days, he shall issue his warrant to levy the amount awarded, by distress and sale of the effects of the party on whom such order was made, rendering to him the overplus, if any, after deducting the expenses attending the complaint, and the distress and levy; and if sufficient distress be not found, he shall cause such wages and expenses to be levied on the vessel; and if she be not within his jurisdiction, he shall cause the party on whom the order was made to be committed to jail, there to remain until payment of the amount awarded, and all costs and expenses. The award of such justice shall be final and conclusive.

Cost to be disallowed in the vice admiralty where wages might be recovered before a justice.

16. If a suit for the recovery of a seaman's wages be brought in the court of vice admiralty, or any court of record of this province, and it shall appear to the judge that the plaintiff might have had as effectual a remedy by complaint to a justice, as above directed, he shall certify to that effect, and no costs of suit shall be awarded the plaintiff.

Medicines to be kept on board vessels.

17. The master of every such vessel shall constantly keep on board a sufficient supply of medicines, suitable to accidents and diseases arising on sea voyages: and in default thereof, or in case a seaman shall sustain injury in the service of the vessel, the expense of the surgical and medical advice, and attendance and medicines he shall require, until he is cured or returns, shall be

borne by the owner or master of the vessel, without any deduction on account of wages.

Crew discharged abroad only on certificates.

18. No such master shall discharge any of his crew at any British port out of this province without the sanction, in writing, of the officer appointed in that behalf, or of the principal officer of the customs, or of two respectable merchants resident there; nor at any foreign port without the sanction, in writing, of the British minister, consul, or vice consul there, or of two respectable resident merchants; any of whom may make examination on oath, and grant or refuse a certificate of such sanction, according to their discretion.

Crews not to be left abroad unless for good cause duly certified.

19. No such master shall leave at any place abroad, either on shore or at sea, any of his crew as unfit to proceed on the voyage, or having deserted or disappeared, without having obtained a certificate, as in the foregoing section, approving thereof, if there be any such persons to apply to for that purpose; and such persons may make examination on oath, and grant or refuse such certificate according to their discretion.

In case of action the burden of proof as to certificates to be upon the master.

20. In any action brought for violation of this or the preceding sections, it shall be incumbent on the master to prove his having obtained the certificate thereby required, or prove the impracticability of obtaining such certificate.

Entering the naval service shall not be held desertion.

21. Nothing herein shall prevent the entry of any person belonging to any merchant ship into her majesty's naval service,—such entry shall not be a desertion, and shall not incur any forfeiture whatever. No clause creating a penalty or a forfeiture for such entry shall be inserted in any ship's articles.

Seaman's right to wages and effects when entering the naval service.

22. A seaman received into such service from a merchant vessel, not having committed an act of total desertion, treated as such by the master, shall, on such entry, receive all his effects from such vessel, and if she shall have earned freight, the proportionate amount of his wages from the master up to such entry, in money or a bill on the owner. For failure to deliver such effects and money, or bill, the master shall forfeit twenty-five pounds. If no freight has been then earned, the master shall give to the seaman a bill on the owner for his wages then due, payable on the ship's arrival at her destined port. If he be unable to ascertain the amount, he shall give to the seaman a certificate of his period of service, and the rate of his wages, and shall produce to the officer commanding such ship of war, the shipping agreement. On such delivery of the seaman's effects and settlement of his wages, the officer commanding shall, on request of the master, give him a certificate under his hand endorsed on the agreement of the entry of the seaman into such ship of war.

Court's power to reduce penalties; limitation of actions.

23. The court or justices before whom proceedings are brought for recovery of penalties hereby imposed, may make such reduction therein, not exceeding one half of the original amount, as they think fit. All such proceedings shall be commenced within two years after the offence; or if committed without the province within six months after the return thereto of the offender.

24. The foregoing sections shall not extend to any ship trading coastwise between the ports of this province, or to any regarded as coasting vessels by any law of this province. Coasting vessels not affected by this chapter.

Schedule in this chapter referred to.

Form of agreement.

An agreement made pursuant to chapter seventy-six, title twenty-one, of an act of the general assembly of Nova-Scotia, passed in the fourteenth year of the reign of her majesty Queen Victoria, between ——— master of the ship ——— of the port of ——— of the burthen of ——— tons, and the several persons whose names are subscribed hereto.

It is agreed by and on the part of the said persons, and they severally hereby engage to serve on board the said ship in the several capacities against their respective names expressed, on a voyage from the port of ——— to ———[*here the intended voyage is to be described as nearly as can be done, and the places at which it is intended the ship shall touch, or if that cannot be done, the nature of the voyage in which she is to be employed.*] and back to the port of ———: and the said crew further engage to conduct themselves in an orderly, faithful, honest, careful, and sober manner, and to be at all times diligent in their respective duties and stations, and to be obedient to the lawful commands of the master in every thing relating to the said ship, and the materials, stores and cargo thereof, whether on board such ship, in boats or on shore. [*Here may be inserted any other clause, which the parties may think proper to be introduced into the agreement—provided that the same be not contrary to and inconsistent with this act.*] In consideration of which services to be duly, honestly, carefully and faithfully performed, the said master doth hereby promise and agree to pay the said crew, by way of compensation or wages, the amount against their names respectively expressed. In witness whereof, the said parties have hereto subscribed their names on the days against their respective signatures mentioned.

PLACE AND TIME OF ENTRY.			Mens' name.	Age.	Place of birth.	Quality.	Amount of wages per calendar month, share or voyage.	Sureties for seamen.	Witness to execution.	Name of ship in which seaman last served.
Day.	Month.	Year.								

CHAPTER 77.

OF WRECKS AND WRECKED GOODS.

SECTION
1. Wrecked ships or goods how, for, and by whom preserved.
2. Proceedings and punishment in case of taking or concealing wrecked goods.
3. Vessels in distress, how assisted; salvage in such cases, how adjusted.
4. Proceedings where no claimant.
5. Property in legal custody not to be interfered with; molesting an officer, a misdemeanor.
6. Supreme court to sustain proceedings brought up from inferior court, unless in cases of wilful error.

Wrecked ships or goods how, for, and by whom preserved.

1. All ships, and goods of every description, wrecked, abandoned, or forced on, or within the soundings or shores, or found floating in the bays or rivers of this province, shall be preserved for the owners thereof; and persons finding such wrecks or goods shall immediately give notice thereof, either to the sheriff, coroner, officers of customs, officers of impost and excise, or a justice, which ever shall be nearest at hand, who shall, or a majority of them if more than one, attend forthwith and take all necessary measures for preserving such ship or goods.

Proceedings and punishment in cases of taking or concealing wrecked goods.

2. Any justice upon information on oath made before him, that any such goods have been carried away and concealed, shall issue his warrant to search all places where they are suspected to be concealed, and commit to jail any person who shall appear to have wilfully concealed the same, there to remain until delivered by due course of law.

Vessels in distress how assisted; salvage in such cases how adjusted.

3. Any of the officers hereinbefore named, when any vessel shall be in danger, or shall be driven on shore, or discovered floating, may command as many men of the neighborhood, as may be necessary, to assist in preserving the lives of the people and the property on board such vessel; and may order the person commanding any vessel at anchor to furnish his boats, and as many men as he can conveniently spare, and such men are hereby required to give their assistance accordingly. Any person disobeying any such orders shall, upon information on oath before any justice, be committed to jail for trial, unless good security be given for his appearance at the next term of the supreme court for the county; and, upon conviction of such offence, he shall be subject to a fine not exceeding fifty pounds, or imprisonment for a term not exceeding six months, at the discretion of the court; but any person giving assistance to the people, or towards preserving any property on board any ship in danger of being wrecked, or towards the preservation of any property found floating, or cast on shore, shall within thirty days from the performance of such service be paid a reasonable reward therefor by the commander of the vessel, or owner of the property preserved; and in default of such pay-

ment the property preserved shall remain in the custody of any of the hereinbefore named officers until such charges be paid:— and all persons who aid in such preservation shall be reasonably remunerated for their services, unless it appear that during the time of the performance thereof, they have been guilty of dishonesty, disobedience, or disorderly conduct; and the officer, if any such, who shall attend and direct the making of the salvage shall certify to the actual performance of such services. The amount of such remuneration shall be determined by three neighboring justices, mutually chosen by the parties, who shall adjust the quantum of reward to be paid to each of the persons employed in making such salvage; which decision shall be binding upon all parties, and the amount so awarded shall be recoverable by action at law.

Proceedings where no claimant.

4. If no person shall appear to claim the goods so saved, the officer or person who has the charge of them, shall sell so much thereof as will be sufficient to pay such salvage, with the incidental charges incurred; or, if the goods are in danger of perishing, or of being lost by delay, then the whole shall be sold, and the proceeds thereof when sold, put into the immediate possession of some principal officer of the customs, or other responsible person if no such officer be present, who shall make an account thereof, and sign the same; and if the goods or money be not claimed within twelve months by the owner thereof, such of the goods as may then be on hand shall be sold by public auction, and the proceeds thereof, reasonable expenses of such sale being deducted, paid into the treasury, there to remain until claimed by the owner, who, upon affidavit, or proof of his right thereto, to the satisfaction of a judge of the supreme court, shall, upon his order, receive the same out of the treasury.

Property in legal custody not to be interfered with; molesting an officer, a misdemeanor.

5. No person, under any pretence whatever, shall interfere with any kind of property referred to in this chapter, if it be in the legal custody of any person, unless his assistance be required, and the person in charge of any vessel wrecked or in distress, or the officer who shall come to his assistance, may repel by force any attempt to meddle therewith without his consent. Any person convicted of molesting or obstructing any officer or other person having charge, or employed in making salvage of any such vessel or goods, shall be punished as for a misdemeanor.

Supreme court to sustain proceedings brought up from inferior courts, unless in cases of wilful error.

6. If any proceedings under this chapter be removed from a court of inferior jurisdiction to the supreme court, and they shall appear to have been in accordance with the justice of the case, the supreme court shall confirm the same, notwithstanding the want of legal form therein, or may correct and amend the same, and give final judgment upon the merits, and shall wholly reverse the proceedings only for wilful and corrupt error.

CHAPTER 78.

OF PILOTAGE, HARBORS, AND HARBOR MASTERS.

SECTION
1. Commissioners of pilots for certain ports named; how appointed; their number; oath of office.
2. Pilots how appointed; form of certificate of appointment.
3. Certificates to be numbered, registered, and renewed annually; fees on certificates and for renewal; penalty for transfer.
4. Bye-laws may be made by commissioners.
5. Regulations respecting flags and boats, fine for disobeying.
6. Penalty for taking pilot to sea.
7. Pilots detained after vessel anchored, entitled to wages.
8. Unlicensed pilots when to surrender vessel to licensed pilots.
9. Licensed pilots hailing vessels, but refused, entitled to certain fees specified if another pilot be taken.
10. Fine for not shortening sail, &c. when hailed by a licensed pilot.
11. Flag to be hoisted for pilot to take ship out of harbor; unlicensed pilots taken where no others offer.
12. Such unlicensed pilot to surrender the vessel to a licensed pilot offering.
13. Pilot inward, to be preferred if he offer, as a pilot outward.
14. Vessels when exempted from pilotage.
15. Any person may act in the absence of a licensed pilot, and receive fees.
SECTION
16. Harbor-masters appointed by sessions for certain ports named.
17. Bridgeport and Spanish River harbor-masters appointed by the governor in council.
18. Duties of harbor-master to be defined by sessions.
19. Powers and duties of sessions relative to anchorage, ballast, public wharves, &c., and the making of bye-laws.
20. Wharfage how established, and collected.
21. Buoys and marks to be erected in certain harbors under regulations made by sessions.
22. Funds for carrying out such regulations, how raised.
23. Exemptions for certain vessels at Saint Mary's.
24. Violation of regulations to be prosecuted by harbor-master.
25. Regulations and bye-laws to be approved of by governor in council.
26. Relief to party aggrieved by application to supreme court.
27. Antigonish tow-path how repaired.
28. Fish point bar protected.
29. Licensed pilots at Spanish River to be furnished with, and to furnish, regulations to ship masters.
30. Rates of pilotage regulated by schedule A.
31. Harbor-masters' fees regulated by schedule B.

Commissioners of pilots for certain ports named, how appointed, their number, oath of office.

1. The governor in council shall appoint not less than three nor more than five commissioners of pilots for each of the ports of Halifax, Sydney, Pictou, Pugwash, Wallace, Antigonishe, Saint Mary's, Arichat, Tatamagouche, and Point Bruley. Every commissioner shall take the following oath:

"I, [*name of commissioner*], do swear that I will act diligently, faithfully, and impartially in the examination and selection of pilots for the port of [*name of port*]."

Three commissioners in any one of the said commissions to be a quorum.

Pilots how appointed, form of certificate of appointment.

2. The commissioners shall examine and select as many pilots as they may think necessary for each of the ports in the preceding section mentioned; and shall grant certificates to such pilots in the following form, and which shall be revocable at pleasure:

"Province of Nova Scotia,

No. —, port of [*name of port*].

We, [*names of commissioners*], commissioners appointed by law to examine and select pilots for the port of [*name of port*], certify that [*name and residence of pilot*], having been examined by us, was deemed a fit person to undertake the pilotage of vessels of every description into and out of the said port; and on the —— day of ——— A. D. 18—, was by us licensed to act in that capacity.

(Signed) [*names of commissioners*],
Commissioners.

Entered in the register of pilots' licenses.
This license cannot be lent or transferred.

Description of [*name and residence of pilot*] No. —.				
Age.	Height.	Complexion.	Color of hair and eyes.	Remarks.

Certificates to be numbered, registered, and renewed annually; fees on certificates and for renewal; penalty for transfer.

3. Every such certificate shall be numbered and registered in a book kept for the purpose, and shall be annually renewed. The pilots for Halifax and Sydney shall pay twenty shillings for the certificate, and two shillings and six pence for every renewal thereof: and the pilots for the other ports shall pay ten shillings for the certificate and two shillings and six pence for every renewal thereof. And no pilot shall lend or transfer his certificate under a penalty of five pounds.

Bye-laws may be made by commissioners.

4. The commissioners may from time to time establish bye-laws for the further regulation of pilots, and for extra remuneration in cases of any extraordinary nature, and for the adjustment and decision of questions arising between masters of vessels, pilots, and others respecting pilotage; and also respecting the salvage of anchors and cables; and may annex penalties for enforcing the same; but no bye-law shall be in force until approved by the governor in council.

Regulations respecting flags and boat. fine for disobeying.

5. Every licensed pilot shall carry such flag, and have his boat marked and rigged in such manner as the commissioners shall direct, under a penalty not exceeding twenty nor less than five shillings; and every unlicensed person carrying such flag shall forfeit ten pounds.

Penalty for taking pilot to sea.

6. No pilot shall be taken to sea against his will under a penalty of twenty-five pounds on the master of the vessel, except when through stress of weather the same is unavoidable, in which case he shall be entitled to receive from the master or owner of the

vessel five pounds a month for time lost, and shall also be provided with a passage home at the expense of such master or owner from the first port which the vessel shall enter where the same can be obtained.

Pilots detained after vessel anchored, entitled to wages.

7. If any licensed pilot shall be detained on board any vessel after the day of the arrival and anchoring thereof, he shall be paid five shillings a day, in addition to his food, whether the detention be caused by quarantine regulations or otherwise.

Unlicensed pilots when to surrender vessel to licensed pilots.

8. Any unlicensed person, other than the master, taking charge of any vessel as a pilot, shall surrender the guidance thereof, under a penalty of five pounds, to the first licensed pilot who shall hail her at the respective distances hereinafter mentioned, from the several harbors following, viz:—at Halifax, southward of Herring Cove or Thrum Cap; at Sydney, outside of Low Point and Cranberry Head; at Pictou, outside of the Light House; at Antigonishe, outside the Bar: at Saint Mary's, one mile outside of Wedge Island, at Wallace, Pugwash, Tatamagouche, and Point Bruley, more than one mile from the mouth of the harbors respectively: and at Arichat eastwardly two miles west from Green Island, and westwardly outside of Madame Island Point.

Licensed pilots hailing vessels, but refused, entitled to certain fees specified, if another pilot be taken.

9. If the services of the licensed pilot so hailing such vessel shall not be accepted, or the master shall afterwards take another pilot, the licensed pilot who first offered shall be paid half pilotage by such master, except at Halifax, where he shall receive one-third only, if the vessel be owned in this province, or in any other part of her majesty's dominions, or be british built, and half pilotage on all other vessels. And during the months of November, December, January, February and March, the master of any vessel approaching the port of Halifax, shall pay such pilot two-thirds of the pilotage, if his services shall not be accepted.

Fine for not shortening sail, &c. when hailed by a licensed pilot.

10. The master of any vessel approaching any of the before mentioned harbors, when hailed within a reasonable distance by a licensed pilot with his flag flying, shall shorten sail, haul to, or use other means, as circumstances will permit, to facilitate the pilot's boarding, under a penalty of forty shillings.

Flag to be hoisted for pilot to take ship out of harbor; unlicensed pilots taken when no others offer.

11. A master requiring a pilot to take his vessel out of any of the before mentioned harbors, shall, if a british vessel, hoist the union jack, or if a foreign vessel, such flag as is usually worn thereby, at the foretop-gallant-mast-head, and there continue the same for twelve hours during day light, before the time of sailing: and if in the mean time no licensed pilot shall offer himself, the master may employ any person he may think fit to pilot the vessel outwards.

Such unlicensed pilot to surrender the vessel to a licensed pilot offering.

12. Any unlicensed person who shall take charge of such vessel, shall surrender the guidance thereof to the first licensed pilot who shall board her within the time specified in the last section, under a penalty of five pounds, if such vessel be bound from the port of Halifax, and three pounds if bound from any other port.

Pilot inward, to

13. Where a licensed pilot shall have conducted a vessel in-

be preferred if he offer, as a pilot outward.

wards, and shall offer his services to pilot her outwards, and shall be in attendance, ready and willing so to do, when such vessel is ready for sea, he shall be preferred to any other licensed pilot: and if his services be declined, he shall be entitled to the proportion of pilotage prescribed by the ninth section:—and if the pilot who conducted her inwards shall not have tendered his services, then any licensed pilot who shall first offer himself within the time specified in the eleventh section, shall be entitled to the same proportion of pilotage if his services shall not be accepted.

Vessels when exempted from pilotage

14. The following vessels shall be exempted from pilotage:—vessels owned in the province and employed in the coasting trade or fishery, except whalers, and all vessels under eighty tons burthen coming from any part of her majesty's dominions, and all her majesty's ships of war: but no vessel voluntarily taking a pilot on board shall be exempted from pilotage: nor shall any vessel not spoken by a licensed pilot at the distances from the respective harbors prescribed by the eighth section be subject thereto.

Any person may act in the absence of a licensed pilot, and receive fees.

15. Nothing in this chapter contained shall deprive any person who may act as a pilot in the absence of a licensed pilot, from receiving payment for his services, according to the tables of rates in the schedule.

Harbor-masters appointed by sessions for certain ports named.

16. A general or special sessions shall from time to time appoint and license one fit person for each of the harbors of Pictou, Pugwash, Wallace, Saint Mary's, Antigonishe, Tatamagouche and Point Bruley, to be harbor master thereof.

Bridgeport and Spanish River harbor-masters appointed by the governor in council.

17. The governor in council shall appoint for each of the harbors of Bridgeport and Spanish River, in the Island of Cape-Breton, one fit person to be harbor master thereof.

Duties of harbor-master to be defined by sessions.

18. The sessions shall from time to time prescribe the duties of such harbor masters.

Powers and duties of sessions relative to anchorage, ballast, public wharves, &c., and the making of bye-laws.

19. The sessions shall also make regulations for the anchorage of vessels, and establish convenient and proper places for vessels to discharge their ballast at, and may make agreements with persons for erecting wharves and other conveniences for such vessels to discharge their ballast upon, and may make bye-laws to compel vessels to discharge their ballast upon such wharves, or at such other places as they may appoint, and for allowing masters of vessels a reasonable time for disposing of or selling such ballast: and may affix penalties not exceeding ten pounds for breach of any such regulation or bye-law.

Wharfage how established and collected

20. The rates of wharfage to be paid by vessels using the wharves and other conveniences mentioned in the preceding section, shall be established by the sessions, and may be recovered as a private debt.

Buoys and marks to be erected in certain harbors, under regulations made by sessions

21. The general sessions or any special sessions, shall from time time direct as many buoys and other marks to be placed on the sand banks and bars in the harbors of St. Mary's and Antigonishe, as to them may appear necessary for the safety of the shipping, and the convenient navigation of those harbors respectively: and

shall make regulations for the maintenance of such buoys and marks, and authorise the harbor masters to carry the same into effect; and may affix penalties for breach of any such regulations, not to exceed five pounds for any one offence.

Funds for carrying out such regulations, how raised.

22. The sessions shall appropriate out of the district funds at Saint Mary's, and out of the license funds at Antigonishe, the sums necessary for the purposes of the last section, which shall be repaid by a regular rate to be by them established from time to time upon the different vessels coming into the respective harbors, according to the tonnage thereof: which rates shall be collected by the harbor master, and paid over to the district treasurer.

Exemptions for certain vessels at Saint Mary's.

23. At St. Mary's, the last preceding section shall not apply to vessels exempted from the payment of harbor dues.

Violation of regulations to be prosecuted by harbor master.

24. It shall be the duty of the harbor masters to prosecute all persons violating the regulations or bye-laws of their respective harbors.

Regulations and bye-laws to be approved by governor in council.

25. No regulation or bye-law to be made by the sessions under this chapter shall be in force until approved by the governor in council.

Relief to party aggrieved by application to supreme court.

26. Any person feeling aggrieved by any regulation or bye-law, may complain thereof on affidavit to the supreme court in the county, and the court shall inquire into the complaint: and if it appear that the regulation or bye-law is contrary to law or oppressive, shall annul the same: and the sessions shall not afterwards make any regulation or bye-law to the same effect.

Antigonish tow-path how repaired.

27. The sessions shall from time to time appropriate out of the district funds, sufficient sums to keep in repair the tow-path of the harbor of Antigonishe.

Fish point bar protected.

28. No person shall take away any stones or ballast from the bar or beach called Fish Point, on the western side of the harbor of Cape Forchu, in the county of Yarmouth, under a penalty not exceeding five, nor less than three pounds.

Licensed pilots at Spanish River to be furnished with, and to furnish, regulations to shipmasters.

29. The harbor master of Spanish River shall furnish copies of the regulations made by the sessions, by virtue of the nineteenth section, to the licensed pilots of the harbor, who shall give a copy thereof to the master or commander of every vessel which they shall take in charge.

Rates of pilotage regulated by schedule A.

30. The rates of pilotage to be received by the licensed pilots for conducting vessels into or out of the respective harbors shall be according to the table in schedule A.: and any pilot exacting or attempting to exact a larger sum for his services, or taking a less sum therefor, shall for every offence forfeit two pounds, and shall also refund any excess so received.

Harbor masters fees regulated by schedule B.

31. The fees to be taken by harbor masters shall be at the rates in schedule B, according to the registered tonnage of the vessels entering the harbors.

SCHEDULE A.

RATES OF PILOTAGE.

At Halifax.

For vessels of 200 tons and under,	£2 0 0
" " from 200 tons to 300 tons,	2 10 0
" " " 300 " to 400 "	3 0 0
" " of 400 " and upwards,	3 10 0
On her majesty's ships under 6th rates,	2 0 0
" " " of 4th, 5th, and 6th rates,	2 10 0
" " " of the line,	3 0 0

If any vessel be boarded north of Herring Cove or Thrum Cap, the rate shall be one fourth less.

At Sydney.

For vessels under 100 tons, to Sydney town,	£1 7 6	
To Plant's bar,		£1 0 0
From 100 to 150 tons, to Sydney town,	1 12 6	
To Plant's bar,		1 5 0
150 to 200 tons, to Sydney town,	1 17 6	
To Plant's bar,		1 10 0
200 to 250 tons, to Sydney town,	£2 5 0	
Plant's bar,		£1 15 0
250 to 300 tons, to Sydney town,	2 10 0	
Plant's bar,		2 0 0
300 to 350 tons, to Sydney town,	2 15 0	
Plant's bar,		2 5 0
350 to 400 tons, to Sydney town,	3 0 0	
Plant's bar,		2 10 0

And for every additional fifty tons to Sydney town ten shillings, and to Plant's bar five shillings.

At Pictou, Pugwash, Wallace, Antigonishe, Arichat, Tatamagouche, and Point Bruley:

For vessels of 80 tons and under 140 tons,	£1 10 0
" " 140 " " 240 "	2 0 0
" " 240 " 300 "	2 10 0
" " 300 " and upwards.	3 0 0

And on all vessels under eighty tons three pence per ton.

At Saint Mary's.

Three shillings and six pence for every foot of the draught of water of each vessel.

SCHEDULE B.

HARBOR MASTERS' FEES.

At Sydney.

For vessels not exceeding 100 tons,	£0 5 0
For vessels exceeding 100 and under 200 tons,	0 10 0

For vessels exceeding 200 and under 300 tons, .	£1	0	0
" " 300 tons, ...	1	5	0

Vessels engaged in the coasting and fishing trade to be exempt from the payment of any fee.

At Bridgeport.

One penny per ton to the extent of one hundred tons on all foreign vessels.

At Pictou, Pugwash, Wallace, Tatamagouche, and Point Bruley:

One half-penny per ton on all vessels not under forty tons.

At Saint Mary's.

For vessels exceeding 100 and under 150 tons,	£0	5	0
" " " 150 " 250 "	0	10	0
" " " 250 tons,	1	0	0

Vessels engaged in the coasting and fishing trade, and all other vessels resorting to the harbor for shelter, wood, water, or provisions, and not anchoring within the bar, to be exempt from the payment of any fee.

At Antigonishe.

The fees to be established by the sessions.

CHAPTER 79.

OF PARTNERSHIPS.

SECTION

1. When co-partnership has terminated members may proceed against each other in supreme court in certain cases by petition and summons.
2. Copy of petition and summons to be served.
3. Court may proceed by rule to order arbitrators.
4. Court may appoint arbitrators where the parties neglect.
5. Arbitrators shall appoint a third person.
6. Arbitrators to be sworn; form of oath.
7. Mode of proceeding by arbitrators prescribed.
8. Power to enforce attendance of witnesses.
9. Parties and witnesses to be examined; award how made; judgment how entered.
10. Execution to issue; costs and expenses, from whom and how recoverable.
11. Judgment when entered shall be final.
12. Limited partnerships, how formed.
13. Certificates and preliminary proceedings in case of limited partnerships.

SECTION

14. Certificates to be verified under oath.
15. Publication in newspapers and by handbills necessary.
16. Renewals of limited partnerships how provided for.
17. Alterations in names or business to constitute the partnership general, unless in case of renewal.
18. Limited partnership under what names conducted.
19. Actions to be in the names of the general partners.
20. Regulations as to capital stock, and the distribution of profits.
21. Special partners may advise, but not transact business, for the partnership.
22. Fraud in special partnerships how punished.
23. Preferential assignments by partners to be held void against creditors.
24. Creditors' claims to be preferred to those of special partners in case of insolvency, &c.
25. Dissolution how effected.

SCHEDULE A.

RATES OF PILOTAGE.

At Halifax.

For vessels of 200 tons and under, .	£2	0	0
" " from 200 tons to 300 tons, .	2	10	0
" " 300 " to 400 " . .	3	0	0
" " of 400 " and upwards, .	3	10	0
On her majesty's ships under 6th rates,	2	0	0
" " " of 4th, 5th, and 6th rates.	2	10	0
" " " of the line, . . .	3	0	0

If any vessel be boarded north of Herring Cove or Thrum Cap, the rate shall be one fourth less.

At Sydney.

For vessels under 100 tons, to Sydney town,	£1	7	6			
To Plant's bar,				£1	0	0
From 100 to 150 tons, to Sydney town,	1	12	6			
To Plant's bar,				1	5	0
150 to 200 tons, to Sydney town,	1	17	6			
To Plant's bar,				1	10	0
200 to 250 tons, to Sydney town,	£2	5	0			
Plant's bar,				£1	15	0
250 to 300 tons, to Sydney town,	2	10	0			
Plant's bar,				2	0	0
300 to 350 tons, to Sydney town,	2	15	0			
Plant's bar,				2	5	0
350 to 400 tons, to Sydney town,	3	0	0			
Plant's bar,				2	10	0

And for every additional fifty tons to Sydney town ten shillings, and to Plant's bar five shillings.

At Pictou, Pugwash, Wallace, Antigonishe, Arichat, Tatamagouche, and Point Bruley:

For vessels of 80 tons and under 140 tons,	£1	10	0
" " 140 " " 240 "	2	0	0
" " 240 " " 300 "	2	10	0
" " 300 " and upwards,	3	0	0

And on all vessels under eighty tons three pence per ton.

At Saint Mary s.

Three shillings and six pence for every foot of the draught of water of each vessel.

SCHEDULE B.

HARBOR MASTERS' FEES.

At Sydney.

For vessels not exceeding 100 tons, .	£0	5	0
For vessels exceeding 100 and under 200 tons. .	0	10	0

For vessels exceeding 200 and under 300 tons, . £1 0 0
" " 300 tons, . . . 1 5 0

Vessels engaged in the coasting and fishing trade to be exempt from the payment of any fee.

At Bridgeport.

One penny per ton to the extent of one hundred tons on all foreign vessels.

At Pictou, Pugwash, Wallace, Tatamagouche, and Point Bruley:

One half-penny per ton on all vessels not under forty tons.

At Saint Mary's.

For vessels exceeding 100 and under 150 tons, £0 5 0
" " " 150 " 250 " 0 10 0
" " " 250 tons, 1 0 0

Vessels engaged in the coasting and fishing trade, and all other vessels resorting to the harbor for shelter, wood, water, or provisions, and not anchoring within the bar, to be exempt from the payment of any fee.

At Antigonishe.

The fees to be established by the sessions.

CHAPTER 79.

OF PARTNERSHIPS.

SECTION

1. When co-partnership has terminated members may proceed against each other in supreme court in certain cases by petition and summons.
2. Copy of petition and summons to be served
3. Court may proceed by rule to order arbitrators.
4. Court may appoint arbitrators where the parties neglect.
5. Arbitrators shall appoint a third person.
6. Arbitrators to be sworn; form of oath.
7. Mode of proceeding by arbitrators prescribed.
8. Power to enforce attendance of witnesses
9. Parties and witnesses to be examined; award how made; judgment how entered.
10. Execution to issue; costs and expenses, from whom and how recoverable.
11. Judgment when entered shall be final.
12. Limited partnerships, how formed.
13. Certificates and preliminary proceedings in case of limited partnerships.
14. Certificates to be verified under oath
15. Publication in newspapers and by handbill necessary.
16. Renewals of limited partnerships how provided for.
17. Alterations in names or business to constitute the partnership general, unless in case of renewal.
18. Limited partnership under what names conducted.
19. Actions to be in the names of the general partners.
20. Regulations as to capital stock, and the distribution of profits.
21. Special partners may advise, but not transact business, for the partnership.
22. Fraud in special partnerships how punished.
23. Preferential assignments by partners to be held void against creditors.
24. Creditors' claims to be preferred to those of special partners in case of insolvency, &c.
25. Dissolution how effected.

When co-partnership has terminated members may proceed against each other in supreme court in certain cases by petition and summons.

1. In cases of partnership where two partners only are cor cerned, and where the whole amount of their dealings shall not hav exceeded two thousand pounds, and their partnership shall hav terminated, either of them may file a petition in the supreme cour stating the facts respecting their dealings, and praying the aid c the Court. A writ of Summons shall thereupon issue commandin the appearance of the partner complained of at the next term, in th county where the petition is filed, to answer the same.

Copy of petition and summons to be served.

2. A copy of the petition shall be served on the partner com plained of, at the time of the service of the summons or within convenient time before the return day thereof.

Court may proceed by rule to order arbitrators.

3. On the return of the summons, if it shall be shewn to th court that the partnership consisted of two persons only, and tha their whole dealing did not exceed two thousand pounds, the Cour shall, by rule, direct each partner to select one fit person as an ar bitrator between them.

Court may appoint arbitrators where the parties neglect.

4. If the partners do not, within the time specified by th court, select two such persons, the court shall appoint two person to act as arbitrators.

Arbitrators shall appoint a third person.

5. The two persons so appointed shall select one other person and they, with such person, shall be arbitrators to examine an settle the partnership dealings.

Arbitrators to be sworn; form of oath.

6. The arbitrators, before commencing such examination, shal make, before a judge or commissioner, the following affidavit, whic shall be filed in the prothonotary's office:

We, A. B. C. D. and E. F. do hereby solemnly swear honestl and fairly to settle the partnership accounts and dealings of G. H and J. L. to the best of our knowledge and ability.

Sworn at ——— before me this —— day of ——— 18—.

G. H., J. P. A. B.
C. D.
E. F.

Mode of proceeding by arbitrators prescribed.

7. The arbitrators shall then order the production of all books papers and accounts, relative to the partnership dealings, and shal appoint such times and places as may appear expedient for the in vestigation of the partnership dealings, and the examination of th partners and their witnesses. If either of the partners, after du notice, shall fail to attend, the arbitrators shall proceed *exparte*.

Power to enforce attendance of witnesses.

8. Witnesses shall be summoned to attend before the arbitra tors by subpœna in the usual form, and if, upon being duly sum moned, they shall neglect to attend and give evidence, they shall b liable to the same penalties as witnesses are subject to who neglec to attend the supreme court on subpœna, and the supreme court, o application to them for that purpose, shall enforce the same.

Parties and witnesses to be examined; award how made; judgment how entered.

9. The arbitrators shall examine the partners and their witnesse upon oath, to be administered by any one of the arbitrators, an shall make an award in favor of such party, as they or two of them shall find justly entitled thereto, which shall be filed in the pro

thonotary's office, and judgment shall be entered for the amount thereof, with or without costs, as directed by the arbitrators in their award, at the next term, if no sufficient objection be made thereto.

Execution to issue; costs and expenses, from whom and how recoverable

10. Execution may be issued on such judgment in the usual course, and the arbitrators, or any two of them, shall have power to direct the costs of the proceedings, including reasonable compensation for their services, to be taxed and allowed by the court, to be paid by either of the partners, and in such manner as the arbitrators, or any two of them, shall direct; and the court shall enforce such payment by attachment or otherwise.

Judgment when entered shall be final

11. Neither of the partners shall after such adjudication commence any proceedings in equity touching the partnership dealings, and the judgment of the supreme court, under the above provisions, shall be final.

Limited partnerships how formed

12. Two or more persons may enter into and form limited partnerships for the transaction of mercantile, mechanical, or manufacturing business, upon the terms, with the rights and powers, and subject to the conditions and liabilities herein prescribed. Nothing herein shall authorize any such partnership to engage in any banking operation, or to become insurers upon any marine risk, or upon loss by fire, or upon any life. Such partnerships may consist of one or more persons called general partners, who shall be responsible as general partners now are, and of one or more persons, who shall contribute in actual cash payments a specific sum as capital to the common stock, called special partners. Special partners shall not be liable for the debts of the partnership beyond the fund so contributed by them to the capital, except in cases hereafter mentioned. The general partners only shall be authorized to transact the business of the partnership, and bind the same by the signature of the partnership name or otherwise.

Certificate and preliminary proceedings, in case of limited partnerships

13. Persons desirous of forming such partnerships shall, before the same shall go into operation, make and severally sign a certificate, containing the name of the firm under which such partnership is to be conducted, the nature of the business to be transacted, the names of all the partners interested therein, distinguishing which are general and which special partners, and their respective places of residence, the amount of capital which each special partner shall have contributed to the common stock, the period at which the partnership is to commence, and at which it will terminate. Such certificate shall be acknowledged by the several persons signing the same before a judge of the supreme court or justice of the peace, and such acknowledgment shall be certified in writing on such certificate by the person before whom the same is made. The certificate so acknowledged and certified shall be filed in the office of the registrar of deeds, where the principal place of business of the partnership shall be situated, and shall be recorded by him at large in a book to be kept for that purpose, open to public inspection; and if the partnership shall have places of business situated in different counties or districts, a transcript of the certifi-

cate and of the acknowledgment thereof, duly certified by such registrar, shall be filed and recorded in like manner in the office of the registrar of every such county or district.

Certificates to be verified under oath.

14. An affidavit of one or more of the general partners, and also of one or more of the special partners, shall also at the same time be filed in the same office, stating that the sums specified in the certificate to have been contributed by each of the special partners to the common stock, have been actually and in good faith paid in cash; and no such partnership shall be deemed to have been formed until a certificate shall have been made, acknowledged, filed, and recorded, and an affidavit filed as above directed: and if any false statement be made in such certificate or affidavit all persons interested in such partnership shall be liable as general partners.

Publication in newspapers and by handbills necessary

15. The terms of every such partnership, when registered, shall immediately be published at least six weeks in the royal gazette and one other newspaper published in Halifax, and by handbills posted up in some public places in the township in which the business of the partnership shall be carried on. If such publication be not so made, such partnership shall be deemed general. Affidavits taken before a justice, of the publication of such notice by the printers of newspapers who shall have published the same, and by the persons who shall have posted the hand-bills, may be filed with the register, with whom the certificate of the partnership shall have been filed, and shall be evidence thereof.

Renewals of limited partnerships how provided for.

16. Every renewal or continuance of such partnership beyond the time originally fixed for its duration shall be certified, acknowledged, and recorded, and an affidavit of a general and special partner made and filed, and notice given in the manner herein required for its original formation; every such partnership otherwise renewed or continued shall be deemed a general partnership.

Alterations in names or business to constitute the partnership general, unless in case of renewal.

17. Every alteration made in the names of the partners, the nature of the business, or the capital or shares thereof, or in any other matter specified in the original certificate, shall be deemed a dissolution of the partnership; and every such partnership carried on after any alteration shall be deemed a general partnership, unless renewed as a special partnership according to the provisions of the foregoing section.

Limited partnership under what names conducted.

18. The business of the partnership shall be conducted under a firm in the names of the general partners only, without the addition of the word company or any other general term; and any special partner whose name shall be used in such firm, with his privity, shall be deemed a general partner.

Actions to be in the names of the general partners.

19. Actions and suits at law and in equity in relation to the business of the partnership may be brought and conducted by and against the general partners, as if there were no special partners.

Regulations as to capital stock, and the distribution of profits.

20. No part of the sum contributed by a special partner to the capital stock shall be withdrawn by him, or paid or transferred to him in the shape of dividends, profits or otherwise, at any time du-

ring the continuance of the partnership; but a partner may annually receive lawful interest on the sum so contributed by him, if the payment thereof shall not reduce the original capital: and if after the payment of such interest any profit shall remain to be divided, he may also receive his portion of such profit: but if it shall appear that by the payment of interest or profits to any special partner the original capital has been reduced, the partner receiving the same shall restore the amount necessary to make good his share of capital with interest.

Special partners may advise, but not transact business for the partnership

21. A special partner may from time to time examine into the state and progress of the partnership concerns, and may advise as to their management, but he shall not transact any business on account of the partnership, nor be employed for that purpose as agent, attorney, or otherwise: and if he shall interfere contrary to these provisions he shall be deemed a general partner. General partners shall be liable to account to each other, and to the special partners, for their management of the concern, both in law and in equity, as other partners now are.

Fraud in special partnerships, how punished.

22. A partner guilty of any fraud in the affairs of such partnership shall be liable civilly to the party injured to the extent of the damage, and shall also be liable to an indictment for a misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the court.

Preferential assignments by partners to be held void against creditors.

23. Every sale, assignment, or transfer of any of the property or effects of such partnership, or of a general or special partner, made by such partnership or a general or special partner, when insolvent or in contemplation of insolvency, with intent of giving a preference to any creditor of such partnership or insolvent partner over other creditors of such partnership, and every warrant of attorney executed, and every judgment confessed, lien created, or security given by such partnership, or general or special partner, under the like circumstances and with the like intent, shall be void, as against the creditors of the partnership. A special partner who shall violate any provision of this chapter, or concur in, or assent to, any such violation by the partnership, or by any individual partner, shall be liable as a general partner.

Creditors' claims to be preferred to those of special partners in case of insolvency, &c.

24. In case of the insolvency or bankruptcy of the partnership, no special partner shall, under any circumstances, be allowed to claim as a creditor until the claims of all other creditors of the partnership are satisfied.

Dissolution how effected.

25. No dissolution of such partnership by the acts of the parties shall take place previous to the time specified in the certificate of its formation or in the certificate of its renewal, until a notice of such dissolution shall have been filed and recorded in the registrar's office, in which the original certificate was recorded, and published once in each week for four weeks in the royal gazette, and in some other newspaper printed in Halifax, and by handbills in each of the counties where the partnership may have places of business.

CHAPTER 80.

OF FACTORS AND AGENTS.

SECTION
1. Agent in possession of goods, or the title thereof, entitled to sell or pledge them.
2. Agent's powers in cases of exchange of goods or their titles.
3. Contracts made with agent in good faith to be held valid; lien for antecedent debt invalid.
4. Documents of title defined.
5. Possession of documents of title possession of goods.
6. Pledge upon title to be pledge upon goods.
7. Agent to be considered in possession of goods, &c., whenever they are under his control.
8. Advance to an agent possessed of goods, or their title, where agent not authorized to pledge, when held valid; contracts others to agent held valid.
9. Advances may be in money, or negotia securities.
10. Possession by agent of goods, or their ti evidence of agency.
11. Agent pledging goods illegally guilty o misdemeanor.
12. Accessories also guilty of a misdemeanor
13. Agent may pledge goods for advances acceptances
14. Conviction not evidence against ager compulsory disclosures not evide against agent.
15. Owner may redeem goods pledged.
16. Proceedings under this chapter not to af other remedies at law or equity.

Agent in possession of goods, or the title thereof, empowered to sell or pledge them.

1. Any agent entrusted with the possession of goods, or t documents of title thereto, shall be deemed the owner thereof, as to render valid and binding upon all persons interested there any contract made with such person for the purchase of su goods, or by way of pledge, lien, or security for advances up such goods or documents, or for further or continuing advanc thereon, although the person making such purchase, or claimi such pledge or lien, may have had notice that the person wi whom such contract is made is only an agent or factor; provid such contract be made in the ordinary course of business, a such person shall not have notice at the time of making such co tract, that such agent is not authorized to sell the goods and r ceive the purchase money, or to pledge such goods.

Agent's powers in cases of exchange of goods or their title.

2. Any contract for pledge, lien, or security made by an age entrusted with the possession of goods, or the documents of ti thereto, in consideration of the delivery or transfer to him of oth goods or documents of title or negotiable securities on which t person delivering them has at the time a valid lien for a previc advance by virtue of some contract made with such agent, shall as valid as if the consideration therefor had been an advance money: but the lien required thereby shall not exceed the va at the time, of the goods, documents of title, or negotiable secur delivered up and exchanged.

Contracts made with agent in good faith to be held valid: lien for antecedent debt invalid.

3. Such contracts, loans, advances and exchanges as are ma in good faith and without notice that the agent making such co tracts or agreements is acting without authority or in bad fai although with notice of such agent not being the owner of

goods are alone rendered valid hereby and binding upon all persons interested therein. Nothing herein shall make valid any sale, lien, or pledge in respect of an antecedent debt owing from an agent to the person to whom such lien or pledge shall be given or sale made, or authorize an agent in deviating from any express orders or authority received from the owners.

Documents of title defined.

4. Any document used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize the holder to transfer or receive goods thereby represented, shall be considered a document of title within the meaning hereof.

Possession of documents of title possession of goods.

5. Any agent possessed of any such document, whether derived immediately from the owner of such goods or obtained by reason of such agent's having been possessed of the goods or any other document of title thereto, shall be deemed to be possessed of the goods represented by such document.

Pledge upon title to be pledge upon goods.

6. Any contract pledging or giving a lien upon such document shall be deemed a pledge or lien upon the goods to which the same relates.

Agent to be considered in possession of goods, &c whenever they are under his control.

7. Such agent shall be deemed possessed of such goods or documents, whether the same be in his actual custody or be held by any other person subject to his control or on his behalf.

Advance to an agent possessed of goods, or their title, where agent not authorized to pledge, when held valid; contracts by others for agent held valid

8. Where any advance is made to an agent possessed of goods or documents of title thereto on the faith of a contract in writing, to consign, deposit, transfer or deliver such documents, if such goods or documents shall be received by the person making such advance without notice that such agent was not authorized to make such pledge or security, such advance shall be deemed to be an advance on the security of such goods or documents within the meaning hereof, though such goods or documents shall not be received by the person making the advance until a period subsequent to such advance. Any contract, whether made direct with such agent or with any person on his behalf, shall be deemed to be made with such agent.

Advances may be in money, or negotiable securities.

9. Any payment, whether by money or negotiable security, shall be deemed an advance within the meaning hereof.

Possession by agent of goods, or their title, evidence of agency

10. Any agent in possession of goods or the documents of title thereto, shall be deemed entrusted therewith by the owner unless the contrary be shewn in evidence.

Agent pledging goods illegally guilty of a misdemeanor.

11. Any agent who shall, unauthorized by his principal, for his own benefit and in violation of good faith, make any consignment, deposit, transfer or delivery of any goods or documents of title so in his possession as a pledge or security, or accept any advance on the faith of a contract to make any such consignment, deposit, transfer or delivery, shall be guilty of a misdemeanor, and be imprisoned in the provincial penitentiary for a term not exceeding seven, nor less than two years, or be fined, or both, as the court shall award.

Accessories also

12. Any person knowingly and wilfully assisting in making

CHAPTER 80.

OF FACTORS AND AGENTS.

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11. Agent pledging goods illegally guilty of a misdemeanor.
12. Accessories also guilty of a misdemeanor.
13. Agent may pledge goods for advances or acceptances.
14. Conviction not evidence against agent; compulsory disclosures not evidence against agent.
15. Owner may redeem goods pledged.
16. Proceedings under this chapter not to affect other remedies at law or equity.

Agent in possession of goods, or the title thereof, empowered to sell or pledge them

1. Any agent entrusted with the possession of goods, or the documents of title thereto, shall be deemed the owner thereof, so as to render valid and binding upon all persons interested therein any contract made with such person for the purchase of such goods, or by way of pledge, lien, or security for advances upon such goods or documents, or for further or continuing advances thereon, although the person making such purchase, or claiming such pledge or lien, may have had notice that the person with whom such contract is made is only an agent or factor; provided such contract be made in the ordinary course of business, and such person shall not have notice at the time of making such contract, that such agent is not authorized to sell the goods and receive the purchase money, or to pledge such goods.

Agent's powers in cases of exchange of goods or their titles

2. Any contract for pledge, lien, or security made by an agent entrusted with the possession of goods, or the documents of title thereto, in consideration of the delivery or transfer to him of other goods or documents of title or negotiable securities on which the person delivering them has at the time a valid lien for a previous advance by virtue of some contract made with such agent, shall be as valid as if the consideration therefor had been an advance of money: but the lien required thereby shall not exceed the value at the time, of the goods, documents of title, or negotiable security delivered up and exchanged.

Contracts made with agent in good faith to be held valid; lien for antecedent debt invalid

3. Such contracts, loans, advances and exchanges as are made in good faith and without notice that the agent making such contracts or agreements is acting without authority or in bad faith, although with notice of such agent not being the owner of the

goods are alone rendered valid hereby and binding upon all persons interested therein. Nothing herein shall make valid any sale, lien, or pledge in respect of an antecedent debt owing from an agent to the person to whom such lien or pledge shall be given, or sale made, or authorize an agent in deviating from any express orders or authority received from the owners.

Documents of title defined.

4. Any document used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize the holder to transfer or receive goods thereby represented, shall be considered a document of title within the meaning hereof.

Possession of documents of title possession of goods.

5. Any agent possessed of any such document, whether derived immediately from the owner of such goods or obtained by reason of such agent's having been possessed of the goods or any other document of title thereto, shall be deemed to be possessed of the goods represented by such document.

Pledge upon title to be pledge upon goods.

6. Any contract pledging or giving a lien upon such document shall be deemed a pledge or lien upon the goods to which the same relates.

Agent to be considered in possession of goods, &c. whenever they are under his control.

7. Such agent shall be deemed possessed of such goods or documents, whether the same be in his actual custody or be held by any other person subject to his control or on his behalf.

Advance to an agent possessed of goods, or their title, where agent not authorized to pledge, when held valid, contracts by others for agent held valid.

8. Where any advance is made to an agent possessed of goods or documents of title thereto on the faith of a contract in writing, to consign, deposit, transfer or deliver such documents, if such goods or documents shall be received by the person making such advance without notice that such agent was not authorized to make such pledge or security, such advance shall be deemed to be an advance on the security of such goods or documents within the meaning hereof, though such goods or documents shall not be received by the person making the advance until a period subsequent to such advance. Any contract, whether made direct with such agent or with any person on his behalf, shall be deemed to be made with such agent.

Advances may be in money, or negotiable securities.

9. Any payment, whether by money or negotiable security, shall be deemed an advance within the meaning hereof.

Possession by agent of goods, or their title, evidence of agency

10. Any agent in possession of goods or the documents of title thereto, shall be deemed entrusted therewith by the owner unless the contrary be shewn in evidence.

Agent pledging goods illegally guilty of a misdemeanor.

11. Any agent who shall, unauthorized by his principal, for his own benefit and in violation of good faith, make any consignment, deposit, transfer or delivery of any goods or documents of title so in his possession as a pledge or security, or accept any advance on the faith of a contract to make any such consignment, deposit, transfer or delivery, shall be guilty of a misdemeanor, and be imprisoned in the provincial penitentiary for a term not exceeding seven, nor less than two years, or be fined, or both, as the court shall award.

Accessories also

12. Any person knowingly and wilfully assisting in making

CHAPTER 80.

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1. Any agent entrusted with the possession of goods, or the documents of title thereto, shall be deemed the owner thereof, so as to render valid and binding upon all persons interested therein any contract made with such person for the purchase of such goods, or by way of pledge, lien, or security for advances upon such goods or documents, or for further or continuing advances thereon, although the person making such purchase, or claiming such pledge or lien, may have had notice that the person with whom such contract is made is only an agent or factor; provided such contract be made in the ordinary course of business, and such person shall not have notice at the time of making such contract, that such agent is not authorized to sell the goods and receive the purchase money, or to pledge such goods.

Agent's powers in cases of exchange of goods or their titles

2. Any contract for pledge, lien, or security made by an agent entrusted with the possession of goods, or the documents of title thereto, in consideration of the delivery or transfer to him of other goods or documents of title or negotiable securities on which the person delivering them has at the time a valid lien for a previous advance by virtue of some contract made with such agent, shall be as valid as if the consideration therefor had been an advance of money: but the lien required thereby shall not exceed the value at the time, of the goods, documents of title, or negotiable security delivered up and exchanged.

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3. Such contracts, loans, advances and exchanges as are made in good faith and without notice that the agent making such contracts or agreements is acting without authority or in bad faith, although with notice of such agent not being the owner of the

goods are alone rendered valid hereby and binding upon all persons interested therein. Nothing herein shall make valid any sale, lien, or pledge in respect of an antecedent debt owing from an agent to the person to whom such lien or pledge shall be given, or sale made, or authorize an agent in deviating from any express orders or authority received from the owners.

Documents of title defined.

4. Any document used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize the holder to transfer or receive goods thereby represented, shall be considered a document of title within the meaning hereof.

Possession of documents of title possession of goods.

5. Any agent possessed of any such document, whether derived immediately from the owner of such goods or obtained by reason of such agent's having been possessed of the goods or any other document of title thereto, shall be deemed to be possessed of the goods represented by such document.

Pledge upon title to be pledge upon goods.

6. Any contract pledging or giving a lien upon such document shall be deemed a pledge or lien upon the goods to which the same relates.

Agent to be considered in possession of goods, &c. whenever they are under his control.

7. Such agent shall be deemed possessed of such goods or documents, whether the same be in his actual custody or be held by any other person subject to his control or on his behalf.

Advance to an agent possessed of goods, or their title, where agent not authorized to pledge, when held valid; contracts by others for agent held valid

8. Where any advance is made to an agent possessed of goods or documents of title thereto on the faith of a contract in writing, to consign, deposit, transfer or deliver such documents, if such goods or documents shall be received by the person making such advance without notice that such agent was not authorized to make such pledge or security, such advance shall be deemed to be an advance on the security of such goods or documents within the meaning hereof, though such goods or documents shall not be received by the person making the advance until a period subsequent to such advance. Any contract, whether made direct with such agent or with any person on his behalf, shall be deemed to be made with such agent.

Advances may be in money, or negotiable securities.

9. Any payment, whether by money or negotiable security, shall be deemed an advance within the meaning hereof.

Possession by agent of goods, or their title, evidence of agency

10. Any agent in possession of goods or the documents of title thereto, shall be deemed entrusted therewith by the owner unless the contrary be shewn in evidence.

Agent pledging goods illegally guilty of a misdemeanor.

11. Any agent who shall, unauthorized by his principal, for his own benefit and in violation of good faith, make any consignment, deposit, transfer or delivery of any goods or documents of title so in his possession as a pledge or security, or accept any advance on the faith of a contract to make any such consignment, deposit, transfer or delivery, shall be guilty of a misdemeanor, and be imprisoned in the provincial penitentiary for a term not exceeding seven, nor less than two years, or be fined, or both, as the court shall award.

Accessories also

12. Any person knowingly and wilfully assisting in making

guilty of a misdemeanor.

any such consignment, deposit, transfer or delivery, or accepting or procuring such advance, shall be guilty of a misdemeanor, and shall be sentenced to any of the punishments above mentioned as the court shall award.

Agent may pledge goods for advances or acceptances.

13. No agent shall be liable to prosecution for any such consignment, deposit, transfer or delivery as above mentioned for advances not greater than the amount at the time thereof due to such agent from his principal, together with the amount of any bills of exchange drawn by or on account of such principal and accepted by such agent.

Conviction not evidence against agent; compulsory disclosures not evidence against agent.

14. The conviction of any such agent shall not be evidence in any suit against him, and no agent shall be liable to such conviction upon any evidence whatsoever who shall previous to his indictment have made disclosure upon oath under compulsory process of any court in any action instituted in good faith by a party aggrieved.

Owner may redeem goods pledged.

15. Nothing herein shall affect the right of the owner to redeem such goods or documents of title so pledged before the sale thereof upon repayment of the amount of the lien thereon or restoration of the securities in respect of which such lien exists, and on payment or satisfaction to such agent, if by him required, of any amount in respect of which he would be entitled to retain such goods or documents as against such owner, nor his right to recover from any person to whom such goods or documents have been pledged, or who may have a lien thereon, any proceeds of the sale thereof remaining in his hands after deducting the amount of such pledge or lien.

Proceedings under this chapter not to affect other remedies at law or equity.

16. These provisions shall not, nor shall any conviction or judgment under them lessen, or in any way affect any remedy at law or in equity which any person aggrieved would have had against the offender if such provisions had not been made.

CHAPTER 81.

OF BILLS OF EXCHANGE AND PROMISSORY NOTES.

SECTION

1. Damages and interest on protested bills of exchange.
2. Promissory notes negotiable; who may sue thereon.
3. Notes not payable in money presumed to be for a good consideration, but not negotiable; how recovered.
4. No damages recoverable for non-delivery of articles mentioned in such note.

Damages and interest on protested bills of exchange.

1. A bill of exchange drawn by a person residing within the province and returned protested, shall, if drawn upon a person residing within the province, be subject to six per cent. per annum

interest from the date of the protest to the time of payment. If drawn upon a person in any part of North America without the province, it shall be subject to five per cent. damages and six per cent per annum interest from the date of the protest to the time of payment; and, if drawn upon a person in any other country, it shall be subject to ten per cent. damages and six per cent. per annum interest from the date of the protest to the time of payment.

Promissory notes negotiable, who may sue thereon

2. A promissory note shall be assignable or endorsable in the same manner as an inland bill of exchange: and the payee, or endorsee thereof, or the holder, where the note is payable to bearer, may bring an action thereon in his own name.

Notes not payable in money presumed to be for a good consideration, but not negotiable; how recovered.

3. A note in writing for a sum certain payable otherwise than in money, shall be held *prima facie* to be given for a valuable consideration, but shall not be negotiable. The amount of such note may be sued for and recovered as if the amount thereof were payable unconditionally in money.

No damages recoverable for non-delivery of articles mentioned in such note.

4. In an action brought upon such note the amount only payable thereunder shall be recoverable without damages for the non-delivery of the articles enumerated therein.

CHAPTER 82.

OF INTEREST.

SECTION

1. Interest to be 6 per cent., contracts reserving a higher rate to be void, and offender to forfeit treble value.
2. Contracts respecting grain or live stock excepted.
3. Hypothecation of vessels excepted.
4. Interest may be allowed in certain cases for delay of payment.
5. Damages in the nature of interest may be allowed in certain actions.
6. Limitation of actions for taking illegal interest.

Interest to be 6 per cent.; contracts reserving a higher rate to be void, and offender to forfeit treble value.

1. No person upon any contract, shall take directly or indirectly, for the loan of monies or goods, above the rate of six per cent. per annum. All contracts whereby a greater rate of interest is reserved, shall be void, and all persons taking or receiving upon any contract or security a greater rate, shall forfeit treble the value of the monies or goods in such contract or security contracted for or secured.

Contracts respecting grain or live stock excepted.

2. Any person may, nevertheless, contract for the loan or hire of grain or live stock, upon halves or otherwise, upon the lender taking upon himself all risk of such stock: but if it shall appear that the same, or any part thereof, perished, or was lost through the wilful neglect of the borrower, he shall make good to the lender the full value thereof.

Hypothecation of vessels excepted.

3. The foregoing provisions shall not extend to any hypothecation or agreement in writing entered into for money advanced upon the bottom of a ship or vessel, her cargo or freight.

Interest may be allowed in certain cases for delay of payment.

4. Upon all debts or sums certain payable at a certain time, or otherwise, the jury, and the court where there is no jury, on the trial of any issue or inquisition of damages, may, if they shall think fit, allow interest from the time when such debts, or sums certain, were payable, if such debts or sums be payable by virtue of some written instrument at a certain time, or if payable otherwise, then from the time when demand of payment shall have been made in writing, such demand giving notice to the debtor that interest will be claimed from the date thereof.

Damages in the nature of interest may be allowed in certain actions.

5. The jury on the trial of any issue, or on any inquisition of damages, may, if they shall think fit, give damages in the nature of interest above the value of the goods at the time of the conversion or seizure, in all actions of trover, or trespass *de bonis asportatis*, and above the money recoverable in all actions on policies of assurance.

Limitation of actions for taking illegal interest.

6. No prosecution for taking illegal interest shall be commenced but within twelve months from the time the offence was committed.

CHAPTER 83.

OF CURRENCY.

SECTION

1. Coins which are a legal tender, and their rate of value.
2. Amount of British silver which may be tendered at one time.
3. Bankers' notes and bills to be payable in gold or silver, and twelve per cent. interest after demand.
4. Such notes to be transferable by delivery, and recoverable by the holder.
5. The holder may tender such note to the maker as a payment.
6. Bank notes not to issue under five pounds, and to be payable in specie.
7. Treasury notes excepted, also orders, bank checks, and promissory notes, not intended as currency.

Coin, which are a legal tender, and their rate of value.

1. The several coins hereafter mentioned shall be legal tenders in discharge of any liability or demand, at the respective rates hereafter declared, viz:

The gold coin of the United Kingdom called a sovereign, being of full weight, at the rate of one pound sterling, or one pound five shillings currency.

The foreign gold coin called the doubloon, being of not less weight than four hundred and fifteen grains, each containing not less than three hundred and sixty grains of pure gold, at and after the rate of three pounds four shillings sterling, or four pounds currency.

The Peruvian, Mexican, Columbian, and old Spanish dollar, being of the full weight of four hundred and sixteen grains, and containing not less than three hundred and seventy-three grains of pure silver, at the rate of four shillings and two pence sterling, or five shillings and two pence half-penny currency.

All British silver coins after the same rate as the sovereign in the same proportion as such respective coins bear thereto.

And the copper coin legally current in the United Kingdom and that issued from the treasury of the province as penny and half-penny pieces currency.

Amount of British silver which may be tendered at one time.

2. No person shall be compelled to receive at any one time a greater amount than fifty shillings currency in British silver money, nor more than twelve pence currency in copper money; and, in any payment, no account shall be taken of any fractional part remaining due less than one half penny.

Bankers' notes and bills to be payable in gold or silver, and twelve per cent interest after demand

3. The holder of any undertaking or order for the payment of money, which is designed to be, and to serve the like purpose of notes or bills of bankers, or for circulating currency, whether payable to a real or fictitious person or to the bearer thereof, or purporting to be transferable by endorsement or delivery, and whether made payable in gold or silver or otherwise, may demand the full amount thereof in gold or silver money from the party by whom the same is payable; and in default of such payment the party shall pay to such holder interest at the rate of twelve per cent. per annum upon the amount thereof from the day of such demand and refusal.

Such notes to be transferable by delivery, and recoverable by the holder.

4. Every such undertaking shall be transferable by delivery only without endorsement or assignment; and every holder of such undertaking may recover the amount therein expressed as if the same were a promissory note, made absolutely payable in gold or silver money.

The holder may tender such note to the maker as a payment.

5. The holder of any such order or undertaking being indebted to the person being the maker thereof may tender the same to such maker in or towards payment of such debt for the full amount therein expressed.

Bank notes not to issue under five pounds, and to be payable in specie

6. Any person issuing as circulating currency any promissory note, bank note or bill for a less sum than five pounds, shall, for every such offence, forfeit ten pounds: and any person issuing as circulating currency any promissory note, bank note or bill, expressed to be payable otherwise than in gold or silver money, shall, for every such offence, forfeit a like sum.

Treasury notes excepted, also orders, bank checks and promissory notes, not intended as currency

7. The foregoing provisions shall not extend to treasury notes of this province nor to any undertaking or order not designed for circulation as currency, but bona fide drawn by any person upon his banker or any other person, nor shall they prevent any person indebted in a sum less than five pounds from making to his creditor a promissory note or undertaking to pay such sum.

CHAPTER 84.

OF MILLS AND MILLERS.

SECTION
1. Tolls for grinding wheat, &c. regulated.
2. Tolls for hulling barley, bolting flour, &c.
3. Quantity of grain, how ascertained.
4. Fine for taking or demanding illegal toll.
5. Fine for refusing to grind, &c.; steam mills, when excepted.
6. Millers to keep scales and weights in mills under penalty of five pounds.

Tolls for grinding wheat, &c. regulated.

1. The tolls to be taken by every miller for grinding wheat, rye, barley, buckwheat, or indian corn, or for grinding oats which are not kiln dried, shelled and sifted, shall not exceed one sixteenth part, nor the tolls for kiln drying, shelling, grinding and sifting oats, one eighth part of the whole quantity brought to the mill to be ground.

Tolls for hulling barley, bolting flour, &c.

2. Every miller shall receive for hulling barley one sixth of the quantity, and for bolting or sifting flour or meal ground at his mill, one pint out of each bushel of grain or corn so ground.

Quantity of grain, how ascertained.

3. The quantity of grain or corn to be ground, shall be ascertained by a sealed measure.

Fine for taking or demanding illegal toll.

4. A miller demanding or taking any larger toll than is hereby allowed, shall forfeit forty shillings for every such offence, and shall pay the owner the full value of the grain or meal taken beyond the prescribed toll.

Fine for refusing to grind, &c.; steam mills, when excepted.

5. A miller refusing to grind any grain or corn, or to hull any barley which shall be in good order, or to bolt or sift any flour or meal, having the requisite machinery therefor, shall forfeit forty shillings for every offence; but the proprietor or manager of any steam mill may refuse to receive or to grind any grain or corn, or to hull any barley, and shall not be subject to the above penalty therefor, unless he shall first receive and afterwards refuse to grind such grain or corn, or to hull such barley.

Millers to keep scales and weights in mills under penalty of five pounds.

6. Every miller shall have in his mill, erected in a convenient place, properly fitted and provided, a good and sufficient beam and scales with proper legal weights, for the use of persons requiring grain or corn to be ground at such mill, and in default, shall, for every such offence, forfeit five pounds.

CHAPTER 85.

OF THE REGULATION AND INSPECTION OF PROVISIONS, LUMBER, FUEL, AND OTHER MERCHANDIZE.

SECTION

1. Appointment of inspectors; their bonds; penalty for trafficking in fish; penalty for acting without authority.
2. Chief inspector to appoint deputies.
3. Qualities of inspected fish, and their descriptions respectively.
4. Casks and boxes; their quality, dimensions, capacity, &c.
5. Casks to contain certain quantities of fish and salt.
6. Pickled and smoked fish to be inspected before exportation.
7. Certificates of inspection; fine for exportation without.
8. Smoked herrings liable to seizure if not inspected.
9. Instructions for curing and packing fish.
10. Damaged fish not to be inspected.
11. Fish to be sorted, inspected, and branded in inspector's presence.
12. Inspectors, when to attend; manner of inspection.
13. Smoked herrings, how inspected.
14. Fees of inspectors, and how paid.
15. Returns of chief inspectors, how made.
16. Deputy inspectors to account to chief inspectors.
17. Fine for allowing unauthorized parties to inspect fish, and for lending branding irons.
18. Fine for acting without authority.
19. Counterfeiting brands, or shifting fish improperly, punishable by fine and imprisonment.
20. Fine for intermixing or improperly exporting pickled fish.
21. Forfeiture upon masters of vessels for receiving on board uninspected smoked herrings.
22. Actions for misconduct of deputies; liability of inspector in such cases, and his redress.
23. Inspected casks may be re-inspected; deficiencies, how supplied.
24. Casks of fish oil, how branded.
25. Guager's duty and fees.
26. Fine upon guager for misconduct.
27. Fine for acting as a guager without authority.
28. Qualities and descriptions of inspected beef and pork.

SECTION

29. Casks for packing salted beef and pork, their quality and dimensions.
30. Casks to contain a certain weight of meat and salt of certain descriptions.
31. Duty of inspectors and re-packers; mode of branding.
32. Beef and pork, how prepared for re-packing.
33. Fees of inspectors.
34. Fines for misconduct.
35. Fines for exporting uninspected beef or pork.
36. Proceedings where there is suspicion that uninspected beef or pork has been shipped
37. Forfeiture for shifting or intermixing repacked beef or pork.
38. Fresh beef; regulations for weighing, &c.
39. Live cattle and government contracts excepted from the operation of last section
40. Officers' fees.
41. Fine upon officer for neglect of duty.
42. Bread for sale, how marked.
43. Weight of loaves.
44. Fine for selling unmarked bread.
45. Persons selling bread shall keep scales and weights.
46. Justices or constables authorized may seize bread unmarked or short of weight as forfeited.
47. Fine for obstructing officer.
48. Fine for selling bread short of weight.
49. Fine for servants or journeymen offending.
50. Baker may be relieved from fines incurred by the wilful misconduct of servants.
51. Loaves made to order, or weighing less than half a pound, excepted; limitation of suits.
52. Weight of grain and corn, per bushel.
53. Wheat and barley, not home produced, to be sold by weight.
54. Grain sold on board, to be delivered from a vessel, to be weighed and measured by a sworn measurer.
55. Heated or unmarketable grain not to be taken account of, unless by request of purchaser.
56. Fees of measurers; their measures.
57. Fine for violation of provisions.
58. Fine upon measurers for misconduct.
59. Flour to be weighed; weight of barrels, &c.
60. Barrels, &c. how branded.

SECTION
61. Fine for selling barrels, &c. light of weight or not branded.
62. Weighers' fees.
63. Fine for improperly refilling empty branded barrels, &c.
64. Tare of barrels, &c. how ascertained.
65. Fine upon weighers for misconduct.
66. Home manufactured flour excepted, if weighed and branded by the proprietor of the mills.
67. Wheat flour warehoused for exportation excepted.
68. Weighers, how appointed; their returns.
69. Tare on sugar, how ascertained.
70. Fine for not allowing tare on sale.
71. Coal and salt to be measured.
72. Liable to forfeiture if delivered without being measured.
73. Fees of measurers.
74. Fine upon measurers for misconduct.
75. Coals, how measured.
76. Inspectors of sole leather shall keep scales and weights; their duty on inspection; marks and numbers to be impressed.
77. Deductions from weight when leather is not dry; inspectors' fees.
78. Fine for offering for sale unstamped sole leather.
79. Fine for violation of duty by inspector.
80. Hay; how weighed; weighers' fees.
81. Cordwood for retail; its quality and dimensions.
82. Cordwood from shipboard to be measured; measurers' fees.
83. Fine for selling without being measured.
84. Undimensioned wood to be rejected.
85. Provisions in case of rotten or crooked wood.
SECTION
86. Fine for measurer violating his duty.
87. Boards to be of four qualities; their description.
88. Dimension deals defined.
89. Plank for exportation; their size and quality.
90. Ton timber for exportation; its size and quality.
91. Merchantable spruce, pine, and hardwood timber; the size and quality.
92. Shingles to be of three qualities; their descriptions.
93. Clapboards; their length and description.
94. Lathwood; description of, and how measured.
95. Staves; their description and mode of calculation.
96. Timber, lumber, and shingles purchased for exportation shall be as respectively described.
97. Duty of lumber measurers on a survey.
98. Fees of surveyors of lumber.
99. Surveyors certificates; their effect; provisions in cases of dispute.
100. Fees of surveyor payable by seller; seller's duty on survey.
101. Timber, lumber, and shingles forfeited if sold without being surveyed; cargoes in the city of Halifax excepted.
102. Shingles, clapboards, and staves found defective to be rejected.
103. Shingles and clapboards forfeited when offered for sale deficient in the marked quantity.
104. Fine for destroying surveyors' marks on timber, &c.
105. Fine for lumber surveyor violating his duty.
106. Limitation of actions.

Fish.

Appointment of inspectors; their bonds; penalty for trafficking in fish; penalty for acting without authority.

1. The governor in council shall appoint in every county a chief inspector of pickled fish therein, who shall be sworn into office and shall give a bond with two sureties in five hundred pounds to her majesty for the faithful discharge of his duty. He shall not engage nor have any interest, direct or indirect, in the curing or packing or the sale of pickled fish, under a penalty of one hundred pounds, and forfeiture of his office; and any person who shall act as inspector or deputy inspector without having been duly appointed and sworn, shall forfeit five pounds for each offence.

Chief inspector to appoint deputies.

2. Every chief inspector shall appoint a sufficient number of deputies to act under him during pleasure, and shall be responsible for their official conduct, and shall take a bond from each of them in fifty pounds with sureties; and every such deputy shall be sworn to the faithful discharge of his duty in the same manner as the chief inspector.

Qualities of inspected fish, and their descriptions, respectively.

3. There shall be three qualities of mackerel, three of salmon, two of other kinds of pickled fish, and two of smoked herrings.

Mackerel of the quality number one shall consist of the best and fattest fall mackerel, having had the blood well washed out previous to being salted, and being properly soaked, well cured in every respect, free from taint, rust or damage, well split, and being of the best kind and in the best condition, and measuring not less than fifteen inches from the extremity of the head to the crotch of the tail,—such mackerel shall be branded "mackerel, number one," and if scraped shall be branded "mackerel, number one, extra."

Mackerel of the quality number two shall consist of the best fall mackerel which shall remain after the selection of the first quality, being properly soaked, the blood washed out, well cured, and in every respect free from taint, rust or damage, well split, and measuring not less than twelve inches from the extremity of the head to the crotch of the tail; and such mackerel shall be branded "mackerel, number two," and if scraped shall be branded "mackerel, number two, extra."

The quality to be branded number three shall consist of good sound mackerel properly soaked, the blood washed out, well cured, well split, and in every respect free from taint, rust or damage; and all mackerel less than ten inches in length shall be branded "small;" and all rusty fish, without reference to quality, shall be branded "rusty."

Salmon to be branded "No. 1" shall consist of the best and fattest kind, having had the blood well washed out previous to its being salted, and being well cured, well split, and in every respect free from taint, rust or damage, being fish of the best kind and in the best condition. Those to be branded "No. 2" shall comprehend the best salmon that remain after the selection of the first quality; and those to be branded "No. 3" shall consist of other salmon, but both of the last mentioned qualities shall be, nevertheless, sound, good fish, blood well washed out, well cured, well split, and in every respect free from rust, taint or damage.

The quality of herrings, alewives, or other pickled fish to be branded "No. 1" shall consist of the fattest and best fish; and the quality to be branded "No. 2" of the poorer, thinner and inferior fish, and both of the qualities shall be carefully cured and cleansed, and in every respect free from taint, rust or damage.

Smoked herrings, their No. and qualities.

Smoked herrings branded "No. 1" shall comprehend the fattest and best fish; and those branded "No. 2" the poorer, thinner, and smaller fish. They shall be sweet, and well cured and smoked.

Casks and boxes; their quality, dimensions, capacity, &c.

4. Barrels and half barrels in which pickled fish is intended to be packed shall be made of sound, well seasoned staves, free from sap, and the heading shall be of hard wood, pine or spruce, smooth on the outside, and shall, as well as the staves, be at least three quarters of an inch in thickness, but of hardwood the staves may be

five-eighths of an inch in thickness. Staves for mackerel and salmon shall be twenty-eight inches in length, and the heads, between the chimes, seventeen inches, the staves for herrings and alewives, twenty-seven inches, and the heads, between the chimes, sixteen inches; and the bung stave shall always be of hard wood; the casks shall be well hooped with at least four hoops on each bilge and four on each chime. Mackerel and salmon barrels shall contain not less than twenty-eight nor more than twenty-nine gallons, and barrels for herrings and alewives not less than twenty-six nor more than twenty-seven gallons, and the tierces and half barrels shall contain a quantity proportionate thereto. The makers shall brand their names on every barrel and half barrel under a penalty of five shillings for each cask.

Boxes for smoked herrings shall measure on the inside eighteen inches in length, twelve in breadth, and six in depth; or eighteen inches in length, nine in breadth, and eight in depth: and shall be strong, well made, sufficiently seasoned, and the covers well planed or shaved.

Casks to contain certain quantities of fish and salt.

5. Casks shall contain the quantity of fish hereinafter prescribed for each respectively, over and above the salt and pickle necessary to preserve the same, that is to say: a tierce, three hundred pounds; a barrel, two hundred pounds; and a half barrel, one hundred pounds. Each barrel shall contain, two pecks of salt, clean and suitable for the purpose; and every tierce and half barrel shall contain a like proportion.

Pickled and smoked fish to be inspected before exportation.

6. All pickled fish intended for exportation in tierces, barrels and half barrels, and all smoked herrings intended for exportation or sale, shall be first inspected, and the cask or box branded on the head thereof by an inspector in plain legible characters, with the description of the fish, the number of the quality and the weight, the initials of the christian names and the whole surname of the actual inspector, the name of the town or place where he acts as inspector, the capital letters "N. S." for Nova Scotia, and the year of the inspection.

Certificates of inspection; fine for exportation without.

7. The person who shall have actually inspected any pickled fish, shall grant a certificate of such inspection, which shall be given to the proper officer before any vessel on board which the fish may be laden, shall be cleared out. Any person exporting pickled fish in tierces, barrels or half barrels, contrary to this section, shall forfeit five shillings for every such cask.

Smoked herrings liable to seizure if not inspected.

8. Smoked herrings shipped or sold without having been duly inspected and branded, may be seized under a warrant of a justice of the peace, to be given upon information under oath.

Instructions for curing and packing fish.

9. All inspected pickled fish, whether split or otherwise, shall be well struck or salted in the first instance, and the qualities shall be those prescribed in the third section. Each cask shall be filled up with fish of the same kind and quality, properly packed and headed up, with the requisite number of hoops thereon. The fish shall be very carefully sorted and classed, according to their re-

spective numbers and qualities, and then weighed: and on every layer of fish, as packed in the barrel, the quantity of salt hereinbefore prescribed, shall be regularly placed. Herrings and alewives, whether split or round, and all number three mackerel, shall be packed with coarse salt. Smoked herrings shall be carefully packed, each box with fish as nearly as possible of the same size, laid in the same direction and not across one another, and so stowed as completely to fill the package.

Damaged fish not to be inspected.

10. Tainted or damaged pickled fish, or smoked herrings, shall on no account be permitted to pass inspection.

Fish to be sorted, inspected, and branded in inspector's presence.

11. The sorting, weighing, inspecting and branding of any package of pickled fish or smoked herrings, shall be done by or in the sight of an inspector thereof, and if any casuality render it necessary to re-pack a cask of inspected pickled fish in any place, it shall in all cases be done by an inspector of pickled fish, if one be resident within five miles thereof.

Inspectors, when to attend; manner of inspection.

12. Every chief inspector, by himself or his deputy, shall inspect all pickled fish under the provisions of this chapter, when ten casks are ready for his inspection and he is required so to do, under a penalty of twenty pounds for every default, unless his residence be more than five miles from the place where his attendance may be required: and shall likewise inspect all tierces, barrels and half barrels, which are intended to contain pickled fish, and condemn all such as shall not be conformable to these provisions, and brand those he shall approve upon the bung-stave with the initials of his name.

Smoked herrings, how inspected.

13. Inspectors of smoked herrings shall inspect, and, when necessary, shall cull and re-pack every box thereof which is intended for sale or exportation, and shall for that purpose open, and, after inspecting, re-close and brand the same as hereinbefore directed.

Fees of inspectors, and how paid.

14. Every inspector actually performing the duty, shall be entitled to receive the following fees for inspecting and branding, viz: for every tierce, nine pence; for every barrel, five pence; and for every half barrel, two pence half-penny; to be paid one half by the buyer, and the other by the seller; and for each empty cask, one penny, to be paid by the seller. For every box of smoked herrings, one penny half-penny; and for culling and re-packing the same, when necessary, two pence half-penny in addition.

Returns of chief inspectors, how made.

15. Every chief inspector shall make a return to the provincial secretary of all the pickled fish inspected by him or his deputies; the same to be made up to the last days of March, June, September and December, in each year, and delivered within one month thereafter.

Deputy inspectors to account to chief inspectors.

16. The deputy inspectors shall account to the chief inspector under whom they act, once in every three months, or oftener if required, for all fish inspected, and the fees received by them therefor; and shall pay over to him one fifth of the same.

Fine for allowing unauthorized parties to inspect fish, and for lending branding irons.

17. No person other than an inspector, shall sort, weigh, inspect, brand, or alter any tierce, barrel, or half barrel of pickled fish intended for exportation, unless in the presence and sight, and by the authority of an inspector; and any inspector who shall suffer any person so to act, or shall lend his branding irons in violation or evasion of this section, shall forfeit ten pounds for every offence.

Fine for acting without authority.

18. If any person not duly appointed and sworn shall act as an inspector of pickled fish, he shall for every offence forfeit twenty pounds.

Counterfeiting brands, or shifting fish improperly, punishable by fine and imprisonment.

19. Any person counterfeiting or using the brand of an inspector of smoked herrings, or being accessory thereto, or shifting any smoked herrings which shall have been packed and branded, or putting in other fish contrary to or in evasion of these provisions, shall be punished by fine or imprisonment, at the discretion of the court before whom he may be convicted.

Fine for intermixing or improperly exporting pickled fish.

20. If any person shall take out, shift, or intermix any inspected pickled fish which have been duly packed or branded, or shall cause to be exported in tierces, barrels and half barrels, pickled fish, not duly inspected and branded, or any such cask not duly inspected and branded, he shall forfeit five shillings for every such cask.

Forfeiture upon masters of vessels for receiving on board uninspected smoked herrings.

21. If any master or commander shall receive on board his vessel any smoked herrings which have not been duly inspected and branded, for the purpose of conveying the same out of the township wherein they were cured, he shall forfeit the value thereof; but no such forfeiture shall exceed fifty pounds for any one offence.

Actions for misconduct of deputies; liability of inspector in such cases, and his redress.

22. All actions for the recovery of penalties or damages on account of the misconduct or neglect of any deputy inspector, may be prosecuted either against such deputy or the chief inspector under whom he acts, who shall have his remedy against the deputy either upon the bond given by him or by action on the case for damages: and in every such action the judgment recovered against the chief inspector shall be evidence of damages against such deputy or his sureties, if the deputy shall have had due notice of the action brought against the chief inspector.

Inspected casks may be re-inspected; deficiencies, how supplied.

23. When any cask of pickled fish branded by a deputy inspector shall prove unequal in quantity or quality to that which may be indicated by the brand on the cask, or deficient in any of the requisites hereby prescribed, the chief inspector may cause the same to be re-inspected; and if it appear that the defect arose from the condition of the fish or the bad quality of the cask, or the bad packing or pickling of the fish at the time of the inspection, he may recover the costs and charges of such re-inspection from the deputy who branded the same.

Fish oil.

Casks of fish oil, how branded.

24. On every cask of fish oil guaged shall be branded, or cut

with a double iron, the initial letters of the christian name of the guager, and the whole of his surname, and the word "cod," "dog," "whale," "seal," or whatever word will express the description of the contents.

Guager's duty and fees.

25. No guager shall be compelled to leave his residence to guage a less quantity than five barrels; and the fees for guaging shall be at the rate of one shilling a puncheon, or nine pence a barrel.

Fine upon guager for misconduct.

26. Any guager who shall falsely brand any cask of fish oil, shall, for every gallon, forfeit six pence.

Fine for acting as a guager without authority.

27. If any person shall act as a public guager of fish oil without having been duly appointed and sworn, he shall, for every offence, forfeit five pounds.

Salted beef and pork.

Qualities and descriptions of inspected beef and pork.

28. There shall be three qualities of salted beef and pork respectively, which shall be designated "mess," "prime," and "cargo." "Mess beef" shall comprehend all large and fat beef of the first quality, without hocks, shins, or neck pieces; "prime beef," good and well fatted beef of the next quality, each barrel containing one round at least, and not more than two hocks or shins and half the neck; and "cargo beef" inferior quality beef, each barrel containing not more than three hocks or shins and half the neck. "Mess pork" shall consist of the rib pieces of good fat hogs only; "prime pork" of the next best pieces, with no legs, and not more than three shoulders and twenty pounds of head in any one barrel; and "cargo pork" shall be fat and merchantable, with no legs, and not more than four shoulders and twenty-five pounds of head in a barrel. The snouts above the tusks and the ears shall be cut off all the heads, and the brains and bloody grizzle taken out. All pieces of pork shall, as nearly as possible, be cut square, and mess pork as near as may be to the weight of four pounds; and no piece of prime or cargo pork shall exceed twelve or be less than four pounds in weight.

Casks for packing salted beef and pork; their quality and dimensions.

29. The staves and heading of the casks in which salted beef and pork respectively shall be packed for exportation, shall be made of good seasoned hard wood, free from sap and every other defect; and each cask shall be secured with two iron hoops, and fourteen ash, oak, yellow birch, hickory, or maple hoops; and the casks to contain beef or pork for home consumption shall be made either of the above descriptions of hard wood, or of good seasoned spruce, with spruce or hard wood heading, free from every defect, with hoops similar in number and quality to those required for casks intended for exportation, with the exception of the two iron hoops, for which wooden ones may be substituted—the heads in all cases to be made of good thick stuff, and the hoops to be well set and drove. The dimensions of pork and beef barrels shall be seventeen inches between the chimes and twenty-eight inches long, and shall not guage less than twenty-seven, nor more than thirty gallons.—

Half barrels either for beef or pork, shall contain not less than fourteen, nor more than fifteen gallons.

Casks to contain a certain weight of meat and salt of certain descriptions.

30. Every barrel shall contain two hundred pounds nett weight of beef or pork, not less than three ounces of salt petre, and, if pork, half a bushel of salt, and if beef, a peck and a half of salt; the salt to be Turk's Island, Bahama Island, or Saint Ube's, and every half barrel shall contain one half the quantity and quality of beef or pork, salt and salt petre, above prescribed for each barrel respectively.

Duty of inspectors and re-packers; mode of branding.

31. The inspectors and re-packers shall within the districts assigned to them respectively, examine and sort all salted beef and pork intended for exportation or sale, and see that the same, and the casks in which they are packed, are of the qualities and dimensions hereinbefore in that behalf prescribed, and shall brand on one of the heads of each barrel the figures "200," and "100" on each half barrel, and the words "mess," "prime" or "cargo" "beef" or "pork" as the case may be, the name of the inspector, and the place of inspection or re-packing, at full length, in plain legible characters; and they shall carefully secure their branding irons, so as to put it out of the power of any person to use the same.

Beef and pork; how prepared for re-packing.

32. No beef or pork shall be repacked until it has laid in salt fourteen days.

Fees of inspectors.

33. The inspectors shall receive for inspecting or re-packing each barrel of beef or pork one shilling, and seven pence half-penny for each half barrel; for putting on each hoop wanting two pence, and for flagging, nailing, pegging and pickling each barrel seven pence half-penny, and for each half barrel five pence, the owner to supply the salt.

Fines for misconduct.

34. Any inspector or re-packer who shall inspect, re-pack or brand any cask of salted beef or pork contrary to, or shall in any way offend against these provisions, shall forfeit forty shillings for every offence.

Fines for exporting uninspected beef or pork.

35. All salted beef or pork, packed or re-packed, whether for home consumption or exportation shall be inspected, re-packed and branded in the manner hereinbefore prescribed; and any person who shall ship for exportation any salted beef or pork without being so inspected, shall forfeit forty shillings for every cask; and any master having the same on board his vessel shall forfeit twenty shillings for every cask.

Proceedings where there is suspicion that uninspected beef or pork has been shipped.

36. If any inspector or re-packer shall have reason to suspect that any salted beef or pork is shipped contrary to the last section, he may apply to a justice of the peace, assigning under oath, the causes of his suspicion, and the justice, if he shall think the suspicion well grounded, shall issue his warrant to the inspector to board and search the vessel; and if any salted beef or pork not inspected, re-packed or branded, shall be found therein laden, any justice of the peace, upon the application on oath of such inspector, shall direct his warrant to the sheriff or to any constable of the county, commanding him to enter the vessel and cause the same to be

re-landed and delivered to the owner, upon his paying all expenses of the warrant, search and re-landing. Any person obstructing the search or re-landing shall forfeit fifty pounds.

Forfeiture for shifting or intermixing re-packed beef or pork.

37. If any person shall take out of the cask, or shift or intermix any salted beef or pork which has been duly re-packed and branded, and shall load on board any vessel, or sell the same, shall forfeit fifty pounds.

Inspection of fresh beef.

Fresh beef; regulations for weighing, &c.

38. Fresh beef slaughtered in the province, and sold by weight at a stated price, shall, if required, be inspected and weighed by an officer appointed for the purpose, to be named by the seller, who shall, at his discretion, make a fair allowance to the purchaser for any loss he may sustain by the same being weighed within four hours after the slaughter, or for any bruises found thereon, or to the seller, by making compensation to him for what may have been improperly trimmed off or reduced in weight by the purchaser. The hide and tallow shall, if the seller so require, be weighed with the carcase, and paid for by the purchaser as for the like quantity of beef; and it shall be imperative upon the purchaser to take such hide and tallow, under a penalty of twenty shillings for each carcase.

Live cattle and government contracts excepted from the operation of last section.

39. Nothing in the preceding section contained shall prevent any person from selling or purchasing live cattle by weight, nor shall extend to any contract with the government or any public department.

Officers' fees.

40. Where no more than two carcases shall be inspected and weighed at one time the officer shall receive nine pence for each, and where three or more six pence for each.

Fine upon officer for neglect of duty.

41. The officers for every neglect of duty shall respectively forfeit not less than two nor more than five pounds.

Bread.

Bread for sale, how marked.

42. All bread intended for sale shall be marked in roman characters, with the initial letters of the grain of the flour or meal of which it is made, and with the initials of the christian and surname of the baker, and shall be also marked with the weight thereof.

Weight of loaves.

43. All bread intended for sale shall be made to the following weights respectively, and no other, viz: four pounds, two pounds, one pound and eight ounces.

Fine for selling unmarked bread.

44. No person shall sell any bread that shall not be marked in accordance with the forty-second section; and any person violating the same, by having in his possession, selling, or offering for sale, any bread not duly marked, shall forfeit for every loaf not duly marked, not less than one nor more than five shillings.

Persons selling bread shall keep scales and weights.

45. Every person selling bread shall keep a pair of scales and weights, in order that the purchasers of such bread may, if they require, have the same weighed.

Justices or con-

46. Any justice of the peace, or constable authorized by the

stables authorized may seize bread unmarked or short of weight as forfeited.

warrant of a justice, or the clerk of the market, may visit the premises wherein bread is made or sold, and may search for and weigh all bread therein; and if any bread be found therein under the prescribed weight, or not marked as herein directed, the same shall be seized, and on proof of the fact before a justice, it shall be disposed of to poor persons under the direction of such justice.

Fine for obstructing officer.

47. If any person shall obstruct or oppose the officer in making such search or seizure, he shall forfeit not less than twenty nor more than forty shillings.

Fine for selling bread short of weight.

48. Any person selling bread deficient in weight, and the offence being proved by the same being weighed within twenty-four hours after baking, before a justice, shall, unless the deficiency appear to have been occasioned by some unavoidable accident, forfeit not less than six pence, nor more than two shillings and six pence for every half ounce deficient.

Fine for servants or journeymen offending.

49. If any servant or journeyman in the employ of a baker, shall offend against these provisions, he shall forfeit not less than twenty nor more than forty shillings, and in default of payment he shall be imprisoned not less than seven nor more than fourteen days.

Baker may be relieved from fines incurred by the wilful misconduct of servants.

50. If any baker shall pay any of the foregoing penalties in consequence of the wilful neglect or default of his servant or journeyman, any justice of the peace, upon the application of such baker, may cause the offender to be brought before him, and order him to pay a reasonable sum by way of recompense, and if he shall not comply with such order may commit him to jail for a period not exceeding a month.

Loaves made to order, or weighing less than half a pound, excepted; limitation of suits.

51. These provisions shall not apply to loaves made to order and rasped by the desire of the customer, nor to loaves or cakes sold, weighing less than half a pound. Prosecutions for breach of any such provisions shall be commenced within three days after the offence committed.

Grain and corn.

Weight of grain and corn, per bushel.

52. Merchantable grain and corn shall be of the following weight per bushel, viz: wheat, sixty pounds; foreign barley, fifty two pounds, and if the produce of the province, forty eight pounds: rye, fifty six pounds; indian corn, fifty eight pounds; oats, thirty four pounds; and malt, thirty nine pounds.

Wheat and barley, not home produced, to be sold by weight.

53. All wheat and barley not the produce of the province shall be sold by weight, and the number of pounds by the last section established as the standard weight of a bushel thereof respectively shall be deemed to represent a bushel of such wheat or barley.

Grain sold on board, to be delivered from a vessel, to be weighed and measured by a sworn measurer.

54. All grain and corn sold on board of, and intended to be delivered from any vessel, shall be weighed and measured by a sworn measurer; but grain or corn may be exported or be sold in a store without his intervention, unless the purchaser require to have the same weighed or measured by such officer.

Heated or unmarketable grain not to be taken ac-

55. If the measurer shall find the same heated, or in any other respect unmarketable, he shall inform the purchaser, and

shall not take any account thereof unless at the request of the purchaser. count of, unless by request of purchaser.

56. The grain measurers shall receive from the seller for inspecting and weighing or measuring grain, or corn, at the rate of two shillings and sixpence for every hundred bushels. The measures used by them shall, in all cases, be struck with a straight stick rounded at the edges. Fees of measurers; their measures.

57. If any person shall sell and deliver any grain or corn, in violation of these provisions, he shall forfeit six pence for every bushel of such grain or corn. Fine for violation of provisions.

58. If any grain measurer shall undertake to attend the weighing or measuring of grain or corn from more than one vessel at the same time, or shall be guilty of any neglect or dereliction of his duty, he shall forfeit a sum not exceeding five pounds for each offence. Fine upon measurers for misconduct.

Flour and Meal.

59. All barrels and half barrels of flour and meal brought into or offered for sale in the city of Halifax, or in any of the counties, townships, or districts, for which weighers of flour and meal may be hereafter appointed, shall, before being used or offered for sale, or carried out of the city or any such county, township, or district, be weighed by one of the weighers of flour and meal, and each barrel shall contain not less than one hundred and ninety six pounds nett weight, and each half barrel not less than ninety eight pounds nett weight. Flour to be weighed; weight of barrels, &c.

60. Every barrel or half barrel found to be of full weight, shall be branded by the weigher with the initials of his christian name and his surname at full length, and with figures denoting the nett weight—no barrel or half barrel deficient in weight shall be branded until the importer or owner shall have the deficiency supplied. Barrels, &c. how branded.

61. Every person sending from, or offering for sale within the city of Halifax, or within any such county, township, or district, any barrel or half barrel of flour or meal deficient in weight, or without its having been previously branded, shall be liable to a penalty not exceeding twenty shillings for each barrel, ten shillings for each half barrel, and six pence for every pound weight deficient. Fine for selling barrels, &c. light of weight or not branded.

62. Weighers shall receive for weighing every barrel, one penny, and every half barrel, one half penny, from the person employing them. Weighers' fees.

63. When any barrel or half barrel shall, after having been branded, be emptied of its contents, the brands thereon shall be erased before the same shall be refilled for the purpose of exportation or sale, and any person refilling any such barrel or half barrel without first erasing the brands, shall be liable to a penalty not exceeding five shillings for every barrel, and two shillings and six pence for every half barrel. Fine for improperly refilling empty branded barrels, &c.

Tare of barrels, &c. how ascertained.

64. To prevent any damage or loss sustained in unpacking flour or meal to ascertain the tare of the barrels or half barrels, the weigher may affix a tare according to his judgment without unpacking or weighing the same, which judgment shall be final unless disputed by the buyer or seller, in which case the barrel or half barrel may be unpacked, but the reasonable expense attending the same shall be paid by the party complaining.

Fine upon weighers for misconduct.

65. If any weigher shall brand any barrel or half barrel contrary to these provisions, he shall be liable to a penalty of forty shillings for every barrel, and twenty shillings for every half barrel, and every weigher offending in any other manner, shall be liable to a penalty of ten pounds.

Home manufactured flour excepted, if weighed and branded by the proprietor of the mills.

66. These provisions shall not extend to the weighing of barrels or packages of flour and meal manufactured within the province, if branded with the name of the proprietor of the mill where manufactured, and which shall have the nett weight thereof distinctly branded thereon, unless the purchaser shall require the same to be weighed by the public weigher, and if any such flour or meal shall be sold without being so marked, or the barrel or package so branded shall not contain the full weight branded thereon, the proprietor of such mill shall be liable to a penalty not exceeding twenty shillings for each barrel, and ten shillings for each half barrel, and six pence for every pound weight deficient.

Wheat flour warehoused for exportation excepted.

67. These provisions shall not extend to wheaten flour which may be warehoused and shall be taken therefrom for exportation.

Weighers, how appointed; their returns.

68. The sessions may, upon the recommendation of the grand jury, annually appoint weighers of flour and meal for their respective counties or for particular townships or districts therein in manner as township officers are appointed, who, when sworn, shall have the same authority and perform the same duty as the weighers of flour and meal in the city of Halifax, and every weigher shall make a quarterly return to the provincial secretary's office of all flour and meal weighed by him, to be made up to the last days of March, June, September and December, and delivered within one month thereafter.

Tare on Sugar.

Tare on sugar, how ascertained.

69. The tare to be allowed on the sale of brown or raw sugar, shall, upon every barrel, be twenty two pounds; and, upon every other package of the weight of fourteen hundred pounds or less, eleven pounds for every hundred pounds of gross weight; and, upon every package of such sugar above the weight of fourteen hundred pounds, the tare shall be ten pounds for every hundred pounds of gross weight.

Fine for not allowing tare on sale.

70. Any person who shall not allow the full tare as herein prescribed, shall forfeit two shillings and six pence for every hundred weight of the sugar upon which such full tare shall not be allowed.

Coal and Salt.

71. All coal or salt sold from shipboard by retail in this province, shall be measured by officers appointed for the purpose. Coal and salt to be measured.

72. If such coal or salt shall be delivered to any truckman or other person without having been measured according to the last section, the seller shall forfeit the same or the value thereof to the use of the poor. Liable to forfeiture if delivered without being measured.

73. The measurers of coal shall receive from the seller six pence for every chaldron, and measurers of salt shall receive two pence for every hogshead which they shall respectively measure. Fees of measurers.

74. If any measurer of coal or salt shall undertake to attend the admeasurement of coal or salt from more than one vessel at the same time, he shall forfeit a sum not exceeding forty shillings for each offence: and for any neglect or misconduct other than the offence last mentioned, a sum not exceeding three pounds. Fine upon measurers for misconduct.

75. All coal shall be measured in tubs containing three heaped bushels, and twelve of such tubs shall constitute a chaldron. Coals, how measured

Sole leather.

76. Every inspector of sole leather shall provide himself with proper scales and weights, and shall weigh every side of sole leather presented to him for inspection, and shall impress thereon: Inspectors of sole leather shall keep scales and weights; their duty on inspection; marks and numbers to be impressed.

1°. His own surname, and the name of the place for which he is inspector.

2°. The word "best" if the leather be manufactured of good hides and in the best manner.

3°. The word "good" if the leather be manufactured of good hides in a merchantable manner.

4°. The word "damaged" if the leather be manufactured of damaged hides in a merchantable manner.

5°. The word "bad" if the leather be not of one of the qualities above mentioned.

6°. The weight of the side shall also be distinctly impressed thereon, either in figures or in words at length.

77. The inspector shall make such a deduction as he shall think reasonable from the actual weight of every side of sole leather inspected by him which shall not be perfectly dry, and he shall receive three pence for every side of sole leather which he shall inspect, weigh, and stamp. Deductions from weight when leather is not dry; inspectors' fees.

78. If any person shall offer for sale any sole leather which shall not have been duly stamped, he shall forfeit a sum not exceeding five shillings for every side. Fine for offering for sale unstamped sole leather.

79. If any inspector shall violate his duty, he shall forfeit a sum not exceeding twenty shillings for every offence. Fine for violation of duty by inspector.

Hay.

80. Hay may be weighed in scales, or by steel-yards, duly stamped by the clerk of the market, and weighers shall receive at Hay; how weighed; weighers' fees.

the rate of a penny for every hundred weight of hay weighed by them; and four pence for every mile they shall be required to travel, if the distance shall exceed one mile.

Cordwood.

Cordwood for retail; its quality and dimensions.

81. Every stick of cordwood intended for retail shall measure four feet in length, accounting half the scarf, and be sound hardwood, and every cord shall be of the full length of eight feet, and four feet high, and piled close.

Cordwood from shipboard to be measured; measurers' fees.

82. All cordwood sold from shipboard shall be surveyed and measured before sale by an officer appointed for the purpose, who shall receive four-pence from the seller for every cord by him surveyed and measured.

Fine for selling without being measured.

83. Persons selling such cordwood without having the same surveyed and measured under the last preceding section, shall forfeit the same, or the value thereof.

Undimensioned wood to be rejected.

84. All sticks of such wood not of the requisite length shall be rejected by the measurer.

Provisions in case of rotten or crooked wood.

85. Persons offering any cordwood for sale, shall pile all the crooked and rotten sticks, if any, separately; and if on the survey the measurer shall find any rotten wood, or any crooked sticks in the cord which shall prevent the same being piled close, such crooked or rotten sticks shall be rejected, and the deficiency in the cord made good before sale thereof.

Fine for measurer violating his duty.

86. If any measurer shall violate his duty, he shall forfeit a sum not exceeding twenty shillings for every offence.

Lumber.

Boards to be of four qualities; their description.

87. In the survey of boards there shall be four qualities, viz: First,—Clear boards, at least one inch in thickness.

Second,—Merchantable boards of first quality, sawed of equal thickness throughout, and, when not hardwood, squared at the edges with a saw; to be free from rots, wanes, worm holes, and auger holes; at least seven eighths of an inch in thickness, and containing not less than ten superficial feet.

Third,—Merchantable boards of second quality, of the same dimensions, and free from rots, shakes, and worm holes; and

Fourth,—Refuse to include all other descriptions of boards.

Dimension deals defined.

88. All dimension deals shall be twelve, fourteen, sixteen, eighteen, twenty, and twenty-one feet long, nine, eleven, and twelve inches wide, and three inches thick, respectively, having an allowance of from one to two inches in the length, from a quarter to half an inch in the breadth, and from one-eighth to a quarter of an inch in the thickness; they shall be smooth and fair, of equal width and thickness throughout, butted at both ends with a saw, free from rots, sap, stains, large knots, rents, shakes, worm and auger holes, and shall have the stubshot sawn off.

Plank for exportation; their size and quality.

89. All plank intended for exportation, except hardwood plank, shall be from ten to twenty feet in length, nine inches in breadth,

and three inches and one-eighth in thickness, and of the same quality as dimension deals.

Ton timber for exportation; its size and quality.

90. All ton timber for exportation shall be straight lined and squared, and with not more than one inch of wane on the edges, without offsets or joints, square, butted at both ends, and free from all marks of scoring, rots, splits or worm holes which may be detrimental to the same.

Merchantable spruce, pine, and hardwood timber, the size and quality.

91. Merchantable spruce or pine timber shall be sixteen feet, and hardwood timber ten feet in length at least, and at least ten inches square: and where it does not exceed sixteen feet in length, the ends shall be of equal size, and all ton timber shall be measured by the girth, one quarter part thereof to be taken as the side of the square.

Shingles to be of three qualities, their descriptions.

92. In the survey of shingles there shall be three qualities, viz:

No. 1.—Pine or cedar shingles not less than eighteen inches long, four inches wide, and three-eighths of an inch thick at the butt, and clear of sap, slash, shakes, twists and worm holes.

No. 2.—Pine, cedar, spruce or hemlock shingles not less than sixteen inches long, three and a half inches wide, and from a quarter to a quarter and a sixteenth of an inch thick, to be free from sap, slash, shakes and worm holes; and

No. 3.—Refuse, to include all other descriptions of shingles.

No. 1 and 2 shingles shall be put up in bundles not less than twenty-five tiers or courses twenty inches wide, four bundles to be considered as a thousand.

All shipping shingles for exportation shall be half an inch thick at the butt and extend the same thickness three-fourths of the length, and be shaved from thence to the point, and from four to four and a half inches wide.

Clapboards; their length and description.

93. Clapboards shall be four feet four inches long, five inches wide, and half an inch thick at the back.

Lathwood; description of, and how measured.

94. Lathwood shall be of fresh growth, straight rift, free from bark, heart and knots, and measured by the cord.

Staves; their description and mode of calculation.

95. Hogshead staves shall be forty-two inches long, from three and a half to five and a half inches wide, and three quarters of an inch thick on the thinnest edge, and not more than one inch on the back.

Barrel staves shall be thirty-two inches long and half an inch thick on the thinnest edge, and not exceeding three quarters of an inch on the back: to be of good rift, fairly split, free from twists, knot holes, rotten knots, worm holes and shakes, and shall be calculated by the tale of twelve hundred to the thousand.

Timber, lumber, and shingles purchased for exportation shall be as respectively described.

96. Upon any contract or bargain for a quantity of timber or lumber for exportation, the same shall be understood to mean that which is hereinbefore described, and the purchaser shall not be obliged to receive any other unless under a special written agreement specifying what he actually is to receive.

Duty of lumber

97. The surveyors of lumber shall, when required, diligently

measurers on a survey.

examine and survey every description of lumber described in any of the preceding sections whether for sale or exportation in their respective districts, and shall mark the same as directed by this section at the time of the survey; but if it shall have been previously surveyed in the province, he shall only re-survey and mark anew the same when he shall have any doubt of the measure; and on every survey he shall furnish the seller and the purchaser each with a certificate thereof specifying the quality and dimensions, and on every stick of ton timber shall mark in figures the contents in cubic feet, the initials of his name, and the private mark of the purchaser; and on all deals and plank shall mark in lead on the ends, the length, breadth, thickness, and superficial contents and his own private mark, and on all boards the superficial contents and his private mark.

Fees of surveyors of lumber.

98. The surveyors of lumber shall receive the following fees, viz: for measuring and surveying all ton timber, three pence per ton, together with four pence for every mile they shall necessarily travel in coming to the place of the survey.

For every thousand superficial feet of deals, planks, scantlings and boards respectively, nine pence for surveying and three pence for marking; and for viewing only where the same shall have been previously surveyed and the surveyor shall doubt the measure, three pence.

For every cord of lathwood, six pence.

For every thousand shingles, three pence; and for culling and re-packing, six pence.

For every thousand hogshead staves, one shilling and six pence.

For every thousand barrel staves, nine pence.

Surveyors certificates; their effect; provisions in cases of dispute.

99. The surveyor's certificate shall be binding between the seller and purchaser, but in case they disagree, either party may call in three other surveyors who are in no way interested in the matter in dispute, to re-survey the same, and their decision shall be final. If the first survey be confirmed, the expense of the second shall fall upon the party by whom it was had, but if the first survey is not established, then the surveyor shall bear the expense of the second survey.

Fees of surveyor payable by seller; seller's duty on survey.

100. The surveyors fees shall, in all cases, be paid by the seller, who shall remove all obstacles in the way of the surveyor which may prevent him from viewing and measuring with facility any timber or lumber which he may be required to survey, and shall, if necessary, have the same canted. But the purchaser, upon any special agreement therefor, or if he shall require a fresh survey, shall pay the surveyor's fees.

Timber, lumber, and shingles forfeited if sold without being surveyed; cargoes in the city of Halifax excepted.

101. All timber, lumber, and shingles, shall be surveyed and marked, as prescribed by this chapter, before delivery on sale or shipment for exportation, and if any person shall violate this provision, he shall forfeit the article or the value thereof; but in the city of Halifax entire cargoes of lumber sea borne may be disposed of without the intervention of a surveyor between the first buyer and seller.

102. Upon the survey of shingles, clapboards and staves, respectively those which are deficient in quality or dimensions shall be rejected. Shingles, clapboards, and staves found defective to be rejected.

103. All shingles and clapboards exposed to sale by quantities in bundles, and not holding the number they are marked for shall, unless it appear that part thereof have been accidently shaken out after packing, be forfeited. Shingles and clapboards forfeited when offered for sale deficient in the marked quantity.

104. Any person who shall, without the permission of the owner of any timber or lumber, alter, deface, or destroy the marks of a surveyor of lumber thereon, shall forfeit a sum not exceeding twenty shillings for each offence. Fine for destroying surveyors' marks on timber, &c.

105. Any surveyor of lumber violating any of these provisions, shall forfeit a sum not exceeding five pounds for each offence. Fine for lumber surveyor violating his duty.

106. All prosecutions under these provisions shall be commenced within twelve months from the time of the commission of the offence. Limitation of actions.

CHAPTER 86.

OF WEIGHTS AND MEASURES.

SECTION

1. Standard of weights and measures.
2. Clerk of peace to be furnished with sets of standard weights and measures.
3. Clerks of markets to keep stamped weights and measures.
4. Weights and measures liable to examination.
5. False scales, weights, and measures liable to seizure, and the possessors to be fined; fines for obstructing officers.

1. Weights and measures shall be according to the standard now in use. Standard of weights and measures.

2. The clerk of the peace shall be furnished at the expense of each county or district, with a set of standard weights and measures, which shall be accessible to every person at all reasonable times. Clerks of peace to be furnished with sets of standard weights and measures.

3. The clerks of the market, and in places where no such officers are appointed, the town clerk shall keep a set of weights and measures, long, liquid and dry, which shall be stamped by the clerk of the peace with the letter S. and they shall be standard weights and measures. Clerks of markets to keep stamped weights and measures.

4. The clerks of the market, or the town clerk, may enter all stores, shops, and places of business, and all vessels within their respective districts, and may examine every weighing apparatus and all weights and measures therein. Weights and measures liable to examination.

5. All imperfect weights and measures, and every imperfect instrument or machine for weighing, shall be seized by the clerk of the market or town clerk as forfeited, and the person in whose False scales, weights, and measures liable to seizure, and the

possessors to be fined; fines for obstructing officers.

possession such weights or measures shall be found, shall forfeit a sum not exceeding ten pounds, and any person refusing admittance to those officers or any of them, or obstructing them in making the search and examination hereby directed, shall forfeit a like penalty.

TITLE XXII.

OF CORPORATIONS.

CHAPTER 87.

OF GENERAL PROVISIONS RESPECTING CORPORATIONS.

SECTION

1. Corporations; their powers and privileges.
2. Bye-laws and proceedings to be regulated thereby.
3. Proceedings, how recorded when required by the act of incorporation.
4. First meeting, how called.
5. How called in special cases.
6. Powers and duties of corporation when assembled.
7. Shares to be personal property.
8. Real estate to be sold as personal property.
9. Acts to expire unless put in operation within three years.
10. Charters to continue three years after expiration for closing concerns.
11. Trustees may be appointed to wind up business within the three years.
12. Officers and members, how sued.
13. Liability of individual members.
14. Liability of directors, &c., personally in special cases for overtrading, &c.
15. Acts of companies valid without seal.
16. No company to engage in banking or insurance business unless specially authorized.
17. Arbitrations, how conducted where a corporation is a party.
18. Returns of business by companies to be made annually.
19. Returns, how authenticated; penalty for neglect, and for false returns.
20. This chapter to come into immediate operation.

Corporations, their powers and privileges.

1. All corporations shall, where no other provision is specially made, be capable in their corporate name to sue and be sued, to prosecute and defend actions, to have a common seal which they may alter at pleasure, to elect in such manner as they may deem proper all necessary officers, and to fix their compensation and define their duties, and to make bye-laws and regulations not contrary to law nor repugnant to the charter or act by which any such corporation may be created, for their own government and the due management of their affairs.

Bye-laws, and proceedings to be regulated thereby.

2. All corporations may, by their bye-laws, where no other provision is specially made, determine the manner of calling and conducting meetings, the number of members which shall constitute a quorum, the number of shares which shall entitle the mem-

bers to one or more votes, the mode of voting by proxy, the mode of selling shares for the non-payment of instalments and of transferring shares generally, the tenure of office of the several officers, and the purchase, conveyance and sale of their real and personal estate; and they may annex penalties to their bye-laws not exceeding in any case the sum of five pounds for any one offence.

Proceedings, how recorded when required by the act of incorporation.

3. When any charter or act of incorporation shall direct that the bye-laws and list of shareholders, or either of them, shall be registered, no bye-law of the corporation shall be in force until a copy thereof, and also, if required by the charter or act of incorporation, a list of the names of all the members of the corporation, with the amount of the stock held by each member respectively, certified under the hand of the president and secretary, or if the company shall not have been organized, under the hands of three at least of the members of the company, of whom one at least shall have been named in the charter or act of incorporation, shall be recorded in the office of the registrar of deeds in such county as may be directed by such act or charter; and no subsequent bye-law, nor any subscription of additional stock, nor the transfer of any stock or shares in the corporation, except by devise or by descent, or other act of law, shall be effectual, until a certificate thereof, under the hand of the president and secretary, shall be recorded in the same office; and in all cases bye-laws relating to the real estate of the corporation shall, before they become effectual, be recorded in manner above mentioned in the office of the registry of deeds for the county or district in which such real estate may be situate.

First meeting, how called.

4. The first meeting of all corporations shall, unless otherwise provided in their charters or acts of incorporation, be called by notice signed by any one or more of the persons named in the charter or act of incorporation, and setting forth the time, place and purposes of the meeting; and such notice shall, seven days at least before the meeting, be delivered to each member or left at his place of residence, or published in some newspaper of the county where the corporation may be established or where its principal place of business shall be situate, or if there be no newspaper in the county then in two of the Halifax newspapers.

How called in special cases.

5. Whenever by reason of the death, absence or disability of the officers of any corporation there shall be no person authorized to call or preside at a meeting thereof, any justice of the peace may, on a written application of three or more of the members, issue a warrant to any one of such members, directing him to call a meeting of the corporation by giving the notice as required by law, and the justice may in the same warrant direct such person to preside at such meeting if there shall be no officer present legally authorized to preside thereat.

Powers and duties of corporation when assembled.

6. Such corporation when so assembled may elect officers to fill all vacancies then existing, and may act upon such other business as might by law be transacted at regular meetings of the corporation.

Shares to be personal property.

7. Notwithstanding the corporation may hold real estate, the shares of the stockholders shall be deemed to be personal property for all purposes.

Real estate to be sold as personal property.

8. The real estate of the company may be sold under execution in the same manner as personal estate, and the sheriff shall immediately after the sale execute a deed to the purchaser, which shall convey all the estate and interest of the company in the real estate so sold and conveyed.

Acts to expire unless put in operation within three years.

9. All acts or charters of incorporation shall expire, unless the company thereby established shall go into operation within three years from the passing thereof, unless otherwise specially provided therein.

Charters to continue three years after expiration for closing concerns.

10. All corporations whose charters, after they shall have gone into operation shall expire by their own limitation, or shall be annulled by forfeiture or otherwise, shall nevertheless be continued as bodies corporate for the term of three years after the time when they would have been so dissolved, for the purpose of prosecuting and defending suits by or against them, and of enabling them to settle and close their concerns, to dispose of and convey their property, and to divide their capital stock; but not for the purpose of continuing the business for which such corporations were established.

Trustees may be appointed to wind up business within the three years.

11. When the charter of any corporation shall expire or be annulled, as provided in the preceding section, the supreme court on application of any creditor of such corporation, or of any member at any time within the three years may appoint a trustee or trustees to take charge of the estate and effects of the corporation, and to collect the debts and property due and belonging thereto, with power to prosecute and defend suits in the name of the corporation, and to appoint agents under them, and to do all other acts which might be done by such corporation if in being, that may be necessary for the final settlement of the unfinished business of the corporation; and the power of such trustees may be continued beyond the three years and as long as the court shall think necessary.

Officers and members how sued.

12. When any officer or member of a corporation is liable for any debts of the corporation, or for acts in relation to its business, or to contribute for money paid by other officers or members on account of any such debts or acts, he may be sued therefor either in the supreme court or court of chancery.

Liability of individual members.

13. No member of any corporation shall be relieved from individual liability for its debts or obligations: but each member thereof shall be liable as a partner to the same extent as if no corporation existed; and in case any execution issued on any judgment against the corporation shall be returned unsatisfied, the individual real and personal estate of every member of the corporation shall be liable to respond such judgment under execution issued thereon in the same manner as if the same were a private debt due by such member, unless the special act creating the cor-

poration shall exempt its members from such liability; and any member who shall be so compelled to pay any monies on account of the debts of the corporation, shall be entitled to credit therefor in the books of the corporation.

Liability of directors, &c. personally in special cases for overtrading, &c.

14. The directors or board of managers of any such corporation, the liability of whose members shall be limited by the act or charter of incorporation, unless otherwise specially directed therein, shall in all cases be personally liable for any responsibility incurred by them on account of the corporation beyond the amount of the stock subscribed without the sanction of the company to be obtained at a meeting thereof held in accordance with the bye laws, unless such larger amount of dealing be specially authorized by the act or charter of incorporation: but this section shall not extend to insurance companies.

Acts of companies valid without seal.

15. The acts of incorporated companies performed within the scope of their charters or acts creating them, shall be valid, notwithstanding they may not be done under, or be authenticated by the seal of such corporations.

No company to engage in banking or insurance business unless specially authorised.

16. No corporation shall issue notes or bills for payment of money, for the purpose of circulating the same as money, or engage in any banking or insurance business unless specially authorized to do so by its act of incorporation, and if any corporation, not so authorised, shall issue such bills or notes, or shall engage in any banking or insurance business, its charter shall be thereby rendered void.

Arbitrations, how conducted where a corporation is a party.

17. Whenever in any act or charter of incorporation any disputes or matters of controversy in which the corporation may be interested, or any damages to which they may become liable, shall be directed to be settled or ascertained by arbitration, the mode of proceeding on such arbitration, unless otherwise prescribed, shall be as follows, viz: unless both parties shall concur in the appointment of a single arbitrator, each party on the request of the other party shall, by writing under the hand of the parties interested, or on behalf of the corporation under the hand of the president or one of the directors and the secretary, appoint an arbitrator to decide the matter in question, and after such appointment shall have been made, neither party shall have power to revoke the same without the consent of the other, nor shall the death of any of the parties operate as a revocation thereof; and if either party shall fail to appoint an arbitrator within fourteen days after service upon him of such written request, a judge of the supreme court at the instance of the party making such request may appoint an arbitrator to act on behalf of both parties, who may proceed to hear and determine the matters in question, and his award shall be final. If any arbitrator after his appointment die, or become incapable from absence or otherwise, or refuse, or for seven days neglect to act as arbitrator, the party by whom he was nominated, or a judge of the supreme court, may appoint in writing some other person to act in his place, and if for seven days after such substituted arbitrator

shall have received notice in writing from the other party for that purpose he fail to do so, the other arbitrator may proceed to hear and determine the matters in question.

Where two arbitrators shall have been appointed, they shall, before entering upon the matters referred to them, appoint by writing under their hands an umpire to decide in case they shall differ, and if the umpire shall die, refuse, or for seven days neglect to act, they shall forthwith appoint another umpire in his place, whose award, together with that of one or both of the arbitrators, shall be final.

The arbitrators or umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the matters referred to them, and may examine the parties and their witnesses on oath, and administer the oaths necessary for that purpose.

Unless otherwise provided in the act or charter of incorporation, the costs attending such arbitration shall be paid by such party or by both parties in such proportions as may be directed in the award.

The submission to any such arbitration may be by rule or order of any court.

Returns of business by companies to be made annually.

18. On or before the last day of February in every year a return shall be made into the provincial secretary's office of the business of insurance upon lives, against fire, and upon all marine risks done by every corporate body and agency within the province of Nova Scotia between the first day of January and the thirty-first day of December preceding such return, both days being included, which return shall comprehend the number of policies entered into, the number of policies renewed, the amounts insured and the premiums paid, and, in case of insurance against fire, the nature of the property insured, whether real or personal, and its situation, whether in the city of Halifax or in other parts of the province; in case of marine risks, the ports to which the vessels insured belong, whether to the port of Halifax or otherwise where known, and which return shall also state the capital and other security for the payment of losses and where the same is situated; and in case of companies and corporate bodies out of Nova Scotia whether there is any security or capital within the province for the payment of losses, and the nature, permanency and amount thereof.

Returns, how authenticated; penalty for neglect and for false returns.

19. The returns shall be certified to be true under the hands of the president or secretary of any company or corporate body having a president or secretary in Nova Scotia, and under the hand of the agent of any company or corporate body not having a president and secretary in the province but doing business by an agent; and every person neglecting to make such return or knowingly making a false or defective return, shall forfeit fifty pounds.

This chapter to come into immediate operation.

20. This chapter shall come into operation immediately upon the passing thereof, and shall extend to acts of incorporation passed during the present session, except in so far as may be therein specially directed, but not to any act or charter heretofore in force.

CHAPTER 88.

OF AGRICULTURAL CORPORATIONS.

SECTION 1. Agricultural corporations, how organized.

1. Whenever twenty persons or more shall raise ten pounds per annum, or upwards, to be applied for the improvement of agriculture, they shall thereupon become a corporate body by such name as they shall think fit, with all the privileges and obligations in chapter eighty-seven, but such privileges shall continue only so long as there are twenty members or more in the society and they shall annually raise the sum of ten pounds at the least and apply it for the improvement of the local agriculture. Agricultural corporations, how organized.

TITLE XXIII.

OF THE POOR.

CHAPTER 89.

OF THE SETTLEMENT AND SUPPORT OF THE POOR.

SECTION
1. Definition of the word township.
2. Overseers of poor, how appointed.
3. Settlement, how gained.
4. Proceedings preparatory to removal of a pauper.
5. If the overseers of the place of his settlement refuse to remove him, a warrant for his removal may issue.
6. Persons near of kin, and able, required to maintain their poor relations.
7. The property of persons forsaking their families may, if necessary, be seized and sold for their support.
8. Children to be supported where deceased parents have gained a settlement.
9. Appeals provided for parties aggrieved.
10. Proceedings on appeal where a person has been unduly removed.
11. Costs on appeal, how taxed and allowed.
12. Amount ordered to be paid, how recovered.

SECTION
13. Townships liable for support of poor after notice.
14. Penalty for improperly bringing a pauper into a township.
15. Town meetings, and the days for holding.
16. Overseers to notify the meetings by advertisements.
17. Proceedings at meetings; money to be voted; assessors chosen.
18. Meetings may be adjourned if necessary.
19. Deficiencies of money may be voted at subsequent meeting.
20. Poor houses may be built or hired; title, how vested; poor, how managed.
21. Assessments, how made; collectors appointed.
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23. Appellants to be relieved by the sessions.

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Returns, how authenticated; penalty for neglect and for false returns.

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SECTION
24. Parties liable to be assessed
25. Overrated persons may appeal.
26. Appropriation of monies; collectors may be sued by overseer.
27. Accounts of overseers, when and how rendered.
28. Sessions to audit the accounts.
29. Fine for refusal to serve as overseer.
30. Fine for neglecting to render accounts as required.
31. Townships may be amerced by the sessions, in case of neglect to assess for the support of poor.
32. Appointment of collectors; assessments to be posted.
33. Fine for assessors refusing to serve; appointment of others.
34. Fine for assessors neglecting duty.
SECTION
35. Fine for collectors refusing to serve; appointment of others.
36. Collectors to account and pay over to overseers once every three months.
37. Fine for collector neglecting duty.
38. Persons receiving aid shall refund the amount if able.
39. Assessors not exempt from assessments; fine for neglecting to assess themselves.
40. Commissions to collectors.
41. Forfeitures, how applied.
42. Clerk and treasurer may be appointed, bonds to be given.
43. Duty of clerk and treasurer.
44. Chapter applicable to the city of Halifax where not inconsistent with the act of incorporation.

Definition of the word township.

1. The words "township" and "settlement" when used in this title shall be held to mean any district set off and established as a district for the support of the poor.

Overseers of poor, how appointed.

2. The grand jury shall annually at the sessions nominate ten freeholders out of every township, of whom the court shall appoint five to be overseers of the poor; and if any person so appointed shall cease to reside in the township, or shall die within the period for which he was appointed, any two justices for the county may appoint another to act instead until the next meeting of the grand jury and court of sessions.

Settlement, how gained.

3. Every poor person who is a native of a township, or hath served an apprenticeship therein, or hath lived as an hired servant one whole year therein under an agreement to serve the same master one whole year then next before application for relief, or hath executed a public annual office therein, or hath been assessed and hath paid his share of poor and county rates in the township during one year at one time, shall be entitled to a settlement, and such township shall be obliged to maintain him.

Proceedings preparatory to removal of a pauper.

4. Any person applying to the overseers of poor of any township for relief who shall not have obtained a settlement therein, shall be required to declare on oath before a justice of the peace his last place of residence, and if he be found to have gained a settlement within the province a copy of the declaration certified by the justice, with the amount of expense incurred, shall be transmitted to the overseers of poor of the township to which such person belongs.

If the overseers of the place of his settlement refuse to remove him, a warrant for his removal may issue.

5. If such last mentioned overseers refuse or neglect to remove such person, two justices, by a warrant, shall cause such person to be removed to the township where a last settlement has been obtained; and the overseers of the poor there shall receive such person, and pay to the overseers of the first named township the necessary expense incurred about his removal. If the overseers of the last named township have no money in hand to pay such

expense, they shall stand charged therewith until the next assessment made on the township to which such person belongs.

Persons near of kin, and able, required to maintain their poor relations.

6. The father, grandfather, mother, grandmother, children and grandchildren respectively, of every old, blind, lame, impotent, or other poor person not able to work, being of sufficient ability, shall relieve and maintain at their own charge, every such poor person, as a general or special sessions shall direct, and in case of refusal shall forfeit five shillings per week for such poor person, to be sued for in the name of the overseers of the poor.

The property of persons forsaking their families may, if necessary, be seized and sold for their support.

7. Where any husband or father shall forsake his wife or children, or any widow shall forsake her children and leave them a public charge, two justices on the application of the overseers of the township, shall issue a warrant to seize the goods, and to let out and receive the annual rents and profits of the lands of such husband, father or widow, towards the maintenance of such wife, child or children; and when the seizure shall be confirmed by the sessions any two overseers may, as occasion shall require, dispose at public sale of such goods or so much thereof as shall be necessary, and shall apply the proceeds towards the maintenance of such destitute persons.

Children to be supported where deceased parents have gained a settlement.

8. The children of deceased parents who have gained a settlement in any township, shall, if paupers, be supported by such township.

Appeals provided for parties aggrieved.

9. If any overseers on behalf of the township, or any other person shall feel aggrieved by any proceedings under this chapter, such overseers or person may appeal to the next sessions to be held for the county where the township is or the person shall reside, and the sessions shall hear and determine the same, and their order shall be final.

Proceedings on appeal where a person has been unduly removed.

10. If the justices, on an appeal concerning the settlement of a poor person, determine that such poor person was unduly removed they shall then or at a future sessions order to be paid to the appellants any money that may have been paid by such appellants, or may be due from them as overseers on account of such poor person, between the time of the undue removal and the determination of the appeal, the same to be recovered as hereinafter provided.

Costs on appeal, how taxed and allowed.

11. Upon the determination of an appeal concerning the settlement of a poor person, or upon proof of notice of an appeal given by the proper officer to the overseers of the poor, though the appeal be not prosecuted the justices shall then or at a future sessions order to the successful party on a trial, or to the party notified if not further prosecuted, such costs as in their discretion are reasonable, to be taxed and allowed according to the rates adopted in the supreme court, which shall be paid by the unsuccessful party or the party giving such notice.

Amount ordered to be paid, how recovered

12. If the overseers or other person ordered to pay such sum of money or costs, shall, after service of a copy of such order, refuse to pay the same, the party in whose favor such order is made may sue for and recover the amount as if it were a private

debt with costs, and the production and proof on the trial of the order or copy thereof and of the service thereof, shall be sufficient proof of the debt.

Townships liable for support of poor after notice.

13. Every township shall be liable to pay any expense which shall necessarily be incurred for the relief of a pauper, by any person who is not liable by law for his support, after notice and request made to the overseers of the township, and until provision shall be made by them.

Penalty for improperly bringing a pauper into a township.

14. If any person shall bring any poor and indigent person into any township where such person has not a lawful settlement, knowing him to be poor and indigent, and shall leave him therein with intent to charge such township with his support, he shall forfeit a sum not exceeding twenty pounds for every such offence.

Town meetings, and the days for holding.

15. The inhabitants of every township liable to pay poor rates shall hold two meetings annually if necessary, to provide for the support of their poor, which shall be held on the first Mondays of April and November.

Overseers to notify the meetings by advertisements.

16. The overseers of the poor in the several townships shall at least ten days before the times appointed for holding meetings to provide for the support of the poor cause advertisements to be posted up in at least five of the most public places in the township, notifying the inhabitants to meet on the several days respectively for that purpose, and in case of neglect such overseers shall forfeit ten pounds.

Proceedings at meetings; money to be voted; assessors chosen.

17. The inhabitants present at such meetings having first chosen a chairman to preside, shall vote such sums of money as they shall judge necessary for the support of the poor for the current year or until the next meeting, and incidental expenses connected therewith, and shall choose not less than five nor more than ten inhabitants to be assessors of poor rates.

Meetings may be adjourned if necessary.

18. If the business of the meeting cannot be completed on the days above respectively named, the chairman, with the consent of the majority of those present, shall adjourn the meeting as occasion may require to conclude the business.

Deficiencies of money may be voted at subsequent meeting.

19. If the money voted at any meeting shall be insufficient for the support of the poor, the inhabitants, at their next meeting, shall vote sufficient to make good the deficiency.

Poor houses may be built or hired; title, how vested; poor, how managed.

20. The inhabitants, if deemed advisable, may, at such meeting, determine to erect or hire a building for a poor house, and may vote money for that purpose and for the annual repairs and other necessary expenses connected therewith, and thereupon the overseers shall proceed to hire or erect a building as directed, the title and interest in which, when conveyed to them, shall vest in them and their successors in office as a body corporate. The overseers shall have the control and management of the poor house and the supervision and government of the inmates, and may appoint the officers and keepers thereof, and may purchase materials upon which the labor of the poor may be profitably employed. They shall annually submit an account of their proceedings and of the

general state of the institution, and of their receipts and expenditures, for the examination and audit of the sessions.

Assessments, how made; collectors appointed.

21. The assessors being first sworn into office shall forthwith assess the sum voted at the meeting upon the inhabitants of the township for which they were appointed, by an equal pound rate upon the real and personal property in their respective occupation or possession within the same, regard being had to the value of the rents of the real estate, and the capability of the personal estate to produce profit, and the assessors shall appoint collectors who shall collect and receive the same notwithstanding any appeal made or pending. No assesssor shall act as collector.

Proceedings to collect rates shall be by general warrant of distress; form given, fees, &c.

22. Separate suits shall not in future be brought against defaulters, but every collector shall make a general return to a justice within the township, or if none reside there to any justice of the county, of every person upon his list, who, after demand made, shall not have paid his rate; and the collector shall make oath in writing before such justice, setting forth the name of every defaulter, the sum assessed, that the demand has been made, and that the rate is unpaid, and thereupon such justice shall forthwith issue a general warrant of distress against the several defaulters in the form in the schedule, directed to a constable not being such collector, commanding him to levy upon the goods of each person named in the warrant the sum due by such person, with constable's and justice's fees. The constable shall forthwith execute the warrant and pay over the amount collected to the collector, who shall thereupon pay the same to the overseers. The justice's fee for such warrant shall be three shillings and six pence, and the constable's fee for each person in the warrant shall be one shilling, but the constable shall have no travelling fees or poundage, and the justice's fee shall be apportioned among the several persons, if more than one, in the warrant.

Appellants to be relieved by the sessions.

23. The justices in general or special sessions, as the case may be, may relieve appellants as they shall see fit, and may order the overseers of the poor to refund any excess of rates collected.

Parties liable to be assessed.

24. No person shall be assessed for the support of the poor unless in the opinion of the assessors he is able to pay a rate of at least one shilling annually.

Overrated persons may appeal.

25. If any person think himself over-rated he may appeal to the next sessions or to the next special sessions to be held for hearing such appeals in the county or district wherein the assessment was made, and the order of such court of appeal shall be final.

Appropriation of monies; collectors may be sued by overseer.

26. The overseers shall apply all sums of money voted and received by them to the purposes specified, and any collector who shall neglect to pay over to the overseers any sum by him collected may be sued by them, and the amount shall be recovered as if it were a private debt.

Accounts of overseers, when and how rendered.

27. The overseers of the poor shall within one month after the expiration of their office render to the clerk of the peace of the county in which they reside, to be laid before a general or special

sessions, an account of all money received and the particulars of all expenditures by them for the support of the poor, and shall account for the same, on oath if required, before such sessions. In case there is no clerk and treasurer for the district, they shall enter their proceedings in a book to be kept for the purpose, and at the expiration of their office shall deliver the same, and any money in hand unexpended, to their successors.

Sessions to audit the accounts.

28. The general or special sessions shall examine the accounts of overseers of the poor when so submitted, and shall allow or disallow the same as shall seem proper and determine the just balance that may be due thereon.

Fine for refusal to serve as overseer.

29. Every person appointed an overseer of poor who shall refuse to serve shall forfeit five pounds, to be recovered by the overseers of poor next in office for the same place.

Fine for neglecting to render accounts as required.

30. Overseers of poor who shall not within one month after the expiration of their office render to the clerk of the peace an account of all sums of money received and expended by them, shall forfeit five pounds.

Townships may be amerced by the sessions, in case of neglect to assess for the support of poor.

31. If the inhabitants of any township shall neglect to meet as required, or, having met, shall neglect to make adequate provision for the support of their poor, the justices in sessions or any special sessions called for the purpose, shall, on the application of the overseers of poor for such township, amerce the same in a sum necessary for that purpose, and shall appoint five freeholders of the township to assess the inhabitants thereof in case there are no assessors already appointed.

Appointment of collectors; assessments to be posted.

32. The assessors in the last section shall appoint collectors to collect and receive the amounts assessed, and the assessment when made shall be affixed in some public place within such township that the persons assessed, may, if they see fit, appeal therefrom. The amounts amerced and assessed shall be levied, collected, paid, and expended as other poor rates.

Fine for assessors refusing to serve; appointment of others.

33. If any person appointed an assessor shall refuse to serve, the inhabitants or justices as the case may be respectively, or a special sessions shall appoint another in his stead; and such person refusing shall forfeit forty shillings.

Fine for assessors neglecting duty.

34. Every assessor accepting office who shall neglect to make the assessment required within twenty days after his appointment, shall forfeit five pounds; but no person shall be obliged to serve as assessor oftener than once in three years.

Fine for collectors refusing to serve; appointment of others.

35. Every person appointed a collector who shall refuse to serve shall forfeit forty shillings, and another collector shall be forthwith appointed in his place.

Collectors to account and pay over to overseers once every three months.

36. Every collector shall, once in every three months, account with and pay to the overseers all money received by him; and upon neglect so to account and pay, the same may be recovered by the overseers as a private debt.

Fine for collector neglecting duty.

37. Every collector who shall neglect for thirty days after acceptance of office to perform the duty thereof, shall forfeit five pounds.

Persons receiving aid shall refund the amount if able.

38. When any person shall apply for and obtain relief from the overseers, and it shall happen that such person was at the time possessed of or entitled to any property, out of which the expenses so incurred may be repaid, the overseers may demand and recover from such person a repayment of the expenses so incurred, as if it were a private debt, and any money recovered shall be accounted for by such overseers as other public money.

Assessors not exempt from assessments; fine for neglecting to assess themselves.

39. No person being an assessor shall on that account be exempt from assessments; and any assessor who shall neglect to assess himself in a just proportion, shall forfeit five pounds.

Commissions to collectors.

40. The sessions shall establish the rate of commission to be allowed to collectors of poor rates, but the same shall not exceed five per cent.

Forfeitures, how applied.

41. All forfeitures under this chapter when recovered shall be applied to the support of the poor of the township.

Clerk and treasurer may be appointed; bonds to be given.

42. The inhabitants at one of their meetings may, if they see fit, provide a salary for an officer to be called the clerk and treasurer of the district, and thereupon may appoint a person, not being an overseer, assessor or collector, to fill the office. He shall give a bond to the overseers by their name of office, with two sureties, in double the amount of the annual assessment, or thereabouts, conditioned for the faithful discharge of his duty, and shall be sworn into office.

Duty of clerk and treasurer.

43. The clerk and treasurer shall be under the direction of the town meeting while in session, and shall keep a correct record of its proceedings, from time to time, in a book to be furnished him for that purpose, which book shall be open for inspection to all rate payers at all reasonable times. He shall assist the assessors when required, in writing out and copying rate bills; he shall assist the overseers in making up their accounts, and shall audit and check the same; he shall be authorised to give receipts and discharges to collectors for monies paid by them to him, and he shall pay over monies so received upon orders addressed to him in that behalf by the overseers; he shall file away for future reference all accounts, papers, and vouchers relating to his office, and produce the same when required by the town meeting or the overseers, and shall generally discharge the duties of clerk and treasurer to the district; he shall not receive or take any commissions or other remuneration except his salary, which shall not be required to be voted annually, but shall be continued until otherwise altered by a vote of the town meeting.

Chapter applicable to the city of Halifax where not inconsistent with the act of incorporation.

44. This chapter shall extend to the city of Halifax in all cases where its provisions are not inconsistent with those in the act concerning the city, passed in the present session.

SCHEDULE.

Form of general warrant of distress.

County of } To A. B., one of the constables of the said county.

Whereas by a rate and assessment made in conformity with law, the persons named in the schedule have been assessed for poor rates for a period ending the —— day of ———. And whereas it appears to me one of the justices of the peace for such county, upon the oath of C. D. one of the collectors for the township of ———, that the several sums for which they have been assessed have been demanded from such persons respectively, and that the sums set opposite their names in the schedule hereto annexed, remain unpaid. These are therefore to require you forthwith to make distress of the goods and chattels of the persons mentioned in the schedule, and if within the space of five days next after such distress by you taken, the sums in the schedule set opposite their respective names, together with their proportion of justice's and constable's fees, and the necessary charges of taking and keeping the distress be not paid by each of them respectively, that then you do sell the goods and chattels of such of them as shall not have paid such sums with fees as above mentioned, and out of the monies arising from such sale you do forthwith pay over the sums so due by them respectively to the said C. D., the collector, together with the justice's and constable's fees, if any, by him paid; and that you do render to the owners of the goods respectively upon demand the surplus remaining from such sale, the necessary charges of taking, keeping and selling the distress, being first deducted. And if no such distress can be made, that then you certify the same to me.

Given under my hand and seal the —— day of ———, A. D., 18—.

(Signed) E. F., J. P. (Seal.)

CHAPTER 90.

OF POOR DISTRICTS.

SECTION
1. Poor districts confirmed.
2. Proceedings for dividing districts; sessions may make orders for shewing cause.
3. Orders to be posted.
4. Orders may be made dividing townships into districts, with names, &c.
5. Sessions may by order adjust expenses and the support of present paupers.
6. Sessions may re-adjust expenses by subsequent orders.
7. Rates pending at such division not thereby invalidated.

1. Poor districts as now established shall so continue until altered by law. Poor districts confirmed.

2. If twenty or more of the rate payers within any township established for the support of poor, shall, by petition, apply to the court of sessions, stating their desire that such township should be divided into two or more districts, and setting forth the proposed boundaries thereof, the court may, if they think fit, pass an order calling upon the parties interested to shew cause at the next sessions why such division should not be made. Proceedings for dividing districts; sessions may make orders for shewing cause.

3. Copies of such order, setting forth particularly such proposed boundaries, shall be posted up in at least five of the most public places within the township sought to be divided, for at least thirty days next previous to the ensuing sessions. Orders to be posted

4. At such sessions the court may, if they think fit, make an order dividing the township, either by the boundaries so proposed or by such other boundaries as may be deemed proper, into as many districts as may be thought necessary for the future support of the poor within the same, with a name or designation to each. Orders may be made dividing townships into districts, with names, &c.

5. The sessions shall thereupon also ascertain the number of paupers then chargeable on the whole township divided, and the amount required for their support, and, by order, direct the proportion to be borne by each of such new districts; and thereafter the expenses of paupers shall be chargeable on the district in which a settlement shall have been gained. Sessions may by order adjust expenses and the support of present paupers.

6. The court of sessions may at any time alter or make anew any order made in relation to the expenses of paupers, chargeable at the date of their first order on the whole township, thereby to effect a more equal distribution of such expenses rendered necessary by any increase or diminution thereof. Sessions may readjust expenses by subsequent orders.

7. All rates, assessments, suits or actions, pending at the date of such first order, may be prosecuted, levied and collected, as if such division had not been made. Rates pending at such division not thereby invalidated

CHAPTER 91.

OF THE MAINTENANCE OF BASTARD CHILDREN.

SECTION
1. Information of woman pregnant with a bastard child; how taken, and justices warrant thereon.
2. Reputed father to enter into bonds until after the birth.
3. Hearing after the birth, and order of filiation.
4. Reputed father shall give bond to fulfil the order, or pay twenty pounds, or suffer six months imprisonment.
5. Information within three months after birth, and justices warrant thereon.
6. When the reputed father cannot be served

SECTION
the order of filiation may be made in his absence ; proceedings thereon.
7. Such order may be subsequently confirmed or reversed ; proceedings thereon.
8. Appeal from order of filiation.
9. Power of justices to control the expenses in making an order of filiation, and to make further order.
10. Overseers may sue bond in their own names ; death or removal from office shall not abate such suit.
11. Forms given.

Information of woman pregnant with a bastard child ; how taken, and justices warrant thereon.

1. If any woman shall become pregnant with a bastard child likely to become chargeable to any township, she shall make oath in writing before a justice for the county where she resides that she is so pregnant and who is the father of the child, and such justice shall forthwith issue his warrant to apprehend the reputed father and cause him to be brought before him or some other justice of the county.

Reputed father to enter into bonds until after the birth.

2. The reputed father when brought before a justice shall be required to enter into a bond with a surety to indemnify such township until after the birth of the child and until an order of filiation shall be made thereon, or till the reputed father be discharged on examination and hearing preparatory to the passing such order, and in default shall be committed to jail to remain until such examination and hearing can be had or such bond given.

Hearing after the birth, and order of filiation.

3. As soon as convenient after the birth of the child two justices, on application of an overseer of the poor or some substantial householder of such township, shall issue a warrant to bring the mother and reputed father before them at a time and place therein mentioned, and shall hear the evidence of the mother and of any other person, except the reputed father, who may be produced by the mother or reputed father, under oath to corroborate or invalidate the testimony of the mother, as the case may be, and shall either discharge the reputed father or make an order of filiation to indemnify the township for the expenses connected with the lying in and maintenance of the mother and the birth and maintenance of the child to the date of the order, and that the reputed father pay such sum weekly as they shall consider right, respect being had to his ability, towards the support of the bastard child while chargeable to such township.

Reputed father shall give a bond to fulfil the order, or pay twenty pounds, or suffer six months imprisonment.

4. The reputed father shall then enter into a bond with one surety to fulfil the order of filiation, or shall pay to the overseers of the poor twenty pounds for the support of each such child, or other town uses, and, in default, shall be forthwith committed to jail for a time not to exceed six months, or until he shall have entered into such bond or paid the twenty pounds.

Information within three months after birth, and justices warrant thereon.

5. If the mother of a bastard child shall not previously to its birth have made oath in writing before a justice disclosing the reputed father, any justice may at any time within three months after the birth, on application of an overseer of the poor of the township where the child has been, or is likely to become chargeable, take the oath of the mother in writing, declaring who is the father of such child, and, thereupon, two justices shall issue a

warrant to bring the reputed father and the mother before them at a time and place therein named, and such proceedings shall be had thereon as directed in cases where the mother has disclosed the name of the father before the birth.

When the reputed father cannot be served, the order of filiation may be made in his absence; proceedings thereon.

6. If any reputed father shall conceal himself or so avoid service of a warrant that he cannot be brought before the justices as therein directed for hearing and examination, then they may make up their order of filiation in his absence and issue their warrant to bring him before them, at a subsequent day and place therein mentioned, to shew cause why he should not obey the order and enter into a bond to indemnify the township from the charge of such child.

Such order may be subsequently confirmed or reversed; proceedings thereon.

7. At the time and place appointed the justices shall proceed to confirm, reverse, modify, or make a new order of filiation, as may seem right, and thereupon the reputed father shall immediately enter into a bond with one surety to perform the order so confirmed, modified or made anew, or shall pay twenty pounds for the support of the child, or other town uses; and in default shall be liable to the penalties and imprisonment before prescribed for non-performance of an order of filiation.

Appeal from order of filiation.

8. If a reputed father think himself aggrieved by an order of filiation, he may appeal to the next supreme court to be held in the county, except in Halifax where the appeal shall be to the next general sessions, where the whole matter may be heard and tried by a jury and the order of filiation confirmed or quashed; and the decision of such court shall be final; but before such appeal shall be granted the reputed father shall enter into a bond with one surety approved by the justices making the order, to perform the order of filiation, if confirmed, and in such case to pay the costs incurred by the overseers in consequence of the appeal.

Power of justices to control the expenses in making an order of filiation, and to make further orders.

9. Upon the examination and hearing preparatory to making an order of filiation, the justices may direct that the mother shall bear a part or the whole of the expense of the maintenance of such child, either by nursing the child or as otherwise directed in the order of filiation, or make any other order in relation thereto.

Overseers may sue bonds in their own names; death or removal from office shall not abate such suit.

10. The overseers for any township may sue in their own names upon any bond entered into under this chapter, whether made to them or their predecessors in office; and such suit shall not abate by the death or removal from office of such overseers of poor or any of them.

Forms.

11. The following forms shall be used and adhered to as nearly as may be :—

Examination of mother previous to birth of child.

County of ——— ss.

The examination of A. B., of ———, in the county of ———, taken on oath before me, who deposeth that she is with child, which is likely to be born a bastard, and to be chargeable to the

township of ——— and that C. D. of ——— is the father of such child.

A. B.

Sworn before me this —— day of ———, A. D. 18—.

E. F., J. P.

Warrant to apprehend the reputed father before the birth.

County of ——— ss.

To any of the Constables of the said county.

Whereas A. B. of ———, in the said county, hath by her examination in writing, taken upon oath before me this day, declared herself to be with child, which is likely to be born a bastard, and to be chargeable to the township of ——— and that C. D. of ——— is the father of such child, I do hereby command you to apprehend the said C. D. and bring him before me, or some other justice for the said county, to find security to perform any order of filiation that may be made, or in default thereof to commit him to jail, there to remain until an order of filiation shall be made.

E. F., J. P.

Form of a commitment where the reputed father when brought up before birth of child, refuses to enter into bond of indemnity, to be endorsed on the warrant.

Whereas the within named C. D. now before me, hath refused to enter into a sufficient bond to perform an order of filiation if made, I hereby order that he be committed to jail, there to remain until he shall have given such bond, or be brought up for further examination in the premises. Witness my hand and seal, this —— day of ——— A. D. 18—

E. F, J. P. (Seal.)

Examination of mother after the birth of child.

County of ———, ss.

The examination of A. B. of ———, in the said county ———, taken upon oath before me, who deposeth that on the —— day of ———, last past, at ———, she, the said A. B., was delivered of a [*male or female*] bastard child which is likely to become chargeable to the township of ———, and that C. D. of ——— is the father of such child.

A. B.

Sworn to before me, this —— day of ———, A. D. 18—.

E. F., J. P.

Bond of indemnification.

Know all men by these presents that we, C. D. of ———, in the county of ——, and G. H. of ——, in the same county ——, are held and firmly bound unto the overseers of the poor for the township of ———, in the said county and their successors in

office in ——— pounds, to be paid to the said overseers of the poor or their successors in office, for which payment well and truly to be made we bind ourselves, and each of us by himself, our and each of our heirs, executors and administrators, firmly by these presents, sealed with our seals. Dated this —— day of ———, A. D. 18—.

Whereas A. B. of ——— hath declared on oath that she is with child, which is likely to be born a bastard and to be chargeable to the township of ———, and that the above bounden C. D. is the father of such child.

Now the condition of this obligation is such, that if the said C. D., his executors or administrators, do and shall perform any order of filiation that may be made upon him in the premises, then this obligation to be void.

Signed, sealed, and delivered, in presence of J. K. C. D. (Seal.) G. H. (Seal.)

Warrant to bring up mother and reputed father after birth of child.

County of ———, ss.

To any of the constables of the said county.

Whereas A. B. of ———, in the said county ———, hath by her examination in writing on oath taken before us declared that on the —— day of ——— last past she was delivered of a [*male or female*] bastard child, in the township of ———, and that C. D. of ——— is the father of such child, and that such child is now living and chargeable to the township of ———, and the overseers of the poor of such township have applied to us to issue this warrant:

These are to command you that you bring the said A. B. and the said C. D. respectively before us at the ——— of ———, in the said county, on the —— day of ———, at the hour of ——, to be by us further examined that we may make such order thereon as to right may appertain, and also that you do personally attend at the same time and place.

Witness our hands and seals this —— day of ———, A. D. 18—.

E. F., J. P. (Seal.)
L. M., J. P. (Seal.)

Order of filiation.

County of ———, ss.

The order of E. F. and L. M., esquires, two justices for the said county, concerning a [*male or female*] bastard child lately born in the township of ———, of A. B.

Whereas upon the oath of the said A. B. it hath appeared unto us that on the —— day of ——— last past, she was delivered of

a [*male or female*] bastard child in the township of ———, and that such child is now chargeable to the township of ———, and likely so to continue, and that C. D. of ——— is the father of such child.

And whereas the said C. D. hath been brought before us by our warrant, [*or "hath refused to appear" as the case may be,*] to answer the premises, but hath not shewn sufficient cause why he shall not be deemed to be the father of the child:

Wherefore upon an investigation of the matter as well upon the oath of the said A. B. as otherwise, we hereby adjudge the said C. D. to be the father of such child, and thereupon we order as well for the relief of the township of ——— as for the sustenance of such child that the said C. D. shall forthwith, upon notice to him given of this our order, pay to the overseers of the poor for the said township the sum of ——— towards the lying in of the said A. B. and the maintenance of such child up to this date.

And further that the said C. D. shall pay to the overseers of the poor of the said township for the time being the sum of ——— weekly from the date hereof during so long time as the child shall remain chargeable to such township towards the maintenance of such child. And we order that the said A. B. shall also pay to the overseers of the poor of the township the sum of ——— weekly so long as the child shall be chargeable to the township in case she shall not herself take care of the child. Given under our hands and seals, this —— day of ———, A. D. 18—.

E. F., J. P. (Seal.)
L. M., J. P. (Seal.)

Commitment to be endorsed upon the order of filiation.

County of ——— ss.

Whereas C. D., within named, hath refused to comply with the within order, or to give sufficient bonds to the overseers of the poor to indemnify the township of ——— in the said county, in respect of the support of the child within referred to, we hereby direct the high sheriff of the county or the jailer, to receive the said C. D., and commit him to jail, there to remain in close confinement for the space of ——— or until he shall have given such bond, or shall otherwise be removed according to Law. Witness our hands and seals, this ——day of ——— A. D. 18—.

E. F., J. P. (Seal.)
L. M., J. P. (Seal.)

Warrant to apprehend reputed father after order of filiation, where he shall have avoided service of previous warrant.

County of ——— ss.

To any of the Constables of the said County.

Whereas a warrant was issued by us, to bring before us, on the —— day of ———, A. B. of ———, and C. D. of ———,

which said A. B. appeared under the said warrant, but the said C. D. could not be found; and on hearing the evidence then adduced before us, we did make an order of filiation in the absence of the said C. D., but he the said C. D. has not complied therewith: these are therefore to command you to bring the said C. D. before us, at the ———, on the —— day of ———, at —— o'clock, that he may be examined by us touching such order of filiation, and shew cause why he should not comply with such order, and enter into bonds for the performance thereof, and otherwise to be dealt with according to law. Given under our hands and seals this—— day of ———, A. D. 18—.

E. F., J. P. (Seal.)
L. M., J. P. (Seal.)

The form of commitment the same as that under the order of filiation, where the father shall have been present.

Bond to abide and fulfil the order of filiation.

Know all men by these presents, that we, C. D. of ———, in the county of ———, and G. H. of ———, in the same county ———, are held and firmly bound unto the overseers of the poor for the township of ———, in the said county, in —— pounds, to be paid to the said overseers of the poor, and their successors in office, or their certain attorney, executors, administrators and assigns, for which payment to be well and truly made we bind ourselves and each of us by himself, our and each of our heirs, executors and administrators, firmly by these presents.

Sealed with our seals, dated this —— day of ———, A. D. 18—

Whereas by an order of filiation made by ——— and ———, esquires, two justices for the county aforesaid, in the matter of a bastard child, lately begotten on A. B., the said C. D. hath been adjudged to be the father of such child, and to obey such order of filiation. Now the condition of this obligation is such that if the said C. D., his executors or administrators, do well and truly obey such order of filiation, then this obligation shall become void.

Signed, sealed, and delivered, in presence of J. K. C. D. (Seal.) G. H. (Seal.)

The like, where an appeal from such order shall have been made to the supreme court.

Know all men by these presents, that we C. D. of ———, in the county of ———, and G. H. of ———, in the same county ———, are held and firmly bound unto the overseers of the poor for the township of ———, in the said county, in —— pounds, to be paid to the said overseers of the poor, and their successors in office for the time being, of the said township of ———, or their certain attorney, executors, administrators and assigns, for which payment to be well and truly made, we bind ourselves, and each of us by himself, our and each of our heirs, executors and administrators, firmly by these presents. Sealed with our seals, dated this —— day of ———, A. D. 18—.

Whereas by an order of filiation duly made by ——— and ———, esquires, justices of the peace for the county aforesaid, in the matter of a bastard child, lately begotten of A. B., the said C. D. hath been adjudged to be the father of such child, and to obey an order of filiation made in that behalf, from which order the said C. D. hath appealed to the supreme court, [*or sessions at Halifax.*] Now the condition of this obligation is such, that in case such order shall be confirmed by the court, then if the said C.D., his executors or administrators, do pay all costs and charges which may be legally incurred by the overseers of the poor for the said township, in consequence of such appeal, and also do obey such order so confirmed, then this obligation shall become void.

Signed, sealed, and delivered, in the presence of J. K. — C. D. (Seal.) G. H. (Seal.)

TITLE XXIV.

OF CERTAIN BIRDS AND ANIMALS.

CHAPTER 92.

OF THE PRESERVATION OF USEFUL BIRDS AND ANIMALS.

SECTION
1. Partridge, snipe, and woodcock not to be killed between the first of March and the first of September.
2. Fine for offence.
3. Moose preserved by order of sessions.
4. Snares in violation of such orders may be destroyed.
5. Sessions to make orders regulating the periods of the year for killing moose.
6. Imprisonment provided where fines are not paid.
7. Fines for keeping dogs accustomed to kill sheep.

Partridge, snipe, and woodcock not to be killed between the first of March and the first of September.

1. No person shall take or kill any partridge, snipe, or woodcock, or shall sell, buy, or have the same in his possession, between the first of March and the first of September in any year; but Indians and poor settlers may kill them for their own use at any season.

Fine for offence.

2. Every offender shall forfeit ten shillings for each offence.

Moose preserved by order of sessions.

3. The sessions may make orders respecting the setting of snares or traps for catching moose, and for their preservation, and affix penalties not to exceed five pounds for the breach of such orders respectively.

Snares in violation of such orders may be destroyed.

4. Any person may destroy any snare made or existing in violation of such orders.

5. The sessions may make orders for regulating the periods of the year within which moose may be killed, and moose flesh may be bought or sold, or offered for sale, and affix penalties for the breach thereof, to be not more than five pounds for killing a moose, nor forty shillings for any other offence under this section. Sessions to make orders regulating the periods of the year for killing moose.

6. If the penalties incurred under these provisions be not paid with costs the offender shall be committed to jail there to remain one day for every five shillings thereof, or until the amount be paid. Imprisonment provided where fines are not paid.

7. Any person who shall keep a dog known to kill or accustomed to worry sheep or lambs, after notice, shall pay ten shillings to the owner for every sheep or lamb killed, and shall also forfeit twenty shillings for each offence. Fines for keeping dogs accustomed to kill sheep.

CHAPTER 93.

OF THE DESTRUCTION OF NOXIOUS ANIMALS.

SECTION

1. Sessions may appoint rewards for killing bears, loup-cerviers, wild cats and wolves.
2. Preliminary proceedings for obtaining provincial bounty for killing a wolf.
3. Justice's duty on application; his certificate.
4. Bounty of five pounds allowed from the treasury.

1. The sessions, with the approval of the grand jury, may establish rules and appoint rewards for encouraging the killing of bears, loup-cerviers, wild cats, and wolves, and such rewards shall be a county charge. Sessions may appoint rewards for killing bears, loup-cerviers, wild cats, and wolves.

2. Every person killing a wolf within the province and intending to claim a bounty therefor, shall produce the head of the animal with the skin and ears entire, to a justice of the peace of the county where taken, and shall make oath of the fact in writing, stating the time and place where such wolf was taken, and shall submit to any further examination required by such justice, but no bounty shall be allowed for any wolf taken out of the womb of the mother. Preliminary proceedings for obtaining provincial bounty for killing a wolf.

3. If the justice shall be satisfied of the truth of the statement, he shall cut off and burn the ears and scalp of such wolf, and deliver to the person applying a certificate of the facts, annexing thereto the affidavit taken, and shall number the certificates issued by him each year and mark the number and year thereon. Justice's duty on application, his certificate.

4. Upon the certificate with the affidavit annexed, being transmitted to the office of the provincial secretary, a bounty of five pounds shall be paid out of the treasury to the party entitled. Bounty of five pounds allowed from the treasury.

TITLE XXV.

OF THE FISHERIES.

CHAPTER 94.

OF THE COAST FISHERIES.

SECTION

1. Revenue officers may board vessels hovering within three miles of the coast, &c.
2. Proceedings when the master, bound elsewhere, refuses on notice to depart.
3. Foreign vessels, fishing or preparing to fish, and their cargoes, forfeited.
4. Vessels and goods forfeited liable to seizure; penalty for obstructing officers.
5. Custody of vessels and goods seized.
6. Condemned vessels and goods, how disposed of, and the proceeds how applied.
7. Penalties and forfeitures, how prosecuted.
8. Vessels and goods to be delivered on security.
9. Suits, how brought and prosecuted; oral evidence admissible as to the authority of seizing officers.

SECTION

10. Burden of proof in cases of seizure to rest with claimant.
11. Claims upon property seized to be under oath.
12. Security to be given before claim entered.
13. Month's notice to officer before action.
14. Limitation of action against seizing officers.
15. Certificate of probable cause of seizure shall prevent the recovery of costs, &c.
16. Amends may be tendered within one month.
17. Limitation of actions for penalties, &c.
18. Appeals, within what time to be prosecuted.
19. Coasting vessels to have a narrow piece of plank or iron extending aft of the stern post.
20. Forfeiture for destroying nets where coasters are not so provided.
21. Definition of terms.

Revenue officers may board vessels hovering within three miles of the coast, &c.

1. Officers of the colonial revenue, sheriffs, magistrates, and any other person duly commissioned for that purpose, may go on board any vessel or boat within any harbor in the province, or hovering within three marine miles of any of the coasts or harbors thereof, and stay on board so long as she may remain within such place or distance.

Proceedings where the master, bound elsewhere, refuses on notice to depart.

2. If such vessel or boat be bound elsewhere and shall continue within such harbor, or so hovering for twenty-four hours after the master shall have been required to depart, any one of the officers above mentioned may bring such vessel or boat into port and search her cargo, and also examine the master upon oath touching the cargo and voyage, and if the master or person in command shall not truly answer the questions demanded of him in such examination he shall forfeit one hundred pounds; and if there be any prohibited goods on board, then such vessel or boat, and the cargo thereof, shall be forfeited.

Foreign vessels fishing or preparing to fish, and their cargoes, forfeited.

3. If the vessel or boat shall be foreign and not navigated according to the laws of Great Britain and Ireland, and shall have been found fishing or preparing to fish or to have been fishing within three marine miles of such coasts or harbors, such vessel or boat, and the cargo, shall be forfeited.

Vessels and goods forfeited liable to seizure; penalty for obstructing officers.

4. All goods, vessels and boats liable to forfeiture may be seized and secured by any of such officers or persons so commissioned, and every person opposing them, or any one aiding such opposition, shall forfeit two hundred pounds.

Custody of vessels and goods seized.

5. Goods, vessels and boats, seized as liable to forfeiture under this chapter, shall be forthwith delivered into the custody of the officers of the colonial revenue next to the place where seized, to be secured and kept as other vessels, boats, and goods seized, are directed to be secured and kept by law.

Condemned vessels and goods, how disposed of, and the proceeds how applied.

6. All goods, vessels, and boats, condemned as forfeited under this chapter, shall, by direction of the principal officer of the colonial revenue where the seizure shall have been secured, be sold at public auction, and the produce of such sale shall be applied as follows: the amount chargeable for the custody of the property seized shall first be deducted, and paid over for that service, one half of the remainder shall be paid to the officer or person seizing the same without deduction, and the other half, after first deducting therefrom all costs incurred, shall be paid into the treasury of the province: but the board of revenue may nevertheless direct that any vessel, boat or goods, seized and forfeited, shall be destroyed or reserved for the public service.

Penalties and forfeitures, how prosecuted.

7. All penalties and forfeitures hereunder shall be prosecuted and recovered in the court of vice admiralty.

Vessels and goods to be re-delivered on security.

8. If any goods, vessel or boat, shall be seized as forfeited under this chapter, the judge of the vice admiralty, with the consent of the persons seizing the same, may order re-delivery thereof, on security by bond, to be made by the party, with two sureties, to the use of her majesty. In case the property shall be condemned, the value thereof shall be paid into the court, and distributed as above directed.

Suits, how brought and prosecuted; oral evidence admissible as to the authority of seizing officers.

9. All suits for the recovery of penalties or forfeitures shall be in the name of her majesty, and shall be prosecuted by the advocate general, or in case of his absence by the solicitor general. If a dispute arise whether any person is authorized to seize under this chapter, oral evidence may be heard thereupon.

Burden of proof in cases of seizure to rest with claimant.

10. If any seizure take place under this chapter, and a dispute arise, the proof touching the illegality thereof shall be upon the owner or claimant.

Claims upon property seized to be under oath.

11. No claim to any thing seized under this chapter, and returned into the court of vice admiralty for adjudication, shall be admitted, unless the claim be entered under oath, with the name of the owner, his residence and occupation, and the description of the property claimed, which oath shall be made by the owner, his attorney or agent, and to the best of his knowledge and belief.

Security to be given before claim entered.

12. No person shall enter a claim to any thing seized under this chapter until security shall have been given in a penalty not exceeding sixty pounds to answer and pay costs occasioned by such claim, and in default of such security the things seized shall be adjudged forfeited and shall be condemned.

Month's notice to officer before action

13. No writ shall be sued out against any officer or other person authorized to seize under this chapter for any thing done thereunder, until one month after notice in writing, delivered to him or left at his usual place of abode by the person intending to sue out such writ, his attorney or agent, in which notice shall be contained the cause of action, the name and place of abode of the person who is to bring the action, and of his attorney or agent, and no evidence of any cause of action shall be produced except such as shall be contained in such notice.

Limitation of action against seizing officers.

14. Every such action shall be brought within three months after the cause thereof has arisen.

Certificate of probable cause of seizure shall prevent the recovery of costs, &c.

15. If on any information or suit brought to trial under this chapter on account of any seizure, judgment shall be given for the claimant, and the judge or court shall certify on the record that there was probable cause of seizure, the claimant shall not recover costs, nor shall the person who made the seizure be liable to any indictment or suit on account thereof. And if any suit or prosecution be brought against any person on account of such seizure and judgment shall be given against him and the judge or court shall certify that there was probable cause for the seizure, then the plaintiff besides the thing seized or its value shall not recover more than two pence damages nor any costs of suit, nor shall the defendant be fined more than one shilling.

Amends may be tendered within one month.

16. The seizing officer may within one month after notice of action received tender amends to the party complaining or his attorney or agent, and plead such tender.

Limitation of actions for penalties, &c.

17. All actions for the recovery of penalties or forfeitures imposed by this chapter must be commenced within three years after the offence committed.

Appeals, within what time to be prosecuted.

18. No appeal shall be prosecuted from any decree or sentence of any court in this province, touching any penalty or forfeiture imposed hereby, unless the inhibition be applied for and decreed within twelve months from the decree or sentence being pronounced.

Coasting vessels to have a narrow piece of plank or iron extending aft of the stern post.

19. All coasting vessels under sixty tons burthen, owned in this province, and engaged in the coasting trade thereof, shall be furnished with a narrow piece of plank or iron affixed to the bottom of the keel and level therewith, extending aft at least six inches beyond the aperture between the stern post and rudder, and well secured on the keel. But this section shall not extend to vessels in which the main or false keel extends six inches beyond the aperture between the stern post and rudder.

Forfeiture for destroying nets where coasters are not so provided.

20. Any owner or master of a coasting vessel not so furnished or built, running foul of any net set off the harbors, bays and rivers of the coast, shall, upon due proof thereof, forfeit five pounds, to be recovered by the party injured to his own use as a private debt, leaving to the party grieved, nevertheless, his rights at common law for any further damage.

Definition of terms

21. In this chapter "vessels" shall include ships, and "harbors" shall include ports, bays and creeks.

CHAPTER 95.

OF RIVER FISHERIES.

SECTION
1. Sessions empowered to make orders for river fisheries.
2. Mill-dams to have proper waste gates.
3. Proceedings by a jury upon a complaint, how taken.
4. Fine and order of sessions on jury finding complaint well founded.
5. Sheriff to destroy the mill-dam if waste gates are not made.
6. Fisheries on rivers running through private lands to be regulated by sessions.
7. Session orders to extend to the centre of the channel of a river which divides counties.
SECTION
8. Sessions to make orders respecting the setting or drifting of nets, erecting of wears, &c.; to appoint overseers.
9. Fees of overseers.
10. Salmon fisheries in rivers regulated and protected.
11. Fine and forfeiture for violation of last section; trial of offender, appeal.
12. Persons equipped by night for fishing to be considered in the act of fishing.
13. Existing regulations to remain in force one year, unless altered.

Sessions empowered to make orders for river fisheries.

1. The sessions may from time to time make orders for regulating river fisheries, and any person who shall transgress such orders shall forfeit a sum not exceeding ten pounds for each offence.

Mill-dams to have proper waste gates.

2. All mill-dams or other obstructions placed on or across any river resorted to by fish from the sea for spawning, shall be built with a waste-gate or slope sufficient for such fish to pass up and return down, and which shall be kept in repair during the whole season of such fish passing up and returning.

Proceedings by a jury upon a complaint, how taken.

3. If any such dam or obstruction be built without a sufficient waste-gate or slope, on complaint under oath made to the general or special sessions, and whereof the owner of such dam or obstruction shall have had timely notice in writing, such sessions shall issue a precept to the sheriff commanding him to empanel a jury of twelve men, and with the same to repair to and view the place, and having heard the examination upon oath of any witnesses produced on either side to return an inquest to the general sessions.

Fine and order of sessions on jury finding complaint well founded.

4. If the jury shall find the complaint well grounded, the sessions shall make an order directing the owner of such mill-dam or obstruction to construct a sufficient waste-gate or slope within a reasonable time therein specified, and requiring him to pay a fine not exceeding twenty nor less than five pounds; and in case of refusal to pay the same with such reasonable charges or expenses as may be taxed and allowed, the sessions may direct an execution therefor to be issued as if such judgment had been given for a debt.

Sheriff to destroy the mill-dam if waste gates are not made.

5. If the party convicted shall not construct a sufficient waste-gate or slope as required within the time specified in the order, the general or a special sessions, upon such neglect being made to appear to them, may issue a precept to the sheriff requiring him to take with him sufficient aid, and to prostrate and wholly destroy the mill-dam or obstruction; and all persons whose aid may be so required shall assist for that purpose.

Fisheries on rivers running through private lands to be regulated by sessions.

6. The sessions shall annually appoint such and so many places on the rivers and streams as may be attended with the least inconvenience to the owners of the soil or the rivers as resorts for the purpose of taking fish; but the same, and the enactments herein contained, shall not extend to any species of fish from the sea except salmon, bass, shad, alewives and gaspereaux.

Session orders to extend to the centre of the channel of a river which divides counties.

7. In cases where a river shall be the dividing line between two counties, the orders and regulations of the sessions in each county shall have force and effect only to the centre of the channel of the river being such dividing line.

Sessions to make orders respecting the setting or drifting of nets, erecting of wears, &c.; to appoint overseers.

8. The sessions may from time to time make orders for the setting and drifting of nets, the erecting and placing of wears and generally for the conducting of fisheries in all the bays, harbors, rivers, streams or creeks, or on the shores thereof, or those of any of the counties, to be enforced by penalties not exceeding ten pounds for breach of any such order, and shall appoint overseers for such fisheries and define the limits of their jurisdiction, and the overseers shall see such orders carried into effect.

Fees of overseers.

9. Each overseer shall be entitled to five shillings annually from each person owing or having the use of a net, seine or wear, within the limits of his jurisdiction.

Salmon fisheries in rivers regulated and protected.

10. No person shall by spearing or sweeping with net or seine, take, or attempt to take any salmon in any river, stream, lake or water course, above where the tide usually rises and falls, and nets for taking salmon above the usual rise and fall of the tide, shall be set or placed only on one side of such river, stream, lake or watercourse, and at such times as shall be fixed by the regulations of the sessions. No stake, seine, wear, net, or other contrivance for taking salmon shall be set or placed within one quarter of a mile next below any mill or dam erected across any such river, stream or watercourse, and no net for taking salmon shall extend more than one third of the distance in a straight line across such river, stream or watercourse.

Fine and forfeiture for violation of last section; trial of offender; appeal.

11. Any person who shall violate the provisions of the last section, shall forfeit a sum not exceeding ten pounds, and in addition all spears, implements, canoes, boats, nets, seines, wears, and other contrivances used or employed in, about or preparatory to the taking of salmon contrary to the preceding section or to any orders of sessions made or to be made thereunder, shall be liable to forfeiture, and the same may be seized at once under warrant of any justice and detained until the trial of the offender, when they may be declared forfeited, and ordered to be sold at public auction. If upon appeal from the judgment of the justice the owner or possessor of the articles so declared forfeited shall give security to pay into such justice's hands the value thereof, to be by him estimated, in case the judgment appealed from shall be confirmed, then such owner or possessor shall be entitled to their immediate restoration.

Persons equipped

12. Every person discovered at night with a spear and torch,

or a torch only, in or about any river, stream, lake or watercourse, above the rise and fall of the tide, either in a boat or canoe, or otherwise, and apparently equipped for taking or spearing salmon, shall be considered in the act of spearing salmon, and the burthen of disproving the same shall be upon the party so discovered. By night for fishing to be considered in the act of fishing.

13. The regulations of sessions relative to the fisheries not being deep sea fisheries in force at the time this chapter comes into operation, shall remain in force for one year thereafter unless previously altered by the sessions. Existing regulations to remain in force one year, unless altered.

TITLE XXVI.

CHAPTER 96.

OF THE ENCOURAGEMENT OF AGRICULTURE AND RURAL ECONOMY.

SECTION
1. Central board of agriculture, how appointed.
2. Board entitled to draw certain sums of money; application thereof and accounts.
3. Duty of the board.
4. Fifty pounds granted to each county; how to be divided, and on what conditions.
5. Application of grants.
6. Accounts of societies to be rendered under oath.

1. The governor in council shall appoint a central board of agriculture at Halifax, to consist of eleven persons, seven of whom shall be resident in Halifax or its vicinity, and one each in the eastern, middle and western divisions of the province and in Cape Breton, four of whom shall be a quorum. Central board of agriculture, how appointed.

2. The board shall be entitled to draw out of the treasury two hundred pounds annually for two years, out of which they may expend a sum not exceeding seventy-five pounds annually for the salaries of their officers, and a further sum not exceeding twenty-five pounds for their incidental expenses, and shall lay out the balance in such way as they shall deem best for promoting agricultural improvement; and they shall exhibit an account of such expenditure, with proper vouchers, every year to the legislature. Board entitled to draw certain sums of money; application thereof and accounts.

3. The board shall open and carry on a correspondence with the several agricultural societies already formed, or which may hereafter be formed in this province, and shall aid and direct them as far as may be required in prosecuting their several objects; and shall likewise inspect and audit the accounts to be rendered by the several societies of the application and expenditure of their funds Duty of the board.

as hereafter mentioned; and from the reports to be furnished by the societies, and from such other sources of information as may be accessible to the board, shall furnish to the legislature, at every session, a general report of the progress of agriculture throughout the province, and of the expenditure of all monies granted therefor.

Fifty pounds granted to each county; how to be divided, and on what conditions.

4. The sum of fifty pounds for each of the counties, making eight hundred and fifty pounds in all, may be applied annually for the next two years, as follows:—the board in each year shall ascertain whether the agricultural societies that now are, or hereafter may be, formed in the several counties, ought to receive a proportion, and shall likewise determine what proportion, if any, each one of such societies shall receive out of the grant of fifty pounds, such proportion to be regulated by the board, with reference to the numbers and contributions of the members of each society, and to its local position and usefulness, and so as one society, if there be no more than one in any of the counties, may receive, with the approval of the board, the whole of such grant; and the president and secretary of each society shall be entitled to draw out of the treasury, for the purposes of this chapter the sum that may have been assigned to it by the board: but no society shall be entitled to any portion of such grant, which shall not raise annually by private contribution, the sum of ten pounds at the least, and not more than four societies shall receive any proportion of the grant in any one county; and in all cases where a central county society, with a branch or branches in the county, shall be formed, and approved of by the central board, the sum of fifty pounds shall be given to such central society for distribution, for the purposes of this chapter, in all cases where the sum of twenty pounds shall have been raised by the central society and branch or branches thereof jointly in manner before mentioned.

Application of grants.

5. The sums so assigned and paid to the several societies shall be applied and expended by them in the importation of live stock, implements or seeds, in the offering of judicious premiums, or in such other agricultural objects and uses as may from time to time be recommended by the board, or in the absence of such recommendation, as in the judgment of each society may be best adapted to its local position and wants; but no part of such sum shall be applied in the expense of managing the societies.

Accounts of societies to be rendered under oath.

6. Each one of the societies throughout the province shall render to the board on or before the thirty-first day of December in every year, a full and exact account, verified by the oath of the president or secretary, of the expenditure of the sum so assigned and paid to such society out of the grant, as also of the amount and appropriation of the funds contributed by or belonging to such society, with a report of its proceedings for the past year; and any society which shall neglect or refuse to furnish such account and report, unless excused by the board, shall not be entitled in any year thereafter to receive any proportion of the grant.

TITLE XXVII.

OF CERTAIN MUNICIPAL REGULATIONS

CHAPTER 97.

OF TRUSTEES OF PUBLIC PROPERTY.

SECTION
1. Trustees of public property appointed by sessions; record to be kept; trustees a body corporate.
2. Lands and property vested in trustees.
3. Lands to be leased subject to control of sessions.
4. Leases limited to seven years.
5. Bye-laws, how made.
6. Accounts of trustees to be rendered annually.
7. Penalties and rents, how recovered.
8. Expenses of trustees to form a county charge.
9. Lands and property exempted from the operation of this chapter.

Trustees of public property appointed by sessions; record to be kept; trustees a body corporate.

1. The grand jury in each county or district shall recommend six persons resident therein, out of whom the sessions shall appoint three to be trustees of public property; and the sessions, upon the recommendation of the grand jury, may remove them or any of them, and vacancies shall be supplied by the grand jury recommending double the number of persons necessary to supply the same, out of whom the sessions shall appoint the number required. The clerk of the peace shall keep a record of such appointments, removals and vacancies, and the dates thereof. Such trustees shall be a body corporote by the name of "the trustees of public property for the county [*or district*] of ———."

Lands and property vested in trustees.

2. All lands granted, conveyed, reserved or dedicated, or which may have been procured, or, for twenty years before the passing of this chapter, shall have been used for public purposes in the county or district, whether for the site of any court house, jail, or lock-up house, or for the public purposes of the county or district generally, with the buildings and appurtenances thereon or thereto belonging, and all lands and buildings hereafter procured or given for the public purposes of the county or district generally, shall vest in such trustees on their appointment for the public uses for which the same may have been originally intended.

Lands to be leased subject to control of sessions.

3. All such lands and buildings shall be leased and managed by the trustees, under and subject to the control of the sessions.

Leases limited to seven years.

4. No lease shall be made hereunder for a longer period than seven years.

Bye-laws, how made.

5. The trustees may make bye-laws for the better regulation of such lands and buildings, and affix penalties for breach thereof,

but no bye-law shall be in force until approved by the sessions and filed with the clerk of the peace.

Accounts of trustees to be rendered annually.

6. The trustees shall annually render their accounts in writing to the sessions, to be by them audited, and when approved they shall be filed by the clerk of the peace.

Penalties and rents, how recovered.

7. Penalties incurred under the bye-laws, and rents due to the trustees, may be recovered by them in like manner as if they were private debts due them; and the trustees shall pay into the county treasury all monies that they may receive hereunder.

Expenses of trustees to form a county charge.

8. The expenses of the trustees in the execution of the trust, shall, when approved by the sessions, form a county charge.

Lands and property exempted from the operation of this chapter.

9. Nothing herein contained shall affect any place of divine worship, burial ground, college, academy, school, or any land thereto belonging, or any land belonging to any religious congregation or society, or any lands vested in the supervisors of public grounds, under chapter 68, or shall deprive any person of any right lawfully acquired, nor shall any thing herein contained affect any lands or buildings now vested in trustees, or the necessary control of the sheriff over the court house and jail.

CHAPTER 98.

OF PUBLIC MARKETS.

SECTION	SECTION
1. Existing public markets confirmed; sessions may establish others.	laws, and generally control the markets.
2. Sessions to appoint officers, make bye-	3. Rents and penalties, how applied.
	4. Accounts to be rendered annually.

Existing public markets confirmed, sessions may establish others.

1. Public markets where now by law established are confirmed, and upon the recommendation of the grand jury, the sessions may establish new public markets, and may procure and fit up a market house as directed in chapter 46.

Sessions to appoint officers, make bye-laws, and generally control the markets.

2. The sessions may direct the days of the week and hours on which public markets shall be held, and may appoint keepers of the market who shall also act as clerks thereof, and shall be sworn into office and have the powers of constables so far as regards keeping order in the market, and shall be removable by the sessions. The sessions shall also establish the pay of such keepers and clerks, and fix the rates of stalls or standings in the markets, and make bye-laws for the regulation of markets and impose penalties for breaches thereof, not exceeding ten shillings for every offence. The keepers and clerks shall bring actions for such penalties in their own names, and shall be competent witnesses to prove the offence.

3. The rent of the stalls and standings in the markets, together with the whole amount of the penalties recovered under the preceding section, shall be applied under the direction of the sessions to the repairs of the market house. Rents and penalties, how applied

4. The keepers and clerks shall annually render their accounts in writing to the sessions, to be by them audited, and when approved they shall be filed by the clerk of the peace. Accounts to be rendered annually.

CHAPTER 99.

OF FIRES AND FIREWARDS.

SECTION

1. Places to which the provisions of this chapter extend.
2. Limits of towns and places defined.
3. Provisions of chapter, how carried out in Halifax city.
4. Firewards how appointed; to be sworn, and have a staff as badge of office.
5. Duty of firewards on breaking out of fire; their powers.
6. Buildings may be pulled down in certain cases by proper order; contribution; damages and mode of recovery.
7. Sessions to mean general or special sessions.
8. Fire-proof buildings not taxable under sixth section; other buildings partly fire-proof, how taxed.
9. Fine for breaking open buildings without proper authority.
10. Duty of firewards as regards fire implements.
11. Districts and implements to be numbered; provision for safety of implements.
12. Firemen, how appointed; their duty.
13. A fireman duly appointed by the firewards to have the power of a fireward.
14. Fire constables, how appointed; their powers and duties.
15. Enginemen, how appointed; their duties.
16. An engineman appointed by the firewards to have the powers of a fireward.
17. Firemen and enginemen exempted from certain public duties.

SECTION

18. Vacancies, how supplied.
19. Chimney sweepers, how appointed and licensed; penalty for acting without license.
20. Chimney sweepers to give bonds; penalty for neglect of duty, &c.
21. Fines for enforcing regulations respecting the sweeping of chimneys.
22. Power of firewards to enter into buildings and make orders respecting dangerous chimneys, &c.
23. Their power to remove dangerous combustible materials; penalties incurred, how enforced.
24. Provisions respecting gunpowder; penalties and their enforcement.
25. Warrant to issue, and places broken open if necessary to search for dangerous quantities of gunpowder; proceedings thereunder.
26. Sessions empowered to make orders and bye-laws relative to fires.
27. Fine for injuring public wells or pumps.
28. Chairman to be appointed annually by fire wards; his office and duties.
29. Application of penalties; fire implements, how provided and repaired; expenses, how levied and collected.
30. Definition of terms.
31. Chapter to be in immediate operation.

1. The provisions of this chapter shall extend to the city of Halifax and the following towns, viz: Windsor, Bridgetown, Annapolis, Digby, Yarmouth, Shelburne, Liverpool, Lunenburg, Chester, Dartmouth, Pictou, New Glasgow, Antigonishe and Sydney, Cape-Breton. Places to which the provisions of this chapter extend

Limits of towns and places defined.

2. The extent of such towns, for the purposes of this chapter, shall be confined to the limits within which the commissioners of streets have jurisdiction, but may be altered by the sessions, and the sessions may also divide the towns into different wards, and may appoint such limits where there are no commissioners of streets.

Provisions of chapter, how carried out in Halifax city.

3. In Halifax appointments and other proceedings which, as respects other places, are hereinafter directed to be made and taken by the sessions, shall be made and taken by the city council, and prosecutions, which in other places are directed to be instituted before a justice of the peace, shall be instituted before the mayor's court, or the mayor and one of the aldermen; and penalties directed to be recovered in the name of the firewards, may be recovered in the name of the city; and nothing herein contained shall affect any powers conferred upon the city council by the acts respecting the incorporation of the city.

Firewards, how appointed; to be sworn and have a staff as badge of office.

4. The sessions shall annually appoint such number of the inhabitants of every such town as may be deemed necessary to be firewards, who shall be sworn to the faithful discharge of their duties, and shall have a suitable staff assigned them as a badge of office. On any re-appointment of such firewards, it shall not be necessary that they should be again sworn into office.

Duty of firewards on breaking out of fire; their powers.

5. Upon the breaking out of a fire, the firewards, taking their badges with them, shall forthwith repair to the spot and use their utmost endeavours to extinguish and prevent the spreading of the fire, and to preserve and secure the property of the inhabitants, and may command the assistance of the inhabitants therein, and in removing property out of any building actually on fire, or in danger thereof, and appoint guards to secure and take care of the same; and may command assistance for the pulling down of buildings, or for other services relating thereto to prevent the further spreading of the fire, and to suppress tumults and disorders; and due obedience shall be yielded unto them for those services, and generally, at such fires; and for any disobedience of their orders, information thereof shall, within ten days next thereafter, be given to a justice of the peace, and the offender shall be liable to a penalty not exceeding forty shillings, and if he shall not pay the same, shall be imprisoned for a period not exceeding ten days.

Buildings may be pulled down in certain cases by proper order; contribution, damages, and mode of recovery.

6. Upon the occurrence of a fire in Halifax four of the firewards, and in the absence of four firewards, three firewards, and in all other places two of the firewards, or in the absence of two firewards any fireward that is present with a justice, may direct any building to be pulled down, if in their judgment the doing so will tend to prevent the further spreading of the fire, and if the pulling down of such building shall have the effect of stopping the fire, or the fire shall stop before it comes to the same, the owner of such building shall receive payment therefor from the rest of the inhabitants, whose houses have not been burnt, in manner following, viz: the owner of the building shall, as soon as may be, make application to the sessions, who, if satisfied of the justice of

the claim, shall make an order for a valuation of the damages so sustained, to be made by three indifferent persons; and such persons shall be sworn before a justice of the peace to the faithful discharge of their duties, and they or any two of them shall make return of their proceedings to the sessions, whereupon the court shall appoint two or more assessors, who shall tax the houses that have not been burnt in such proportions as shall be deemed just according to their value, for paying the damages sustained by the owner of the building so pulled down, and also the charges for valuation, taxation and collection, to be settled before the making of the assessment; and the assessors shall also report their proceedings upon oath to the sessions and the court shall thereupon issue an order for collecting the monies so assessed, and in case of non-payment the same shall be levied by warrant of distress, to be issued by the sessions upon application by the collectors; and, when the assessments are collected, the sessions shall order payment to be made to the claimant of his damages, according to the approved report of the appraisers, and also the payment of the charges hereinbefore mentioned: but, if the building pulled down shall be the building where the fire began, or if any other building shall be pulled down or be begun to be pulled down which shall be on fire at the time the orders are given for pulling the same down, or which shall take fire while such orders are being carried into execution, the owner of such building shall not be entitled to any compensation therefor.

Sessions to mean general or special sessions.

7. The word "sessions" whenever used in the preceding section, shall mean either a general or special sessions.

Fire-proof buildings not taxable under sixth section; other buildings partly fire-proof, how taxed.

8. Buildings constructed of stone or brick and covered with incombustible materials shall be exempted from taxation under the sixth section, and such buildings when covered with combustible materials shall be liable to an assessment upon half the value thereof only.

Fine for breaking open buildings without proper authority.

9. No person shall, at a fire, break open any building or attempt to pull the same down, or order others so to do, unless orders therefor shall have been first given by the owner of the building or as previously provided; and any person violating this provision shall for every offence forfeit a sum not exceeding five pounds.

Duty of firewards as regards fire implements.

10. The firewards shall from time to time report to the sessions what number of ladders, hooks, buckets, bags, chains, ropes, axes and saws are required for service at fires, and the probable expense thereof and of keeping the same in repair; and the sessions shall order such of them to be provided as they may deem necessary; but every fireward shall be at all times provided with two ladders with hooks, one of which ladders shall be at least twenty-four feet in length and the other at least sixteen feet in length, one fire hook, two axes, one saw, twelve leather buckets and twelve large bags, which shall be, by the firewards, deposited in the most convenient places in each district, and where, on an alarm of fire, the inhabitants of the district shall assemble and proceed, under the direction

of the firewards, with such of the implements as may be deemed necessary, to the place of danger.

Districts and implements to be numbered; provision for safety of implements.

11. The district of which each fireward shall have charge shall be numbered, and the implements in the last section mentioned shall be marked with the number of the district to which they belong, and within twenty-four hours after the extinguishing of any fire the different implements shall be delivered at their place of deposit; and if thereafter any of such implements shall be found in the possession of any person, he shall forfeit a sum not exceeding forty shillings; and any person who shall use such implements except at a fire or on an alarm thereof, shall forfeit a like sum.

Firemen, how appointed; their duty.

12. The sessions may appoint such number of firemen for each town as they may deem necessary, who shall, under the firewards, have the charge of the fire-implements hereinbefore mentioned, and shall be obliged to keep them in good order and fit for service; and upon an alarm of fire they shall at once repair to the place of deposit of such implements and bring the same to the place where the fire shall have been discovered, and shall there diligently use the same, under the direction of the firewards, in such way as may be deemed most useful for extinguishing the fire.

A fireman duly appointed by the firewards to have the power of a fireward.

13. One of such firemen, to be appointed by the firewards, shall have the power of a fireward in commanding assistance in taking the fire-implements to or from any fire, and a like penalty shall attach for disobedience of his orders as of those of a fireward.

Fire constables, how appointed; their powers and duties.

14. The sessions may appoint so many fire constables as they may deem necessary, not exceeding six for each district, who shall be sworn into office, and shall at the time of fires, with suitable staves, to be provided them, attend upon the firewards, and act under their directions in subduing the fire, keeping order and preventing thefts; and if any constable so appointed shall neglect to be sworn into office within a reasonable time after being notified of his appointment, or, having been sworn in, shall neglect his duty, he shall forfeit a sum not exceeding forty shillings.

Engine men, how appointed, their duties.

15. The sessions may from time to time appoint such number of engine men as may be deemed necessary, who shall take charge of the fire engines, and shall keep the same in good order and fit for service; and upon an alarm of fire they shall repair with their engines to the place where the fire shall have been discovered, and work the same under the direction of the firewards.

An engine man appointed by the firewards to have the powers of a fireward.

16. One of the engine men, to be appointed by the firewards, shall have the power of a fireward to command any necessary assistance in taking the engines to and from fires, and any person refusing to obey his orders therein shall be liable to the same fine as hereinbefore imposed for disobeying a fireward.

Firemen and engine men exempted from certain public duties.

17. Firemen and engine men shall be exempted from the performance of statute labor, except in respect of cattle and teams, and from serving on juries, or in the office of constable; and these exemptions shall extend to persons who shall have actually served

as firemen or engine men for a period of sixteen years, and shall have obtained a certificate of such service from the captain or lieutenant of the company, countersigned by the secretary.

Vacancies, how supplied.

18. Upon any vacancy among the firemen or engine men, the same shall be at once reported by the captain to the sessions, that the vacancy may be supplied.

Chimney sweepers, how appointed and licensed, penalty for acting without license.

19. The firewards may nominate and license chimney sweepers, and if any person shall act in that capacity without being so licensed, he may, on a summary conviction thereof before a justice of the peace, be imprisoned for a period not exceeding one month.

Chimney sweepers to give bonds, penalty for neglect of duty, &c.

20. Licensed chimney sweepers shall enter into bonds with two sureties, to be approved by the firewards, for performing their duties during the term for which they may be appointed, and for conforming to the regulations of the firewards in reference to the sweeping of chimneys. And in case of neglect or refusal to perform their duties, or comply with such regulations, they shall forfeit, for every offence, not less than five nor more than twenty shillings, and if the penalty shall not be paid within ten days after conviction, and no personal property whereon to levy can be found, the offender may be imprisoned for a period not exceeding ten days, or the bond may be put in suit for the payment of the penalty and costs.

Fines for enforcing regulations respecting the sweeping of chimneys.

21. The firewards may make regulations respecting the times and mode of sweeping chimneys, and if a fire shall happen in any building or chimney so as to create alarm or to endanger the neighboring buildings, and the occupants of the building where the fire occurs cannot make it appear that their chimneys have been swept according to such regulations by a licensed sweeper, they shall forfeit ten shillings, to be recovered in the name of any fireward. And any fireward who shall be aware of the offence and shall not prosecute for the penalty within five days thereafter, shall forfeit five pounds.

Power of firewards to enter into buildings and make orders respecting dangerous chimneys, &c.

22. Any two firewards may demand admittance into any building wherein they have reason to believe there is any dangerous chimney, stove, stove-pipe or funnel; and if in their opinion the same shall be dangerous, they shall order them to be altered or removed in such manner as they shall direct: and if their directions shall not be complied with, the firewards shall cause such removal or alteration to be made at the expense of the occupants of the building; and if any person shall refuse admittance to the firewards while acting under this section, or shall not make the removal or alteration by them directed, he shall forfeit a sum not exceeding forty shillings, to be recovered, together with the expenses of removal or alteration, in the name of the firewards, or any of them, and in default of payment the offender may be imprisoned for a period not exceeding ten days.

Their power to remove dangerous combustible materials; penal-

23. If any two firewards shall consider it proper to inspect the placing or situation of any combustible materials, they may demand admittance into any building or place for that purpose, and if they

ties incurred, how enforced.

shall deem the same dangerous, they shall direct the occupant of the building or place to remove such materials or alter the placing thereof, and if he shall neglect to obey them, they may make the removal or alteration at his expense; and if any person shall refuse admission to the firewards while acting under this section, or shall not carry out their orders, he shall forfeit forty shillings, in addition to the expense of carrying out the direction of the firewards, to be recovered in the name of the firewards, or of any of them; and if the penalty and expenses shall not be paid with costs, the offender may be imprisoned for a period not exceeding ten days.

Provisions respecting gunpowder; penalties, and their enforcement.

24. No person shall keep at any one time in any one place within the limits of the firewards, or in any vessel or boat, for more than twelve hours after she has reached any wharf within such limits, more than twenty-five pounds of gunpowder; and if any person shall violate the provisions hereof he shall forfeit five shillings for every pound of such gunpowder over twenty-five pounds, to be recovered in the name of the firewards or any of them; but this provision shall not extend to any vessel or boat belonging to her majesty wherein gunpowder may be kept for public purposes; and all prosecutions hereunder shall be commenced within three months after the offence shall be committed.

Warrant to issue, and places broken open if necessary to search for dangerous quantities of gunpowder; proceedings thereunder.

25. Any justice of the peace, upon complaint on oath by a fireward, that he has reasonable cause to suspect that dangerous quantities of gunpowder are kept in any place contrary to the provisions of the last section, may issue his warrant to search therefor in the day time; and if admittance under the warrant shall be refused, and such refusal shall be made appear on oath, the justice may grant a further warrant to break open the place where such gunpowder is supposed to be deposited; and if upon any search a greater quantity than twenty-five pounds of gunpowder shall be found, the fireward may seize and sell such excess at public auction, and the proceeds shall be applied for the purposes of this chapter.

Sessions empowered to make orders and regulations relative to fires.

26. The sessions may make regulations to prevent the occurrence, increase or spreading of fires within the towns in this chapter mentioned, and to prevent the unnecessary ringing of fire bells, or the destruction thereof, or of their appurtenances, and shall have the management and control of the engine men and firemen, and may increase or diminish their numbers, and shall have general powers for the due carrying out of the provisions of this chapter, and may affix penalties for breach of any such regulations, not exceeding forty shillings.

Fine for injuring public wells or pumps.

27. If any person shall wilfully destroy or injure any public well or pump, or fire plug, or any engine or fire implements, within the limits to which this chapter extends, he shall forfeit five pounds; and in default of payment, and no effects being found whereon to levy, may be imprisoned for not more than ten days.

Chairman to be appointed annually by firewards; his office and duties.

28. The firewards shall annually appoint a chairman who shall act as treasurer of the board, and shall submit his accounts annually to the firewards to be audited and signed by them and submitted to the sessions for examination and approval.

29. All penalties recovered hereunder shall be applied under the direction of the sessions towards the purchasing and keeping in repair engines and fire implements, and the sinking and keeping in repair of pumps and wells, and generally in carrying out the objects of this chapter, and the sessions may at any time direct new engines and fire implements to be procured for any town herein mentioned which may be within their jurisdiction, and new wells to be sunk and pumps placed therein; and the expenses thereof and of keeping them or those already in use in repair, and all such further sums as may be requisite for the purposes of this chapter, shall be assessed, levied and collected within the limits of the town where the expense shall be incurred, in the same manner as poor rates are assessed, levied and collected, and shall be paid over to the county treasurer, to be applied under the direction of the sessions for the purposes contemplated. Application of penalties; fire implements, how provided and repaired, expenses, how levied and collected.

30. The word "Firewards" when used in this chapter, shall include one or more of them, unless otherwise expressed or repugnant to the context. Definition of terms.

31. This chapter shall come into operation on the passing of this act. Chapter to be in immediate operation.

CHAPTER 100.

OF THE DISCHARGE OF FIRE-ARMS AND FIRE-WORKS.

SECTION
1. Fine for unnecessary discharge of fire-arms.
2. Fine for improperly throwing fire-works into certain places, or improperly making bon-fires.
3. Prosecutions to be within eight days.

1. If any person shall unnecessarily discharge any fire-arms within the city of Halifax or within any town, or within one hundred yards of any person riding or driving, he shall for every offence forfeit ten shillings on summary conviction before a justice of the peace, and in default of payment shall be imprisoned for twenty-four hours. Fine for unnecessary discharge of fire-arms.

2. If any person shall wantonly throw any fire-works, or permit the same to be thrown, into any street, thoroughfare or passage, or into any building, or shall make any bon-fire within one hundred yards of any building, he shall for every offence forfeit forty shillings, and in default of payment shall be imprisoned for a period not exceeding fourteen days. Fine for improperly throwing fire-works into certain places, or improperly making bonfires.

3. Prosecutions under this chapter must be commenced within eight days after the offence committed. Prosecutions to be within eight days.

CHAPTER 101.

OF THE TRANSPORTATION OF GUNPOWDER.

SECTION
1. Of the conveyance of gunpowder by land.
2. Protection where more than fifty pounds in one cart.
3. Carts not to stop within twenty rods of a dwelling house.
4. Metallic substances not to be placed on a cart laden with powder.
5. Quantities over fifty pounds weight, how secured for carriage.
6. Quantities over twenty-five pounds, how secured for carriage.
7. Forfeitures for offences.
8. Carriage of gunpowder for her majesty's service not to be affected by this chapter.

Of the conveyance of gunpowder by land.

1. No person shall convey by land more than one thousand pounds of gunpowder at one time.

Protection where more than fifty pounds in one cart.

2. More than fifty pounds of gunpowder shall not be placed in any one cart to be land borne, unless the same shall be completely covered with woollen or hair cloth, exclusive of the package and the covering of the carriage.

Carts not to stop within twenty rods of a dwelling house.

3. No carriage conveying gunpowder shall be stopped less than twenty rods from any dwelling house.

Metallic substances not to be placed on a cart laden with powder.

4. No iron, steel, or metallic substance, other than copper hoops on the casks, shall be placed on any carriage, together with any quantity of gunpowder exceeding fifty pounds.

Quantities over fifty pounds weight, how secured for carriage.

5. No gunpowder exceeding fifty pounds shall be placed in any carriage but in barrels, half-barrels, or quarter barrels, tight and well hooped with wood or copper hoops.

Quantities over twenty-five pounds, how secured for carriage.

6. No more than twenty-five pounds of gunpowder shall be carried from one place to another, unless the package shall be well hooped and sufficiently wrapped with woollen or hair cloth.

Forfeitures for offences.

7. If any person shall offend against the provisions of this chapter, he shall forfeit for every offence a sum not exceeding twenty pounds.

Carriage of gunpowder for her majesty's service not to be affected by this chapter.

8. Nothing in this chapter contained shall affect the carriage of gunpowder for her majesty's service.

CHAPTER 102.

OF BURNING WOODS AND MARSHES.

SECTION
1. Sessions to make regulations for burning woods, marshes, &c.
2. Limitation of prosecutions.
3. Imprisonment on conviction for want of goods.

Sessions to make regulations for

1. The sessions shall make regulations for preventing damage by setting fire to and burning woods, under-brush or marsh lands

at unseasonable times, and shall affix penalties for breach thereof not exceeding five pounds. burning woods, marshes, &c.

2. Prosecutions under this chapter must be commenced within three months after the offence committed. Limitation of prosecutions

3. If any person convicted under this chapter shall not pay the penalty and costs, and shall have no goods whereon a levy can be made, he may be imprisoned for a term not exceeding one day for every five shillings of the amount of the judgment unless the same shall be sooner paid. Imprisonment on conviction for want of goods.

CHAPTER 103.

OF THE CONVEYING OF TIMBER AND LUMBER ON RIVERS, AND THE REMOVAL OF OBSTRUCTIONS THEREFROM.

SECTION

1. Commissioners, how appointed; their jurisdiction, how defined.
2. Powers of commissioners.
3. Commissioners may borrow money.
4. Tolls to be established; their application.
5. Accounts to be submitted annually and audited by the sessions.
6. Operation of chapter restricted.
7. Sessions empowered to make regulations.
8. Logs, timber, and lumber may be brought down rivers under regulations.
9. Definition of the word river.

1. Upon the written application of twenty freeholders resident in the locality of any river, or owning lands thereon or interested in rafting and driving logs, timber, and lumber, or conveying wood or other articles down such river, setting forth their desire that commissioners should be appointed for clearing and removing obstructions from such river, which application shall be first read at the sessions and approved of by the grand jury and sessions, who shall, in such cases, establish the points in the river between which the powers of the commissioners shall be limited, the clerk of the peace shall return such application into the provincial secretary's office with a certificate of such approval and the limits so established, and thereupon the governor in council may appoint three or five commissioners for the purposes of the five succeeding sections of this chapter. Commissioners, how appointed, their jurisdiction, how defined.

2. The commissioners may remove from the river all obstructions within the limits of their authority, and may erect wing-dams at such places and in such manner as they shall see fit, and do all other acts necessary to facilitate the passage of logs, timber, lumber, wood, and other articles down the river, and for that purpose may enter upon public or private lands doing no unnecessary damage. Powers of commissioners.

Commissioners may borrow money.

3. The commissioners may borrow upon their own credit or upon the credit of the tolls arising as hereinafter mentioned such sums of money not exceeding one thousand pounds in the whole, as may be necessary for the purposes of their appointment.

Tolls to be established, their application.

4. When the undertaking is completed the commissioners may collect a toll of such amount, and in such manner, and under such regulations for enforcing payment thereof as the sessions may from time to time direct upon logs, timber, lumber, wood, and other articles brought down the river within their jurisdiction, and shall apply the tolls to the payment of the amount borrowed with interest, but no toll shall be levied after the amount is liquidated.

Accounts to be submitted annually and audited by the sessions.

5. The commissioners shall annually submit an account of their expenditure and proceedings, and of the tolls collected to the sessions for audit, and when approved it shall be filed by the clerk of the peace.

Operation of chapter restricted.

6. Nothing herein contained shall be construed to sanction any claim on the provincial revenue in respect of the monies so borrowed, or to authorize any interference with the navigation or fisheries of the river, further than may be absolutely necessary for the purposes contemplated, or to injure or affect private rights further than as expressly provided.

Sessions empowered to make regulations.

7. The sessions shall, when found necessary, make regulations respecting the bringing down of logs, timber, and lumber on rivers, and the seasons of the year at which the same shall be brought down and the removal of obstructions thereto, and also as to the placing and upholding of booms with the consent of the owners of the soil on either side of the river, and the times of continuing such booms, and for preventing the booms from obstructing the navigation of the river, and may fix the rates of boomage that shall be paid to the owners of the booms on articles secured thereby, and the manner in which such boomage shall be collected and applied, whether for the repair of the booms or the use of the owners thereof; and also as to the taking of articles from one boom to another, and may appoint persons to take charge of the booms and collect such monies as may be due under such regulations, and may impose penalties for breach of such regulations, of not less than five nor more than forty shillings; but nothing herein contained shall authorize the removal of any milldam.

Logs, timber, and lumber may be brought down rivers under regulations.

8. Persons may bring logs, timber and lumber down rivers, in reference to which such regulations have been made; provided they shall in all respects conform to the regulations and do as little damage as possible to the owners of the soil adjoining.

Definition of the word river.

9. The word "river" when used in this chapter shall include streams running into any river.

CHAPTER 104.

OF MADMEN AND VAGRANTS.

SECTION
1. Madmen may be apprehended and sent to the place of their last settlement; expenses, how provided for.
2. Common vagrants, who shall be deemed such, how punished.

Madmen may be apprehended and sent to the place of their last settlement; expenses, how provided for.

1. Any madman may be apprehended under warrant from two justices of the peace, and if his legal settlement shall be in any place within the county, he shall be secured within the same, and there, if necessary, chained; and if such settlement be not within the county, he shall be sent by the justices, by order under their hands, to the place of his last legal settlement, and shall be there secured under a warrant from two justices of the peace for the county to which he shall be so removed; and the charges of removing, maintaining, and curing such person during his restraint, being first proved on oath before two justices, shall be paid out of the proceeds of the personal property, or the rents of the real estate of such person, if any he have over what will maintain his family, and which property or rents may for that purpose be seized and sold by the overseers of the poor of the place of such person's last legal settlement, under a warrant from two justices; and if such person hath not any property or rents applicable therefor, then such expenses shall be borne by the inhabitants of the district within which such person shall have his last legal settlement, in the same manner as if he were a pauper chargeable to such district.

Common vagrants, who shall be deemed such, how punished

2. Persons who unlawfully return to any place whence they have been legally removed as paupers, and idle and wandering persons having no visible means of subsistence, and persons going about to beg alms, shall severally be deemed common vagrants, and may be brought up and summarily convicted by a justice of the peace, and thereupon imprisoned for not more than one month.

CHAPTER 105.

OF PUBLIC EXHIBITIONS.

SECTION
1. Licenses for public exhibitions, how obtained.
2. Mode of proceeding where clerk of license absent or living beyond a certain distance.
3. Fees on granting license.
4. Fine for exhibitions without license, and how recovered.
5. Clerk of the peace's duty in relation to fines collected.
6. City of Halifax excepted from this chapter.

Licenses for public exhibitions, how obtained.

1. The clerk of the licenses, with the consent of two justices of the peace, shall grant a license to any person applying, for holding any show, play, or public exhibition, upon such person paying the sum of twenty-five shillings for every day for which the license is granted, to be therein expressed, which license shall not be operative out of the county where granted.

Mode of proceeding where clerk of license absent or living beyond a certain distance.

2. If the clerk of the licenses shall be absent, or shall reside more than five miles from the place where it shall be intended to hold the exhibition, two justices may grant such license under and subject to the payments, restrictions and regulations in the first section mentioned; and they shall, within thirty days after granting the license, make return thereof to the clerk of the licenses, and at the same time pay over the amount of duties received therefor.

Fees on granting license.

3. The clerk of the licenses or justices granting any such license shall be entitled to receive therefor a fee of two shillings and six pence.

Fine for exhibitions without license, and how recovered.

4. If any person shall hold any show, play, or public exhibition without previously obtaining a license, he shall forfeit five pounds for every day the same shall be held, to be recovered in a summary manner before two justices of the peace, and to be by them, within thirty days after receipt, paid over to the clerk of the licenses.

Clerk of the peace's duty in relation to fines collected.

5. The clerk of the licenses shall, within ten days before every sittings of the sessions, pay over to the county treasurer for county purposes all duties and penalties by him received under this chapter.

City of Halifax excepted from this chapter

6. The provisions of this chapter shall not extend to the city of Halifax.

CHAPTER 106.

OF STRAY HORSES AND CATTLE.

SECTION
1. Stray cattle, &c., how to be dealt with.
2. Town clerk's duty and fees.
3. Proceedings where no claimant appears after due notice.
4. Application of proceeds of sale.
5. Fees payable where property claimed before sale.
6. Disputes as to ownership or expenses how settled.
7. Fines for detaining cattle, &c., and not proceeding as in this chapter directed.

Stray cattle, &c. how to be dealt with.

1. Whenever any horses or cattle, or any swine or sheep shall stray into the yard, barn, or enclosure of any person, he shall detain the same, and if not claimed within twenty-four hours, he shall forthwith thereafter transmit to the town clerk of the township, or

if the place be not within any township, then to the town clerk of the adjoining township, a description of every such animal, with the color, size, ear-mark if any, age, and particular marks thereof, so as the owner may be enabled to recognize it by the description, and shall, at the foot thereof write a notice of the time and place of finding such animal, and also the place where the same is detained.

Town clerk's duty and fees.

2. The town clerk shall file the description and notice, and post up a copy thereof in his office for at least ten days after he has received the same, for which services he shall be entitled to a fee of one shilling for every animal.

Proceedings where no claimant appears after due notice

3. If no person shall claim the animals within ten days after such notice posted up, the finder may apply to a justice of the peace, who upon proof of the notice having been duly posted, shall, by order under his hand, direct any constable to sell the animals, and the constable shall forthwith sell the same, having first given notice by advertisements posted in three of the most public places within the township or settlement for at least six days. No sale shall, however, take place between the thirtieth of April and the first of December; but in case there shall not be sufficient time after the receipt of the order to advertise the sale for some day before the first day of May, the constable shall not proceed to sell until after the thirty-first of October.

Application of proceeds of sale.

4. After deducting from the proceeds of sale five per cent. for the constable for his services in advertising and selling, and the reasonable expenses of keeping the animals, together with the town clerk's fee, the balance shall be paid to the overseers of the poor for the place where the animals were found, to be applied to the use of the poor thereof, unless claimed by the owner of the animals within twelve months after sale, in which case it shall be paid to the owner.

Fees payable where property claimed before sale.

5. If the owner shall claim his property before sale, he shall be bound to pay the finder his reasonable expenses of keeping, and also the town clerk's fee, and if advertised the reasonable expense thereof.

Dispute as to ownership or expenses how settled.

6. If any question shall arise between the owner or overseers of the poor, and the finder, either respecting ownership or expenses of keeping, either of the parties may apply to two justices of the peace, who shall determine the matter, and make such order therein as may appear just.

Fines for detaining cattle, &c., and not proceeding as in this chapter directed

7. If any person who may have detained any such stray animal, shall not, within a reasonable time, transmit the description and notice to the town clerk as hereinbefore directed, he shall forfeit for every horse or head of cattle not more than forty shillings, and for every hog or sheep not more than twenty shillings.

CHAPTER 107.

OF THE GOING AT LARGE OF INFECTED CATTLE AND OF DOGS, AND VICIOUS ANIMALS AND GEESE.

SECTION
1. Sessions shall make regulations respecting infected cattle, dogs, geese, &c.
2. Imprisonment for want of goods to pay fine.

Sessions shall make regulations respecting infected cattle, dogs, geese, &c.

1. The sessions shall make regulations for preventing the going at large of infected horses and cattle, and the spreading of distempers among them; and also as to the going at large of dogs and of vicious animals, and of geese; and shall affix penalties for breach of any such regulations, which penalties shall not exceed, as respects horses and cattle, five pounds, and as respects dogs and geese, twenty shillings.

Imprisonment for want of goods to pay fine.

2. If judgment be given for any such penalty and the defendant shall not pay the same, and shall not have goods whereon the same may be levied, he may be imprisoned for a period not exceeding one day for every five shillings of the penalty.

CHAPTER 108.

OF THE GATHERING OF SEA MANURE.

SECTION
1. Sessions may make regulations respecting sea manure.
2. Private rights not affected.

Sessions may make regulations respecting sea manure.

1. The sessions may make regulations with regard to the collecting and taking away of sea manure which may be driven by the sea and lodged upon the shores and beaches; and if any person shall transgress such regulations he shall, for every offence, forfeit a sum not exceeding forty shillings.

Private rights not affected.

2. Nothing in this chapter contained shall extend to take away or abridge any private rights or interests on any of such shores or beaches.

CHAPTER 109.

OF COASTING ON HIGHWAYS.

SECTION
1. Sessions may make regulations respecting coasting.
2. Parents and masters responsible for penalties.

1. The sessions may make regulations for preventing persons from coasting, skating, or sliding on the snow or ice down the hills on highways or streets; and impose a penalty not exceeding five shillings for breach of such regulations. Sessions may make regulations respecting coasting.

2. The parents of minors and the masters of apprentices, who shall transgress any such regulation, shall be liable for the penalty therefor. Parents and masters responsible for penalties.

CHAPTER 110.

OF ROADS OVER THE ICE.

SECTION
1. Sessions may make regulations respecting tracks and roads over the ice.
2. Expenses to form a county charge

1. The sessions may make regulations for ascertaining the safest track for roads over the ice on harbors, rivers, creeks, lakes, or bogs, and for putting down or continuing bushes or other marks for defining the course of such roads, and to prevent the removal or destruction of such bushes or other marks, and may affix a penalty for breach of any such regulations not exceeding twenty shillings for each offence, which shall be applied, one half to the person suing, and the other half for county purposes. Sessions may make regulations respecting tracks and roads over the ice.

2. The expenses incurred in putting down, continuing, repairing and protecting such marks, shall form a county charge. Expenses to form a county charge.

PART II

OF THE ACQUISITION, TRANSMISSION, AND ENJOYMENT OF PROPERTY, REAL AND PERSONAL, THE DOMESTIC RELATIONS, AND OTHER MATTERS CONNECTED WITH PRIVATE RIGHTS.

TITLE XXVIII.

OF REAL PROPERTY AND THE ALIENATION THEREOF.

CHAPTER 111.

OF DEEDS BY MARRIED WOMEN.

SECTION
1. Deeds by married women, how executed.
2. Deeds how executed abroad.
3. Acknowledgments, certificates, and powers of attorney, mentioned in preceding sections, to be registered.

Deeds by married women how executed.

1. All deeds executed under power of attorney or otherwise, made by a married woman jointly with her husband, or concurred in by a separate conveyance executed by him, of estates to which she is entitled or may have any present or future interest, whether in her own right or by way of dower or otherwise, shall have the same effect as if made by an unmarried woman, if such power of attorney or deed be acknowledged by such married woman before a judge of the supreme court or a justice of the peace, as her free act and deed, and to have been executed without compulsion by her husband, or to that effect, which acknowledgment shall thereupon be certified by such judge or justice in writing, upon such power of attorney or deed.

Deeds how executed abroad.

2. If such married woman reside without this province, such acknowledgment may be taken before the mayor of any city or a judge of any court of record residing at or near the place where such married woman may be, and shall be certified in writing on the power of attorney or deed by such mayor or judge, and his

certificate shall be authenticated under the hand and seal of a notary public. If such married woman reside in a foreign country, such acknowledgment may be taken before any public minister, ambassador or consul from the court of Great Britain or vice consul there residing, and shall be certified on the power of attorney or deed under the hand and seal of such public functionary.

3. Every such acknowledgment and certificate shall be registered with the power of attorney or deed.

Acknowledgments, certificates and powers of attorney, mentioned in preceding sections, to be registered.

CHAPTER 112.

OF ESTATES TAIL.

SECTION 1. Estates tail abolished.

1. All estates-tail are abolished and every estate which would hitherto have been adjudged a fee-tail, shall hereafter be adjudged a fee-simple, and if no valid remainder be limited thereon, shall be a fee-simple absolute, and may be conveyed or devised by the tenant in tail, or otherwise shall descend to his heirs as a fee-simple.

Estates tail abolished.

CHAPTER 113.

OF THE REGISTRY OF DEEDS AND INCUMBRANCES AFFECTING LANDS.

SECTION

1. Registrars of deeds, how appointed; deputies, how appointed in certain cases.
2. Fire-proof safes to be provided.
3. Bonds to be given.
4. Books of registry, how provided; their kind and quality.
5. Double indexes of the books of registry to be kept.
6. Double indexes of books of entry to be kept.
7. Deeds, &c. to be recorded where the lands lie.
8. Deeds to be copied so as to be transcripts; plans to be entered in the books.
9. Deeds how proved within the province.
10. Oaths administered by registrars, judges, or justices of the peace; certificate to shew the date.
11. Deeds how proved where subscribing witness dead or absent.
12. Deeds how proved out of the province.
13. Deeds, &c. duly proved and lodged for registry held registered from the time of being lodged.
14. When a deed is executed under a power of attorney the power must be registered.
15. A subpœna may issue to compel the attendance of a witness on the production of a deed for proof and registry.

SECTION
16. Certificates of registry to be received in evidence.
17. Deeds to have priority from the date of registry.
18. Mortgages, &c. shall not be tacked.
19. Mortgages how released.
20. Judgments to bind lands from date of registry.
21. Dockets of judgment, their contents, how registered.
22. Writs of attachment, lands how bound thereby, how registered.
23. Judgments and attachments, how discharged.
24. Leases for more than three years to be recorded, and a reasonable rent to be reserved.

Registrars of deeds, how appointed; deputies how appointed in certain cases.

1. The governor in council may appoint a registrar of deeds for every county in the province, and for every district in which such appointments are now made. In case of the contemplated absence from the county of the registrar, or in case of his illness, he may, with the approbation of the governor and council, appoint a deputy, who may perform all the duties of the registrar during such absence or illness, and for all his acts the registrar and his sureties shall be responsible.

Fire-proof safes to be provided.

2 Fire proof safes shall be provided in the several counties and districts for the preservation of the records, books, and papers of the registry.

Bonds to be given.

3. No registrar shall enter upon the duties of his office until he shall have given bond to her majesty, with such sureties, and to such amount, and in such form as the governor in council may direct, for the faithful performance of the duties of his office, and the indemnifying of all parties who may be injured by his default or misconduct, nor until he shall have satisfied the governor in council that he has provided a suitable place for the custody of all deeds, papers, and books of registry, which may come to his charge or keeping.

Books of registry how provided; their kind and quality.

4. Every registrar shall furnish well bound books, of a kind to be approved of by the governor in council, as suitable for the registry of deeds and incumbrances affecting lands, and in which books such incumbrances and deeds shall be registered.

Double indexes of the books of registry to be kept.

5. A double index to the books of registry shall be made and kept by every registrar, including, in the case of deeds, the names of all the grantors and grantees; and in the case of judgments and attachments, the names of all the plaintiffs and defendants.

Double indexes of books of entry to be kept.

6. A double index shall be made and kept in like manner by every registrar of all deeds proved and lodged in his office, and of all dockets of judgments and attachments lodged therein, in which every deed shall be entered so soon as it is proved and lodged, and every docket of judgment or attachment when lodged.

Deeds, &c. to be recorded where the lands lie.

7. All deeds, judgments and attachments, affecting lands, shall be registered in the office of the county or district in which the lands lie.

Deeds to be copied so as to be transcripts; plans to be entered in the books.

8. All deeds shall be copied into the books of registry, so as to be, as near as possible, transcripts of the original, and copies of any plans or schedules annexed shall likewise be entered in the books.

Deeds how proved within the province.

9. Deeds within the province may be proved, first, upon the oath of one of the subscribing witnesses to the due execution thereof by the parties executing the same, or, secondly, upon the personal acknowledgment by the parties, under oath, of the due execution thereof.

Oaths administered by registrars, judges, or justices of the peace; certificate to shew the date.

10. Such oaths may be administered by the registrar of the county or district, and shall be so certified upon the deed; or they may be administered by a judge of the supreme court, or a justice of the peace, or by any other registrar, who shall sign a certificate thereof, declaring the date of the attestation on the deed, and the same shall be registered thereupon along with such certificate.

Deeds how proved where subscribing witness dead or absent.

11. In case all the subscribing witnesses to the execution of a deed by all or any of the parties thereto, shall be dead or absent from the province, the registrar shall register the deed upon sufficient proof of such death or absence, and of the hand writing of any one of the subscribing witnesses thereto, to be made before him or any other registrar, or a judge of the supreme court upon oath, such oath to be endorsed upon the deed or annexed thereto and registered therewith.

Deeds how proved out of the province.

12. Deeds may be proved out of the province by the oath of a subscribing witness, or the acknowledgment of the parties under oath as in the ninth section, such oaths to be administered by a judge of any court of record, by the mayor of any city, by a justice of the peace, or by a notary public, residing respectively at or near the place where the deed is proved, and the attestation with the date to be certified under the seal of a court of record, or of a city, or under the hand and seal of a notary public: and where a deed is proved in a foreign country, the oath may be administered by, and the attestation with the date certified under the hand and seal of any public minister, ambassador or consul from the court of Great Britain, or vice consul residing at or near the place where the deed is proved.

Deeds, &c. duly proved and lodged for registry held registered from the time of being lodged.

13. Where a deed shall have been duly proved and lodged, or the docket of a judgment or the copy of a writ of attachment with the description and appraisement duly lodged as above, for registry, the time when the same shall have been so proved or lodged, shall be accounted the date of the registry of such deed, judgment, or attachment, respectively; and the same shall be registered in the same order in which they were so lodged or proved.

When a deed is executed under a power of attorney the power must be registered.

14. The registry of a deed executed by virtue of a power of attorney shall not be valid unless such power or a deed subsequently confirming the authority given thereby, shall be registered in the office of the county or district where the lands lie.

A subpœna may issue to compel the attendance of a witness in the production of a deed for proof and registry.

15. Process of subpœna may be issued out of the supreme court as in ordinary cases, and with the necessary variation in form, to compel the attendance of any witness to, or the production of any deed for proof thereof, that the same be registered; and the court or a judge shall have the like power to punish any disobedience to such subpœna in the same manner and to the same

extent as in other cases; but no witness shall be compelled to produce under such subpœna any deed which he would not be compelled to produce on a trial.

Certificates of registry to be received in evidence.

16. The certificate of a registry endorsed on any deed, docket of judgment or attachment, and signed by the registrar, shall be taken and allowed in all courts, as evidence of the registry.

Deeds to have priority from the date of registry.

17. Deeds or mortgages of lands duly executed, but not registered, shall be void against any subsequent purchaser, or mortgagee for valuable consideration, who shall first register his deed or mortgage of such lands.

Mortgages, &c. shall not be tacked.

18. No mortgage, judgment, or other incumbrance affecting lands, shall have any priority or effect by reason of being held by or vested in the same person with another mortgage or incumbrance of prior date and registry.

Mortgages how released.

19. Mortgages shall no longer be discharged by certificate of release, but the release itself shall refer to the registry of the mortgage and need not contain the description of the premises at full length, and the same shall be recorded like other deeds, and a marginal note thereof shall be made by the registrar, without further fee, on the book of registry of the mortgage referring to the registry of the release.

Judgments to bind lands from date of registry.

20. Judgments duly recovered and docketed shall bind the lands of the party against whom the judgment shall have passed only from and after the registry thereof in the county or district wherein the lands are situate, and deeds or mortgages of such lands, duly executed but not registered, shall be void against the judgment creditor, who shall first register his judgment.

Dockets of judgment, their contents how registered.

21. The docket of a judgment to be registered shall contain the names of the parties, the amount recovered, the signature of the judge, and the time of signing; and a copy of such docket certified under the seal of the court and the hand of the prothonotary where the judgment was recovered, being lodged for registry, shall be entered in the books without further proof.

Writs of attachment; lands how bound thereby, how registered.

22. Lands levied upon under writs of attachment shall be bound thereby only from the time that true copies of the writ and of the description and appraisement of the lands, certified by the sheriff or his deputy under his hand, shall be lodged for registry in the county or district where the lands lie, which copy shall be recorded without further proof, and shall continue to bind the lands until thirty days after final judgment signed in the cause.

Judgments and attachments how discharged.

23. Judgments and attachments so entered shall be discharged by an entry on the margin of the registry thereof, to be made by the registrar upon the filing of a release duly acknowledged or proved by a subscribing witness to have been executed by the parties by whom the judgment was obtained, or of a certificate under the seal of the court and the hand of the prothonotary that the judgment has been satisfied, or the suit in which the attachment was issued discontinued or set aside.

Leases for more

24. Leases of land for a term exceeding three years shall be

void against any subsequent purchaser, mortgagee for valuable consideration, or judgment creditor, unless such leases shall have been previously registered, and a reasonable rent reserved in good faith therein.

than three years to be recorded, and a reasonable rent to be reserved.

TITLE XXIX.

OF TITLE TO REAL AND PERSONAL PROPERTY BY WILL AND BY DESCENT, AND THE SETTLEMENT OF THE ESTATES OF DECEASED PERSONS.

CHAPTER 114.

OF WILLS OF REAL AND PERSONAL ESTATE.

SECTION
1. What property may be devised.
2. Persons under twenty-one years incompetent to make a will.
3. Wills which may be made by married women.
4. Wills by a married woman not void for a gift to her husband.
5. Wills how to be executed; formalities required.
6. Soldiers' and sailors' wills of personal estate may be as heretofore.
7. Power of appointment by will to be executed as a will.
8. Wills executed as above required, valid without further publication.
9. No will to be invalid for the incompetency of the witnesses.
10. A devise to an attesting witness, the husband or wife of such, where there are but two witnesses, shall be void.
11. Debts charged upon real or personal estate shall not disqualify the creditor as a witness.
12. Executors may be witnesses.
13. Marriage shall revoke a will except in certain cases specified.
14. Wills not revoked by presumptions.
15. Wills how revoked.
16. Obliterations, interlineations, alterations, &c. in what case and how far they shall affect a will.
17. Wills revoked, how revived.
18. Conveyances and other acts how far they shall affect wills previously made.
19. Wills when to take effect; executors to be trustees to fulfil testator's contracts in certain cases.
20. Lapsed legacies to be included in any residuary devise.
21. Rules for constructing wills of real estate in certain cases.
22. General devises, how construed.
23. Devises of real estate without words of limitation to be construed as a devise of a fee simple.
24. The words "die without leaving issue, &c." how construed.
25. Devises of real estate to trustees or executors, how construed.
26. Devises as of estates tail shall not lapse in consequence of the devisee dying before testator, if the devisee leave issue.
27. Devises to testator's children, &c., who die before him shall not lapse if they have left issue living.
28. Penalty for suppressing a will.
29. Definition of terms.

1. Any person may devise or bequeath by his will executed as hereinafter mentioned all real estate and all personal estate, and all rights and interests in real or personal estate to which he shall be entitled, either at law or in equity, at the time of his death, and

What property may be devised.

which if not so devised or bequeathed, would devolve upon his heirs at law or representatives.

Persons under twenty-one years incompetent to make a will.

2. No will made by any person under the age of twenty one years, shall be valid.

Wills which may be made by married women.

3. No will made by a married woman subsequent to the first of October, one thousand eight hundred and forty, shall be valid, except a will of personal estate upon which the husband's consent has been expressed in writing, or a will appointing one executor or more to a will whereof she is executrix: or a will of real or personal estate to which she may be entitled for her separate use; or an appointment by will in pursuance of a power to be executed notwithstanding coverture.

Wills by a married woman not void for a gift to her husband.

4. No will nor any devise or bequest in any will made by a married woman shall be void by reason of any devise or bequest, or of any gift or disposition to or for the use or benefit of her husband.

Wills how to be executed; formalities required.

5. No will shall be valid unless it shall be in writing, signed at the end or foot thereof by the testator, or by some other person in his presence and by his direction, and such signature shall be made or acknowledged by the testator in the presence of two or more witnesses present at the same time, and such witnesses shall attest and shall subscribe the will in the presence of the testator, but no form of attestation shall be necessary.

Soldiers' and sailors' wills of personal estate may be as heretofore.

6. Any soldier being in actual military service, or any mariner or seaman being at sea, may dispose of his personal estate as heretofore.

Power of appointment by will to be executed as a will.

7. No appointment made by will in exercise of any power shall be valid unless the same be executed in manner hereinbefore required, and every will executed in manner hereinbefore required, shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by will, notwithstanding it shall have been expressly required that a will made in exercise of such power shall be executed with some additional or other form of execution or solemnity.

Wills executed as above required, valid without further publication.

8. Every will executed in manner hereinbefore required shall be valid without any other publication thereof.

No will to be invalid for the incompetency of the witnesses.

9. No will shall be invalid on account of the incompetency of the witnesses to prove its execution.

A devise to an attesting witness, the husband or wife of such, where there are but two witnesses, shall be void.

10. All devises, bequests, or appointments, except charges and directions for the payment of debts, to an attesting witness of the will, or to the wife or husband of such person, shall be void, and he shall be admitted to prove the execution of the will, or the validity or invalidity thereof: provided that where there shall happen to be two competent witnesses to the will beside such person, such devise, bequest, or appointment shall not be void.

Debts charged upon real or personal estate shall not disqualify the creditor as a witness.

11. In case by any will any real or personal estate shall be charged with any debt, and any creditor, or the wife or husband of any creditor whose debt is so charged, shall attest the execution of such will, such creditor, notwithstanding such charge, shall be

admitted a witness to prove the execution of such will, or to prove the validity or invalidity thereof.

Executors may be witnesses.

12. No person shall, on account of his being an executor of a will, be incompetent to be admitted a witness to prove the execution of such will, or a witness to prove the validity or invalidity thereof.

Marriage shall revoke a will except in certain cases specified.

13. All wills shall be revoked by marriage, except a will made in exercise of a power of appointment, when the real or personal estate thereby appointed would not in default of such appointment pass to the heir, executor or administrator, or the person entitled as next of kin.

Wills not revoked by presumptions.

14. No will shall be revoked by any presumption of an intention to revoke on the ground of an alteration in circumstances.

Wills how revoked.

15. No will or codicil, or any part thereof, shall be revoked otherwise than as above mentioned, or by another will or codicil executed in manner hereinbefore required, or by some writing declaring an intention to revoke the same, and executed in the manner in which a will is hereinbefore required to be executed, or by the burning, tearing, or otherwise destroying the same by the testator, or by some person in his presence and by his direction, with the intention of revoking the same.

Obliterations, interlineations, alterations, &c., in what case and how far they shall affect a will.

16. No cancelling by drawing lines across a will, or any part thereof, and no obliteration, interlineation, or other alteration made in any will after the execution thereof, shall be valid, or have any effect, except so far as the words or the effect of the will before such alteration shall not be apparent, unless such alteration shall be executed in like manner as hereinbefore is required for the execution of the will; but the will, with such alteration as part thereof, shall be deemed to be duly executed if the signature of the testator, made by himself or some other person in his presence and by his direction, and the subscription of the witnesses be made in the margin or on some other part of the will opposite or near to such alteration, or at the foot or end of or opposite to a memorandum referring to such alteration and written at the end or some other part of the will.

Wills revoked, how revived

17. No will or codicil, or any part thereof, which shall be in any manner revoked, shall be revived otherwise than by the re-execution thereof, or by a codicil executed in manner hereinbefore required, and showing an intention to revive the same. And when any will or codicil which shall be partly revoked and afterwards wholly revoked, shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary shall be shewn.

Conveyances and other acts how far they shall affect wills previously made.

18. No conveyance or other act made or done subsequently to the execution of a will of any real or personal estate therein comprised, except an act by which such will shall be revoked as before mentioned, shall prevent the operation of the will, with respect to such estate or interest in such real or personal estate, as the testator shall have power to dispose of by will at the time of his death.

Wills when to take effect; executors to be trustees to fulfil testator's contracts in certain cases.

19. Every will shall be construed, with reference to the real and personal estate comprised in it, to speak and take effect as if it had been executed immediately before the death of the testator, unless a contrary intention shall appear by the will. If the testator at the time of his death, were liable to perform any contract for the sale and conveyance of any real or personal estate, the executors of his will shall, notwithstanding any devise or bequest of the real or personal estate to which such contract refers, be deemed trustees thereof so far as may be necessary for performing such contract, and shall have power to execute the necessary conveyances for the performance thereof; and the executors shall hold the purchase money subject to such uses and purposes as may in such will be expressed respecting such real or personal estate, or such purchase money, or otherwise for the use and benefit of the estate.

Lapsed legacies to be included in any residuary devise.

20. Unless a contrary intention shall appear by the will, such real estate or interest therein as shall be comprised or intended to be comprised in any devise in such will contained which shall fail or be void by reason of the death of the devisee in the lifetime of the testator, or by reason of the devise being contrary to law, or otherwise incapable of taking effect, shall be included in the residuary devise, if any, contained in such will.

Rules for construing wills of real estate in certain cases.

21. A devise of the land of the testator or of the land of the testator in any place, or in the occupation of any person mentioned in his will, or otherwise described in a general manner; and any other general devise which would describe a leasehold estate, if the testator had no freehold estate which could be described by it, shall be construed to include the leasehold estate of the testator, or his leasehold estates or any of them to which such description shall extend, as the case may be, as well as freehold estates, unless a contrary intention shall appear by the will.

General devises how construed.

22. A general devise or bequest of the real or personal estate of the testator, or of the real or personal estate of the testator in any place, or in the possession of any person mentioned in his will, or otherwise described in a general manner, shall be construed to include any real or personal estate, or any real or personal estate to which such description shall extend, as the case may be, which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention shall appear by the will.

Devises of real estate without words of limitation to be construed as a devise of a fee simple.

23. Where any real estate shall be devised to any person without any words of limitation, such devise shall be construed to pass the fee simple or other the whole estate or interest which the testator had power to dispose of by will in such real estate, unless a contrary intention shall appear by the will.

The words "die without leaving issue, &c." how construed.

24. In any devise or bequest of real or personal estate, the words "die without isssue," or "die without leaving issue," or "have no issue," or any other words which may import either a want or failure of issue of any person in his lifetime, or at the time of his death, or an indefinite failure of his issue, shall be

construed to mean a want or failure of issue in the lifetime, or at the time of the death of such person, and not an indefinite failure of his issue, unless a contrary intention shall appear by the will by reason of such person having a prior estate, or of a preceding gift being, without any implication arising from such words, a limitation of an estate tail to such person or issue, or otherwise. But this chapter shall not extend to cases where such words import if no issue described in a preceding gift, shall be born, or if there shall be no issue who shall live to attain the age, or otherwise answer the description required for obtaining a vested estate by a preceding gift to such issue.

Devisee of real estate to trustees or executors, how construed.

25. Where any real estate shall be devised to any trustee or executor, such devise shall be construed to pass the fee simple, or other the whole estate or interest which the testator had power to dispose of by will in such real estate, unless a definite term of years, absolute or determinable, or an estate of freehold, shall thereby be given to him expressly or by implication.

Devises of estates tail shall not lapse in consequence of the devisee dying before testator, if the devisee leave issue.

26. Where any person to whom any real estate shall be devised for an estate tail, or for an estate in quasi entail shall die in the lifetime of the testator leaving issue, who would be inheritable under such entail if such estate existed, and any such issue shall be living at the time of the death of the testator, such devise shall not lapse but shall take effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention shall appear by the will.

Devises to testator's children, &c. who die before him shall not lapse if they have left issue living.

27. Where any person being a child or other issue of the testator, to whom any real or personal estate shall be devised or bequeathed for any estate or interest not determinable at or before the death of such person, shall die in the lifetime of the testator leaving issue, and any such issue of such person shall be living at the time of the death of the testator, such devise or bequest shall not lapse, but shall take effect, as if the death of such person had happened immediately after the death of the testator, unless a contrary intention shall appear by the will.

Penalty for suppressing a will.

28. Any person suppressing a will shall forfeit, after the lapse of the first thirty days, five pounds for every month he shall so suppress such will.

Definition of terms.

29. The words and expressions hereinafter mentioned, which, in their ordinary signification have a more confined or a different meaning, shall, in this chapter, except when the nature of the provision or the context shall exclude such construction, be interpreted as follows, viz: the word "will" shall extend to a codicil and to an appointment by will or by writing in the nature of a will in exercise of a power, and also to a disposition by will and testament or devise of the custody and tuition of any child, and to any other testamentary disposition; and the words "real estate" shall extend to manors, messuages, lands, rents and hereditaments, whether freehold or any other tenure whatsoever and wheresoever, and whether corporeal, incorporeal or personal, and to any undivi-

ded share thereof, and to any estate, right or interest, other than a chattel interest, therein; and the words "personal estate" shall extend to leasehold estates and other chattels real, and also to monies, shares of government and other stocks or funds, whether in this province or in the United Kingdom or elsewhere, to securities for money not being real estates, to debts, rights of action, rights, credits, goods, and all other property whatsoever, which by law, devolves upon the executor or administrator, and to any share or interest therein.

CHAPTER 115.

OF THE DESCENT OF REAL AND PERSONAL ESTATE.

SECTION

1. Rule of descent of undevised real estate where deceased leaves issue.
2. Where he leaves no issue.
3. Other cases, and as to collateral kindred.
4. Rule in case of unmarried deceased minor children leaving brothers, surviving, or their issue.
5. Method of dividing property under last section.
6. Mode of computing degrees of kindred.
7. Where intestate hath no kindred, the widow shall inherit.
8. The interest of deceased in lands held in trust chargeable with debts.
9. Rules for distributing the personal estate of intestates.
10. Posthumous children how provided for where testator has made no provision.
11. Advancement how treated on division and distribution.
12. Same subject.
13. Advancement in real estate how to be considered and regulated.
14. What gifts or grants shall be held advancements.
15. Value if stated by testator to be conclusive.
16. Advancement as among grand children.
17. Tenancy by the curtesy and in dower not affected hereby.
18. Lands held in dower, how divided.
19. Estates not devised to be distributed as intestate.

Rule of descent of undevised real estate where deceased leaves issue.

1. Where any person shall die entitled to any real estate in fee simple or for the life of another, not having devised the same, it shall descend to his children in equal shares, and in case of the decease of any of his children, to such as shall legally represent them, such representatives to take the share of the deceased parent in equal proportions, and if there be no child of the intestate living at the time of his death, to his other lineal descendants; and if all the descendants shall be in the same degree of kindred they shall share the estate equally, otherwise they shall take according to the right of representation.

Where he leaves no issue.

2. If the deceased shall leave no issue, one half of his real estate shall go to his father, and the other half to his widow in lieu of dower, and if there be no widow the whole shall go to his father.

Other cases, and as to collateral kindred.

3. If he shall leave no issue nor father, one half of his real estate shall go to the widow, and the other half shall be distributed

in equal shares to his mother, brothers, and sisters, and the children of any deceased brother or sister by right of representation; and if there be no widow the whole shall go to his mother, brothers, and sisters, and the children of any deceased brother or sister by right of representation; and where the intestate shall leave no issue, and no widow, father, mother, brother or sister, nor the children of any brother or sister, his estate shall go in equal shares to his next of kin in equal degree, excepting that where there are two or more collateral kindred in equal degree but claiming through different ancestors, those who claim through the nearest ancestor shall be preferred to those claiming through an ancestor who is more remote, but in no case shall representatives be admitted among collaterals after brother's and sister's children.

Rule in case of unmarried deceased minor children leaving brothers surviving, or their issue.

4. If any person shall die leaving several children, or leaving one child and the issue of one or more others, and any such surviving child shall die under age, and not having been married, all the estate that came to the deceased child by inheritance from such deceased parent shall descend in equal shares to the other children of the same parent, and to the issue of any such other children who shall have died, by right of representation.

Method of dividing property under last section.

5. If at the death of such child who shall die under age, and not having been married, all the other children of his parent shall also be dead, and any of them shall have left issue, the estate that came to such child by inheritance from his parent shall descend to all the issue of the other children of the same parent; and if all the issue are in the same degree of kindred to such child they shall have his estate equally, otherwise they shall take according to the right of representation.

Mode of computing degrees of kindred.

6. The degrees of kindred shall be computed according to the rules of the civil law, and the kindred of the half blood shall inherit equally with those of the whole blood in the same degree.

Where intestate hath no kindred the widow shall inherit.

7. If the intestate shall have no kindred, his estate shall go to the widow to her own use.

The interest of deceased in lands held in trust chargeable with debts

8. The interest of a party in lands held in trust for him in fee simple shall descend and shall be chargeable with his debts in the same manner as if he had died seised of such lands.

Rules for distributing the personal estate of intestates.

9. The personal estate of any person who shall die without having bequeathed the same shall be distributed as follows:

The widow shall be allowed all her paraphernalia articles of apparel or ornament, according to the degree and estate of her husband, the apparel of the minor children, and also such provisions and other articles as shall be necessary for the reasonable sustenance of herself and the family under her care for the period of ninety days after the death of her husband, and such allowance shall be made, as well when the widow waives the provision made for her in the will of her husband as when he dies intestate.

The wearing apparel of the deceased, not exceeding ten pounds in value, shall be distributed at the discretion of the executor or administrator among the family of the deceased.

The remaining personal estate, after payment of the debts of the deceased, the charges of his funeral, and the necessary medical and other attendance upon him in his last illness, and the expenses attendant upon the settlement of the estate, shall be distributed, one third to the widow, if any, and the residue among the persons who would be entitled to the real estate, and if there be no widow, then the whole among such persons.

Posthumous children how provided for where testator has made no provision.

10. Any child born after the death of the father, there being no provision made in his will for such child, shall have the like interest in the real and personal estate of his father as if he had died intestate, and all the devisees and legatees in the will shall abate proportionably their respective devises and bequests, the share of the posthumous child to be set out and assigned by the court of probate so as to affect as little as possible the disposition of the property made by the testator.

Advancement how treated on division and distribution.

11. Any real or personal estate given by the intestate as an advancement to any child or grandchild, shall be considered as a portion of the estate of the intestate, so far as regards the division and distribution of the estate of the deceased, and shall be taken by such child or grand child towards his share of the intestate's estate.

Same subject.

12. If such advacement shall exceed the share of the child or grandchild, so advanced, he shall be excluded from any further portion in the division and distribution of the estate, but he shall not be required to refund any of such advancement, and if the amount so received shall be less than his share, he shall be entitled to as much more as will give him his full share of the estate of the deceased.

Advancement in real estate how to be considered and regulated.

13. If the advancement be in real estate, the value thereof shall, for the purposes of the preceding section, be considered as part of the real estate to be divided; and if in either case it shall exceed the share of real or of personal estate respectively that would have come to the child or grandchild, so advanced, he shall not refund any part of it, but shall receive so much less out of the other part of the estate as will make his whole share equal to those of the other heirs who are in the same degree with him.

What gifts or grants shall be held advancements.

14. All gifts and grants shall be deemed to have been made in advancement if expressed in the gift or grant to be so made, or if charged in writing by the intestate as an advancement, or acknowledged in writing, or upon examination before the judge of probate, on oath, as such, by the child or grandchild, and not otherwise.

Value of estate by testator to be conclusive.

15. If the value of the estate so advanced shall be expressed in the conveyance, or in the charge or valuation thereof made by the intestate, it shall be considered as of that value in the division and distribution of the estate, otherwise it shall be estimated according to its value when given.

Advancement as among grandchildren.

16. If any child or grandchild so advanced shall die before the intestate leaving issue, the advancement shall be taken into consi-

deration in the division and distribution of the estate, and the amount thereof shall be allowed accordingly by the representatives of the child or grandchild so advanced as so much received towards their share of the estate, in like manner as if the advancement had been made directly to them.

17. Nothing in this chapter contained shall affect the title of a husband as tenant by the curtesy nor that of a widow as tenant in dower. Tenancy by the curtesy and in dower not affected hereby.

18. Lands held as dower by the widow shall, after her decease, be divided as hereinbefore directed. Lands set off as dower prior to the act of 5th Victoria, chapter 22, shall, after the decease of the widow, be divided as before the passing of that act. Lands held in dower, how divided.

19. All such estate, real or personal, as is not devised in a will, shall be distributed as if the testator had died intestate. Estates not devised to be distrbuted as intestate.

TITLE XXX.

OF TITLES TO REAL PROPERTY BY SPECIAL PROVISIONS OF LAW.

CHAPTER 116.

OF JOINT TENANCY AND TENANCY IN COMMON.

SECTION

1. An estate to two or more persons, unless declared to be in joint tenancy, shall be a tenancy in common, except when vested in them as trustees or executors.

1. Every estate granted or devised to two or more persons in their own right, shall be a tenancy in common, unless expressly declared to be in joint tenancy; but every estate vested in trustees or executors as such shall be held by them in joint tenancy. This section shall apply as well to estates already created or vested as estates hereafter to be granted or devised. An estate to two or more persons, unless declared to be in joint tenancy, shall be a tenancy in common, except when vested in them as trustees or executors.

CHAPTER 117.

OF THE SALE OF LANDS UNDER FORECLOSURE OF MORTGAGES.

SECTION

1. In actions for money secured by mortgage, defendant may pay into court and have a re-conveyance.

2. Proceedings where one or more of the mortgagors absent may be as in cases of absent debtors.

SECTION
3. Notice to be given to such parties as in chancery would be defendants.
4. Sale of mortgaged premises.
5. Re-hearing provided where defendant is an absent debtor.
6. Sheriff's deed, its effect; when recorded shall convey mortgagor's right; writ of possession may issue.
7. Proceeds of sale, how applied.
8. Powers of supreme court to adjust equities, &c.

In actions for money secured by mortgage defendant may pay into court and have a re-conveyance.

1. When actions of ejectment by a mortgagee, or actions on bonds or notes secured by mortgage, or on any covenant in the mortgage, are brought in the supreme court, and no suit touching the same matter is pending in the court of chancery, the person having the right of redemption on appearing as defendant may pay to the plaintiff or bring into court the amount due with costs, and thereupon the court by a rule may compel the plaintiff to reconvey to such defendant the lands mortgaged, and deliver up all writings in his custody relating thereto.

Proceedings where one or more of the mortgagors absent may be as in cases of absent debtors.

2. In case such mortgagor, or any one of several of such mortgagors, be an absent or absconding debtor, a declaration in ejectment or other process may be served upon the tenant, if any, in possession of the lands, and upon any of such defendants who shall not be absent or absconding, and a copy thereof shall also be left at the last place of abode of any of the defendants who may be absent or absconding, and such service if made the usual time limited by law for service of process shall be sufficient to give jurisdiction to the court, and the plaintiff may proceed to final judgment and sale of the lands as hereinafter mentioned; but before such declaration shall be served the same affidavit shall be made and filed in the office of the prothonotary of the county where the declaration is returnable, as is necessary in ordinary cases of proceeding against absent or absconding debtors. In cases under this section it shall not be necessary to wait two terms before going to trial as in other cases against absent or absconding debtors.

Notice to be given to such parties as in chancery would be defendants.

3. In case any persons besides the mortgagor are interested in the lands who would require to be made defendants, if proceedings were had in chancery, then, in addition to the service of process upon the defendant, or proceedings in the second section mentioned where he is an absent or absconding debtor, a notice in writing shall be served on all such persons, their attornies or agents specifying the proceedings that have been or are about to be taken, and requiring them to appear at the supreme court to protect their interests; which notice shall be served the same length of time as is required in notices of trial.

Sale of mortgaged premises.

4. In case the defendant shall neglect to pay the amount found due to the plaintiff by the court, with costs, the court may order the lands mortgaged to be advertised by handbills in the county for at least thirty days, and thereafter to be sold at public auction by the sheriff of the county wherein the lands lie.

Re-hearing provided where defendant is an absent debtor.

5. In case the defendant shall be an absent or absconding debtor, he shall be entitled to a rehearing at any time within three

years after judgment; and the plaintiff, upon obtaining a rule for the sale of the mortgaged lands, shall give security for the re-payment of the sums levied, if judgment should be reversed on such rehearing.

Sheriff's deed, its effect; when recorded shall convey mortgagor's right; writ of possession may issue.

6. The deed shall be executed and delivered by the sheriff to the purchaser, and shall be taken as presumptive evidence of the requisitions of this chapter having been complied with, and on being recorded in the books of registry for the county in which the lands lie, shall be sufficient to convey all the estate and interest of the mortgagor in the lands therein described, and the court may award a writ of possession upon judgment being had.

Proceeds of sale, how applied.

7. The sheriff shall out of the proceeds of the sale pay to the plaintiff the sum due to him, and shall pay over the residue, if any, to such person as the court shall direct.

Powers of supreme court to adjust equities, &c.

8. The supreme court shall have the same powers as are possessed by the court of chancery, in reference to the proceedings in such suits, and for the equitable adjustment of the rights of the different parties interested.

CHAPTER 118.

OF THE SALE OF LANDS TO SATISFY EXECUTION DEBTS.

SECTION

1. Judgments to bind lands so soon as recorded, but shall not be levied till after two years.
2. A beneficial interest in lands held in trust may be taken in execution.
3. Executions as against lands may issue within five years.
4. Execution may be levied upon a part or the whole of any lands as plaintiff shall direct.
5. Subsequent judgment creditors may require prior judgment creditor to levy.
6. In case of neglect the subsequent creditor shall acquire a preference.
7. Lands to be levied upon without appraisement, and advertised thirty days; contents of advertisement.
8. Copies of advertisement to be posted twenty days; sale to the highest bidder.
9. Defendant may, by timely notice, select any particular portion to be first sold.
10. Sheriff's deed; its operation and effect.
11. To be presumptive evidence of conveyance of defendant's title.
12. Where lands are in possession of a tenant the purchaser shall become the landlord.
13. Any surplus money after satisfaction of the execution and expenses, to be paid as the court shall direct.
14. Special provisions applicable to titles made previously to 1841.

Judgments to bind lands so soon as recorded, but shall not be levied till after two years.

1. Judgments recovered in the supreme court shall bind the real estate of the debtor from the time such judgment shall be recorded in the books of registry for the county or district wherein such real estate is situate: but no lands shall be levied upon until two years after such registry.

A beneficial interest in lands held in trust may be

2. The interest of the party beneficially interested in lands held in trust for him, may be taken in execution for the payment

taken in execution.

of his debts in the same manner as if he were seised or possessed of such lands.

Executions as against lands may issue within five years.

3. Execution as against lands may issue at any time within five years from the signing of the judgment without a *scire facias* or leave of the court.

Execution may be levied upon a part or the whole of any lands as plaintiff shall direct.

4. The plaintiff may order execution to be levied on the whole or any portion of the real estate lying within such county or district.

Subsequent judgment creditors may require prior judgment creditor to levy.

5. Where a judgment has been so registered for the period of two years, and no levy has been made on the real estate bound thereby, any judgment creditor whose judgment has been subsequently registered, may, by a written notice, require the prior judgment creditor to levy on the real estate within three months.

In case of neglect the subsequent creditor shall acquire a preference.

6. If the prior judgment creditor shall not levy, the party giving the notice shall acquire a preference over the judgment creditor to whom such notice had been given.

Lands to be levied upon without appraisement, and advertised thirty days; contents of advertisement.

7. The sheriff upon receiving such execution shall, at the expiration of the two years, levy on such lands without appraisement, and shall cause to be inserted, for thirty days next preceding the day of sale, in the royal gazette newspaper, and also, except in the county of Halifax, in any newspaper which may be published in the county or district wherein the lands are situate, an advertisement containing a description of the lands directed to be levied on, stating that such lands have been taken in execution at the suit of the plaintiff against the defendant, the time and place fixed for such sale, and having appended thereto the name of the sheriff and the attorney of the plaintiff.

Copies of advertisement to be posted twenty days; sale to the highest bidder

8. The sheriff after causing copies of such advertisement to be posted up in the most public places of the township or settlement wherein the lands lie, for at least twenty days previous to the time appointed for the sale, shall proceed to sell the same by public auction to the highest bidder.

Defendant may, by timely notice, select any particular portion to be first sold.

9. If the defendant, by notice in writing delivered to the sheriff at least ten days previous to the sale, require that certain portions of the land so advertised be first sold, the sheriff shall cause the same to be first put up for sale, and if a sufficient sum should be realized therefrom to satisfy the execution interest and expenses, no other part of such lands shall be sold, otherwise he shall proceed with the sale of the remainder.

Sheriff's deed; its operation and effect.

10. The sheriff shall deliver to the purchaser a deed of such lands, which shall be sufficient to convey to the purchaser all the interest of the defendant in the lands therein described, subject to prior incumbrances.

To be presumptive evidence of conveyance of defendant's title.

11. The sheriff's deed shall be presumptive evidence of the defendant's title having been thereby conveyed to the purchaser.

Where lands are in possession of a tenant the purchaser shall become the landlord.

12. Where the lands so conveyed shall be in the possession of the tenants of the defendant, the purchaser shall become the landlord, and shall have the like rights and remedies against the tenant as the defendant would have had, and shall be entitled to all rents accruing after such purchase.

13. Where the sum realized by such sale shall be more than sufficient to satisfy the execution and necessary expenses attendant on such levy and sale and interest on the amount of the judgment from the date thereof, the surplus shall be retained by the sheriff, to be paid to such person as may be directed by an order of the supreme court or any judge thereof. Any surplus money after satisfaction of the execution and expenses to be paid as the court shall direct

14. Titles to land made by any sheriff previous to the tenth day of April, one thousand eight hundred and forty one, shall not be invalidated by any irregularity or defect in the proceedings prescribed by statute for the sale of real estate, provided the party shall have been in possession of the land one year at least before such date, and shall have paid the purchase money to the sheriff. Special provisions applicable to titles made previously to 1841

TITLE XXXI.

OF COPYRIGHTS AND PATENTS.

CHAPTER 119.

OF THE LAW OF COPYRIGHT.

SECTION

1. Copyrights of authors, how secured.
2. Penalties for infringing copyrights by importation.
3. Penalties for infringing copyrights by imitation or otherwise.
4. A printed copy of the title to be registered in the provincial secretary's office before publication.
5. Penalty for illegally inserting an entry as registered.
6. Limitation of actions.
7. Printing or publishing a manuscript without the author's consent, actionable.

SECTION

8. Proprietors of protected works required to furnish copies to the legislative libraries.
9. All books may be imported duty free except re-prints of books protected by imperial acts.
10. Duties collected on books protected by imperial acts, how remitted to the proprietor.
11. Fine for improperly importing, selling, or having dutiable reprints, how recovered, how applied; re-prints forfeited, &c
12. Re-prints imported to be stamped.

1. The author of any map, chart, or book printed, or of any print engraved within this province, who has not transferred the copyright thereof, and any other person who has legally acquired the copyright of any such map, chart, book, or print, in order to publish the same, shall have the sole right of publishing such map, chart, book or print, for the term of twenty-one years from the recording the title or the entry thereof in the office of the secretary of the province; and the author of any map, chart, book or print, not published within the province, his executors, administrators or assigns, shall have the sole right of publishing such map, chart, book Copyrights of authors, how secured

or print, for the like term; and if at the expiration of such term, the author of any such map, chart, book or print, shall be living, the same right shall be continued to him for the further period of fourteen years; but he shall cause the title thereof to be a second time recorded and published, within six months before the expiration of the first term of twenty-one years; and no person shall be entitled to any right hereunder unless he shall be resident within the province at the time of his application therefor.

Penalties for infringing copyrights by importation.

2. If any other person, after the recording of the title of any map, chart or book, and publishing the same, within the times limited, shall print or import from any other country copies of such map, chart or book, without the consent of the author and proprietor thereof first had in writing signed in the presence of two witnesses, or expose to sale any such copy of such map, chart or book, such offender shall forfeit all copies of such map, chart, or book, and all sheets, being part of the same, to the author and proprietor thereof, who shall forthwith destroy the same: and every such offender shall forfeit not less than one nor more than five shillings for every sheet found in his possession, to whosoever will sue for the same.

Penalties for infringing copyrights by imitation or otherwise.

3. If after the recording the title, and entering of any print, any person whosoever shall engrave, etch or work, or in any manner copy or sell, in the whole or in part, by copying, varying, adding to or diminishing from the main design, or shall print, re-print, or import for sale, any such print, or any part thereof, without the consent in writing of the proprietor thereof, signed in the presence of two witnesses, or knowing the same to be so printed, re-printed or imported, without the consent of the proprietor, shall publish, sell, or expose the same to sale, such offender shall forfeit the plates on which such print shall be copied, and all sheets of such print, and all parts thereof, to the proprietor of the original, print, who shall forthwith destroy the same, and such offender shall forfeit the sum of twenty shillings for every print found in his custody, either printed, published, or exposed to sale, or otherwise disposed of, to whosoever will sue for the same.

A printed copy of the title to be registered in the provincial secretary's office before publication.

4. No person shall be entitled to benefit under these provisions in cases where any map, chart, book or print, has been already published, unless a printed copy of the title of the same shall, before publication, be deposited in the secretary's office, who shall record the same in a book kept by him for that purpose, in the words following, and give a copy thereof under his hand, to the author or proprietor if required:

"Province of Nova-Scotia.

Be it remembered, that on this ——day of ———, A. D. 18— A. B., of ———, in the said province, has deposited in this office, the title of a map, [*chart, book or print, as the case may be,*] the copyright whereof he claims in the words following: [*here insert the title,*] in conformity with chapter 119 of the revised statutes.

"C. D., Provincial Secretary."

For which certificate the secretary shall receive five shillings, and five shillings for every copy, and the author or proprietor shall cause a copy of such record to be inserted in full length in the title page, or in the page following the title page of such book: and if a map, chart or print, the following words shall be impressed on the face thereof: "entered according to law on the —— day of ———, 18—, by A. B., of ———."

Penalty for illegally inserting an entry as registered.

5. If any person, not having legally acquired the copyright, shall print or publish any map, chart, book or print, and shall insert therein or impress thereon, that the same has been entered according to law, or words purporting the same, he shall forfeit one hundred pounds, to be applied as hereinafter directed.

Limitation of actions.

6. Actions under this chapter shall be commenced within three years from the time when the cause of action accrued.

Printing or publishing a manuscript without the author's consent, actionable.

7. Any person printing or publishing any manuscript, without the consent of the author or proprietor thereof if resident in this province, shall be liable to such author or proprietor for all damage occasioned thereby to be recovered by a special action on the case.

Proprietors of protected works required to furnish copies to the legislative libraries.

8. The proprietor of any map, chart, book or print entitled to the rights and privileges hereby conferred, shall, within six months from the publication thereof, deposit one copy thereof in the library of the legislative council, and one copy in that of the house of assembly.

All books may be imported duty free except reprints of books protected by imperial acts.

9. All books shall be admitted into this province duty free, except re-prints of books the copyright whereof is protected by the acts of the imperial parliament.

Duties collected on books protected by imperial acts, how remitted to the proprietor.

10. On the importation of any reprint of books, bound or in covers, the copyright of which is protected by the acts of the imperial parliament, there shall be paid an *ad valorem* duty of twenty per cent, but this duty shall not extend to newspapers or other regular periodicals containing extracts only from such books. The duty when collected shall be paid into the treasury and remitted by the governor to the commissioners of customs at London, with a detailed account thereof once a year, that the same may be paid to the registered proprietor of the copyright of the books respectively, such re-prints however shall not be liable to duty unless the originals shall have been registered according to the provisions of the imperial act passed in the fifth and sixth years of her majesty's reign, intituled "an act to amend the law of copyright."

Fine for improperly importing, selling or having dutiable re-prints, how recovered, how applied; reprints forfeited, &c.

11. Any person who shall import or bring into the province for sale, use or hire, any reprints hereby made liable to duty without paying the same, or shall knowingly sell, publish or expose to sale, or let to hire, or have in his possession any such reprint, shall be liable to a penalty of five pounds and double the value of every copy of such reprint, which may be sued for before two justices of the peace as an ordinary debt, two pounds thereof to go to the officer who shall sue for the same, and the remainder to be paid into the treasury and remitted for the registered proprietor of the copyright, and every reprint imported contrary to these provisions

shall be forfeited and sold, and one half of the proceeds thereof shall be paid into the treasury to the use of the registered proprietor, and the other to the seizing officer.

Re-prints imported to be stamped.

12. Each reprint on its importation shall be stamped by the officer before whom the entry is made, and the form of the stamp shall be furnished by the receiver general to the several outports if required.

CHAPTER 120.

OF PATENTS FOR USEFUL INVENTIONS.

SECTION

1. Letters patent, how and by whom to be obtained.
2. Patentees of improvements not to use any original invention; original patentee not to use the improved patent.
3. Changes of form or proportions not deemed an improvement.
4. Fees on patents.
5. Copies of letters patent and drawings, how charged for.
6. Oath preparatory to granting letters patent.
7. Descriptions, explanations and models to be deposited in the provincial secretary's office.
8. Patentee's rights may be assigned; assignments to be recorded.
9. Actions for illegally using or selling a patent.
10. Defence how pleaded, and what may be given in evidence.

Letters patent how and by whom to be obtained.

1. Whenever any person resident in the province, and who shall have resided therein for the period of one year, shall apply to the governor alleging that he has discovered any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvement thereon not theretofore known or used, and pray that a patent may be granted him for the same, the governor may direct letters patent to be issued, reciting therein the allegations of such petition and giving a short description of such invention, and shall thereupon grant to the person so applying for the same and his representatives, for a term not exceeding fourteen years, the exclusive right of making, using, and vending the same to others, which letters patent shall be good and available to the grantee, and shall be recorded in the secretary's office in a book for that purpose, and shall then be delivered to the patentee.

Patentees of improvements not to use any original invention; original patentee not to use the improved patent.

2. Where any letters patent shall be obtained by any person for any such invention, and thereafter any other person shall discover any improvement in the principle or process of any such invention, and shall obtain letters patent for the exclusive right of such improvement, the person who shall obtain such new patent shall not make, use, or vend the original invention, nor shall the original patentee make, use, or vend any such improvement.

Changes of form or proportions not deemed an improvement.

3. The simple change of the form or proportions of any machine or composition of matter shall not be deemed a discovery or improvement within the meaning of this chapter.

Fees on patents

4. Persons applying for letters patent, on delivering in their petition, shall pay into the secretary's office twenty shillings, to be applied as other fees payable therein.

Copies of letters patent and drawings how charged for.

5. Any person may receive from the secretary's office any copy of such letters patent, or of the petition whereon the same were granted, or of any paper or drawing connected therewith, on paying six pence a folio, and a reasonable fee for every copy of such drawings.

Oath preparatory to granting letters patent.

6. Before any person shall obtain any letters patent he shall make oath in writing that he verily believes that he is the true inventor or discoverer of the art, machine, or composition of matter, or improvement, for which he solicits letters patent, and that such invention or discovery has not been known in this province or in any other country, which oath shall be delivered in with the petition for such letters patent.

Descriptions explanations, and models to be deposited in the provincial secretary's office.

7. Before any person shall obtain any letters patent he shall deliver into the secretary's office an intelligible and exact description of such invention, and of the manner of using, or process of compounding the same, so as to enable any person skilled in the science of which it is a branch to make and use the same, and in case of any machine, shall deliver a model, and explain the principle by which it may be distinguished from other inventions, and shall accompany the whole with drawings and written references where the case admits of drawings, or with specimens of the ingredients sufficient for the purpose of experiment, where the invention is a composition of matter, which description, signed by such person and attested by two witnesses, shall be filed in the secretary's office, and copies thereof, certified by the provincial secretary, shall be competent evidence in all courts, where matters concerning such letters patent may come in question; but the governor may, upon special grounds being shewn, dispense with the delivery of the model at the secretary's office if he shall deem it right to do so.

Patentee's rights may be assigned, assignments to be recorded.

8. Any patentee may assign all his right in such invention and discovery to any person; and the assignee thereof, having recorded such assignment in the secretary's office, shall stand in the stead of the original patentee as well as regards all his rights as all his liabilities; and the assignee of any such assignee shall also be considered to be in the stead of the original patentee.

Actions for illegally using or selling a patent.

9. Whenever any letters patent shall be granted to any person, and any other person, without the consent of the patentee or his representatives first had in writing, shall make, use or sell the invention or discovery whereof the exclusive right is secured to such patentee, the person so offending shall be answerable to him or his representatives in damages.

Defence how pleaded, and what may be given in evidence.

10. The defendant in such action may plead the general issue, and give this chapter and every special matter in evidence to prove that the specification filed by the patentee does not contain the whole truth relative to the invention or discovery alleged to have been made by him, or contains more than is necessary to produce

the described effect, which concealment or addition shall fully appear to have been fraudulently made, or that the invention or discovery so secured by letters patent was not originally discovered by the patentee, but had been in use or had been described in some public work anterior to the supposed invention or discovery of such patentee, or that such patentee had surreptitiously obtained such letters patent for the invention or discovery of some other person, in either of which cases, upon proof thereof, the verdict shall be found and judgment entered thereon for the defendant with costs, and such letters patent, by the court, shall thereupon be adjudged void.

TITLE XXXII.

CHAPTER 121.

OF THE PREVENTION OF FRAUDS AND PERJURIES.

SECTION

1. Leases and estates in land, not in writing, to be estates at will, except as to leases under three years.
2. Interest in lands assignable only by deed or note in writing.
3. Previous contracts and agreements which require to be in writing and signed by the party chargeable.
4. Contracts for goods above ten pounds not valid unless the buyer accept a part, give earnest money, or a note in writing be signed.
5. Declarations and creations of trust in lands to be in writing; implied and resulting trusts excepted.
6. Assignments of trusts to be in writing.

Leases and estates in land, not in writing, to be estates at will, except as to leases under three years.

1. All leases, estates, or other interests in land not put in writing and signed by the parties creating or making the same, or their agents thereunto authorized by writing, shall have the force of leases or estates at will only, except leases not exceeding the term of three years from the making thereof whereupon the rent reserved shall amount to two-thirds at least of the annual value of the lands demised.

Interest in lands assignable only by deed or note in writing.

2. No interest in land shall be assigned, granted or surrendered, except by act and operation of law, unless it be by deed or note in writing, signed by the party assigning, granting or surrendering the same, or by his agent thereunto authorized by writing.

Previous contracts and agreements which require to be in writing and signed by the party chargeable.

3. No action shall be brought whereby to charge any executor or administrator upon any special promise to answer damages out of his own estate, or whereby to charge a defendant upon any special promise to answer for the debt, default or miscarriage of another

person, or whereby to charge any person upon any agreement made upon consideration of marriage, or upon any contract or sale of lands or any interest therein, or upon any agreement that is not to be performed within the space of one year from the making thereof, unless the agreement upon which the action shall be brought, or some memorandum or note thereof shall be in writing, signed by the party to be charged therewith, or some other person authorized by him.

Contracts for goods above ten pounds not valid unless the buyer accept a part, give earnest money, or a note in writing be signed.

4. No contract for the sale of any goods for the price of ten pounds or upwards shall be good, except the buyer accept part of the goods so sold and actually receive the same, or give something in earnest to bind the bargain or in part of payment, or that some note or memorandum in writing of the bargain be made and signed by the parties to be charged by such contract, or by their agents thereunto authorized.

Declarations and creations of trust in lands to be in writing; implied and resulting trusts excepted

5. No declaration or creation of a trust in lands shall be valid unless it shall be in writing, signed by the party entitled to declare or create the trust, or by his last will; but this provision shall not extend to any trusts in lands arising or resulting by implication or construction of law, or which may be transferred or extinguished by act or operation of law.

Assignments of trusts to be in writing

6. No grant or assignment of any trust shall be valid unless it shall be in writing, signed by the party granting or assigning the same, or by his last will.

TITLE XXXIII.

OF THE DOMESTIC RELATIONS

CHAPTER 122.

OF MARRIAGE AND THE SOLEMNIZATION THEREOF.

SECTION

1. Ordained ministers may solemnize marriage.
2. Penalty for solemnizing marriage without publication of bans or license.
3. Penalty for ministers refusing to publish bans.
4. Licenses to issue as heretofore.
5. Penalties when recovered to be paid into the treasury.

Ordained ministers may solemnize marriage.

1. Every duly ordained minister of any congregation of christians within this province may solemnize marriage, by publication of bans or by license in that behalf to him directed, as herein provided.

Penalty for solemnizing marriage without publica

2. Any person who shall officiate in the solemnization of any marriage, unless notice of such marriage shall have been previously

tion of bans or license.

given publicly during the time of divine service at three several meetings at a place of public worship on two or more Sundays in the place or places where the parties or one of them shall reside, or unless a license shall have been obtained under the hand and seal of the governor, shall forfeit fifty pounds.

Penalty for ministers refusing to publish bans

3. The officiating minister of any congregation at the place where either of the parties desiring to be married shall reside, who shall refuse or neglect to give such notice after having been requested to do so, shall forfeit fifty pounds, and shall be liable to an action for damages at the suit of either of the parties aggrieved, unless in cases where compliance would be inconsistent with the rules and discipline of the church or congregation to which such parties shall respectively belong.

Licenses to issue as heretofore

4. The governor may direct marriage licenses to the duly ordained and settled ministers of any congregation of christians in the forms and with the bonds heretofore used, and authorizing them to solemnize marriages between persons on whose behalf such license shall be required without publication of bans, according to the rites of the church to which the minister shall belong.

Penalties when received to be paid into the treasury.

5. The penalties imposed by this chapter shall, when recovered, be paid into the treasury for the use of the province.

CHAPTER 123.

OF THE REGISTRY OF BIRTHS, MARRIAGES AND DEATHS.

SECTION
1. Registry of births, marriages and deaths by whom and how kept; returns to whom and how made.
SECTION
2. Fines for neglect of duty.

Registry of births, marriages and deaths, by whom and how kept; returns to whom and how made.

1. Every person who may baptize, marry, or perform the burial service, shall keep a registry, shewing the names and ages of the persons whom he shall have baptized and married, or who have been born, or who have died within his cure or belonging to his congregation; a return of which, in duplicate, under his hand, shall be by him forwarded to the clerk of the peace in the county where he shall reside or officiate at the time, within ten days after the first day of January in every year, one of which returns shall be filed in the office of the clerk of the peace as a public record, and the other shall be transmitted by the clerk of the peace to the board of registration and statistics at Halifax. Parents, in case their children shall not be baptized within one year after their birth, shall within that period give notice to the town clerk, who shall

keep a register of such birth similar to that required to be kept by persons who may baptize, and shall make returns thereof to the clerk of the peace, at the times and in the manner hereinbefore prescribed.

Fines for neglect of duty.

2. Any person neglecting to keep the register, or to make the returns as required by this chapter, and any clerk of the peace neglecting to transmit such return as herein directed, shall for each offence forfeit five pounds.

CHAPTER 124.

OF GUARDIANS AND WARDS.

SECTION

1. Guardians may be appointed by the father.
2. Guardians when and how appointed by judge of probate.
3. Power of guardians.
4. Bonds to be given; their conditions.
5. Letters how applied for and when granted.
6. Apprenticeships entered upon not affected hereby.

Guardians may be appointed by the father.

1. The father of unmarried children under the age of twenty-one years may by any instrument in writing, executed in the presence of two witnesses, dispose of the custody and tuition of such children, or of any child who at the time of his father's death may be unborn so long as they shall respectively remain under the age of twenty-one years, or for any shorter period, and the father may make such disposition though he be not himself of the age of twenty-one years.

Guardians when and how appointed by judge of probate.

2. Judges of probate may appoint guardians to minors where none have been appointed by the father, the next of kin to be appointed if any of them shall apply, unless on special cause shewn the judge of probate shall decide to the contrary, otherwise such person as the judge shall think proper; but if the minor be of the age of fourteen years, or having had a guardian appointed by the judge of probate shall arrive at the age of fourteen years, he may appoint his own guardian, and such appointment shall be confirmed by the judge of probate on the guardian giving the security hereinafter specified.

Power of guardians.

3. All guardians appointed under the provisions of this chapter shall have the exclusive control of their wards, and may maintain actions against any person who shall take them away or detain them, and shall recover damages for their benefit. They may take possession of all their property, real and personal, receive the rents and profits thereof, and manage the same during the period of their guardianship, and may maintain all actions at law or in equity in relation thereto as such children could do if of full age.

Bonds to be given; their conditions.

4. Every guardian appointed by the judge of probate, or nominated by the minor and confirmed by him, shall, previous to the letters of guardianship being issued, file in the probate court a bond, with two sureties to be approved of by the judge, and to be taken in his name, with a condition that he will faithfully manage and dispose to the best advantage of the property of the minor committed to his care, that he will not commit waste thereon, and will render a just account thereof to the court of probate when required, and to the ward when he shall come of age.

Letters how applied for and when granted.

5. No letters of guardianship shall be granted by any judge of probate unless application therefor be made by the minor or some near relation of his, or by the executors or administrators of an estate in which the minor is interested; and the judge upon such application may appoint guardians in any suit pending before him for the purposes of such suit without requiring a bond.

Apprenticeships entered upon not affected hereby.

6. The provisions of this chapter shall not affect any apprenticeship which may legally have been entered into by or on behalf of any minor, or by any overseers or commissioners of the poor.

CHAPTER 125.

OF MASTERS, APPRENTICES AND SERVANTS.

SECTION		SECTION	
1	Minors may be bound as apprentices or servants.	9.	Money, &c. paid or allowed by master to be for the apprentice.
2.	Under fourteen years, how bound.	10.	Duty of parents, guardians and overseers respecting children bound out.
3.	Above fourteen, how bound.	11.	Proceedings for misconduct of master.
4.	Indenture to be of two parts, sealed and certified in certain cases.	12.	Hearing, and power of justices to afford redress.
5	Custody of minor's part.	13.	Proceedings where complaint is dismissed.
6.	Overseers of poor may bind out pauper minors.	14.	Appeal for persons aggrieved.
7.	Terms of contract of indenture.	15.	Apprentice absconding or guilty of misconduct, how punished.
8.	Minors how bound by overseers.		

Minors may be bound as apprentices or servants.

1. All children under the age of fourteen years may be bound as apprentices or servants until that age, and all minors above the age of fourteen years, may be bound as apprentices or servants, females to the age of eighteen years or to the time of their marriage, within that age, and males to the age of twenty-one years, in the manner prescribed in this chapter.

Under fourteen years, how bound.

2. Children under the age of fourteen years may be bound by their father, or in case of his death or incompetency, by their mother, or by their legal guardian, and if illegitimate, they may be bound by their mother; and if they have no parent competent to act, and no guardian, they may bind themselves with the approbation of two justices of the peace.

Above fourteen, how bound.

3. Minors above the age of fourteen years may be bound in the same manner, provided that when they are bound by their parent or guardian, the consent of the minor shall be expressed in the indenture, and testified by his signing the same.

Indenture to be of two parts, sealed and certified in certain cases.

4. No minor shall be bound otherwise than by an indenture of two parts, sealed and delivered by both parties; and when made with the approbation of the justices of the peace, their approbation shall be certified in writing, signed by them upon each part of the indenture.

Custody of minor's part.

5. One part of the indenture shall be kept for the use of the minor by his parent or guardian when executed by them respectively, and when made with the approbation of two justices of the peace, it shall be deposited with the town clerk or clerk of the peace, and be safely kept in his office for the use of the minor.

Overseers of poor may bind out pauper minors.

6. The overseers of the poor may bind as apprentices or servants, the minor children of any poor person, who has become chargeable to the district, as having a lawful settlement therein, or who is supported there in whole or in part at the charge of the district, and also all minor children, who are themselves chargeable to the district as having a lawful settlement therein, or as poor persons supported by the district.

Terms of contract of indenture.

7. Such children whether under or above the age of fourteen years may be bound, females to the age of eighteen years, or to the time of their marriage within that age, and males to the age of twenty-one years; and provision shall be made in the contract for teaching such children to read write and cypher, and for such other instruction, benefit and allowance, either within or at the end of the term, as the overseers may think reasonable.

Minors how bound by overseers.

8. No minor shall be bound by the overseers unless by an indenture of two parts, sealed and delivered by the overseers and by the master, one part of which shall be deposited with the town clerk or clerk of the peace, and be safely kept by him for the use of the minor.

Money, &c. paid or allowed by master to be for the apprentice.

9. All considerations of money or other things paid or allowed by the master upon any contract of service or apprenticeship made in pursuance of this chapter, shall be paid or secured to the sole use of the minor thereby bound.

Duty of parents, guardians and overseers, respecting children bound out.

10. Parents and guardians, and overseers shall inquire into the treatment of all children bound by them respectively, or with their approbation, and of all who shall have been bound by their predecessors in office, and defend them from all cruelty, neglect, and breach of contract, on the part of their masters.

Proceedings for misconduct of master.

11. In case of any misconduct or neglect of the master, a complaint may be made in writing by the parents, guardian, or overseers, to any two justices of the peace for the county in which the master resides, setting forth the facts and circumstances of the case, and the justices, after having duly notified the master, shall proceed to hear and determine the same.

Hearing, and

12. After a full hearing of the parties, or of the complainants

power of justices to afford redress.

alone, if the master shall neglect to appear, the justices may order that the minor be discharged from his apprenticeship or service, and give the costs of suit against the master, and may award execution accordingly, and the minor may be thereupon bound out anew.

Proceedings where complaint is dismissed.

13. If the complaint shall not be maintained, the justices shall award costs for the master against the complainants, and shall issue execution accordingly, excepting, that in case of such a complaint by overseers, the justices shall not award costs against them, unless it shall appear that the complaint was made without reasonable cause.

Appeal for persons aggrieved.

14. Any person feeling himself aggrieved by the order of any justices under the three preceding sections, may appeal therefrom to the supreme court at its next term in the county, and such appeal shall be granted and determined in the same manner as in civil suits.

Apprentice absconding or guilty of misconduct, how punished.

15. If any apprentice or servant bound, as in this chapter, shall unlawfully depart from the service of his master, or shall be guilty of any gross misbehavior, or refusal to do his duty, or wilful neglect thereof, any justice of the peace, upon complaint on oath made to him by the master, or by any one on his behalf, may issue his warrant to apprehend the apprentice or servant, and bring him before the same or any other justice; and if the complaint shall be supported, the justice may order the offender to be returned to his master, or may commit him to the common jail for a term not exceeding twenty days, unless sooner discharged by his master.

PART III.

OF COURTS AND JUDICIAL OFFICERS, AND PROCEEDINGS IN SPECIAL CASES.

TITLE XXXIV.

OF COURTS AND JUDICIAL OFFICERS.

CHAPTER 126.

OF THE SUPREME COURT AND ITS OFFICERS.

SECTION

1. Powers of the supreme court.
2. Terms and return days of the supreme court in Halifax.
3. Sittings in other counties when held, &c.
4. Duration of terms or sittings.
5. When a judge shall not arrive the sheriff shall give notice of attendance for the following day.
6. Sittings in Halifax after term, when and how long to continue.
7. Powers of court on last day of sittings; power of extending the sittings.
8. Prothonotary not to part with original papers without a judge's order.
9. Deputy prothonotaries not to give certified copies of papers unless by a judge's order.
10. Statements of fines to be furnished by the prothonotaries on the first day of term, and returns to be made, &c.
11. Calendar of criminal causes and depositions to be sent to the grand jury; indictments when made out.
12. Prothonotaries not bound to issue executions till fees are paid.
13. Commissioners for taking affidavits and recognizances of bail, how appointed.
14. Powers of commissioners.

Powers of the supreme court.

1. The supreme court shall have within this province the same powers as are exercised by the courts of queen's bench, common pleas, and exchequer in England.

Terms and return days of the supreme court in Halifax.

2. The supreme court shall sit three times a year in Halifax, viz: in Easter, Trinity, and Michaelmas terms, which terms shall respectively commence on the first Tuesday of April, the fourth Tuesday of July, and the fourth Tuesday of November, and each term shall continue until all the causes for argument thereat shall have been called, provided that no term shall extend beyond fourteen days; and there shall be two return days in each term, viz: the first and second Tuesdays therein.

Sittings in other counties when held, &c.

3. The supreme court shall sit twice a year in the other counties at the times and places following, viz:

Lunenburg.

At Lunenburg on the Thursday before the third Tuesday of April, and on the third Tuesday of October.

Queens.

At Liverpool on the fourth Tuesday of April and second Tuesday of October.

Shelburne.

At Shelburne on the second Wednesday after the fourth Tuesday of April, and on the second Wednesday after the last Tuesday of September.

Yarmouth.

At Tusket Village on the Tuesday next but one after the fourth Tuesday of April.

At Yarmouth on the last Tuesday of September.

Hants.

At Windsor on the first Tuesday of May and on the third Tuesday of October.

Kings.

At Kentville on the second Tuesday of May and on the second Tuesday of October.

Annapolis.

At Annapolis on the third Tuesday of May and on the first Tuesday of October.

Digby.

At Digby on the fourth Tuesday of May and on the last Tuesday of September.

Cumberland.

At Amherst on the third Tuesday of June and on the first Tuesday of October.

Colchester.

At Truro on the second Tuesday of June and on the second Tuesday, of October.

Pictou.

At Pictou on the first Tuesday of June and on the third Tuesday of October.

Cape Breton.

At Sydney on the first Tuesday of June and on the first Tuesday of October.

Victoria (*after the present year*).

At Baddeck on the second Tuesday of June and on the second Tuesday of October.

Inverness.

At Port Hood on the third Tuesday of June and on the third Tuesday of October.

Richmond.

At Arichat on the fourth Tuesday of June and on the fourth Tuesday of October.

Guysborough.

At Guysborough on the Tuesday next after the fourth Tuesday of June, and on the Tuesday next after the fourth Tuesday of October.

Sydney.

At Antigonishe on the second Tuesday next after the fourth Tuesday of June, and on the second Tuesday next after the fourth Tuesday of October.

In each of these counties there shall be but one return day, viz: the first day of the term.

Duration of terms or sittings.

4. The respective terms or sittings of the supreme court, in the preceding section mentioned, shall continue so long as the business shall require; but the same shall not be continued longer than the saturday before the day hereby appointed for opening the court at the next place to which the judge presiding at such court shall be about to proceed on his circuit, nor longer than the second saturday after the return day of such terms or sittings respectively.

When a judge shall not arrive the sheriff shall give notice of attendance for the following day.

5. In case any judge shall be prevented from arriving at the place on the day appointed for holding the court, the sheriff shall give public notice at the court house that the court will meet on the following day; and the sheriff shall continue to give such notice from day to day for three successive days, unless the judge shall in the meanwhile arrive.

Sittings in Halifax after term, when and how long to continue.

6. There shall be three sittings after term held in each year at Halifax, for the trial of all civil and criminal causes, viz: on the third Tuesday of April, the second Tuesday after the fourth Tuesday of July, and the second Tuesday after the fourth Tuesday of November; and such sittings respectively shall continue until all the causes for trial shall have been called—provided that the sittings after easter and trinity terms respectively shall not extend beyond sixteen days.

Powers of court on last day of sittings; power of extending the sittings.

7. On the last days of the sittings after term the judges shall exercise the same powers as in term. Motions relating to the business of the then sittings to have precedence, and in case of necessity the judges may extend each of the sittings one day more than the day intended to be the last day thereof.

Prothonotary not to part with original papers without a judge's order.

8. The prothonotary shall not permit any original paper to be taken out of his custody without a written order from a judge, which order shall be filed.

Deputy prothonotaries not to give certified copies of papers unless by a judge's order.

9. The deputy prothonotaries shall not transmit original papers to the officers in Halifax without special order from a judge, but shall, when required by any suitor or his attorney, provide certified copies to be used in place of the originals.

Statements of fines to be furnished by the prothonotaries on the first day of term, and returns to be made, &c.

10. On the first day of each term the prothonotary and clerk of the crown shall make out and deliver in open court a correct statement of all fines which shall have been imposed by the court at the preceding term or sittings, together with a statement of all such as have been collected and paid to him by the sheriff since the last preceding term, and he shall annually return to the board of statistics a return in triplicate of all convictions had before, and of all fines and forfeitures imposed by the supreme court, the amounts collected and the appropriation thereof, under a penalty of five pounds.

Calendar of criminal causes and depositions to be sent to the grand jury; indictments when made out.

11. A calendar of the criminal causes shall be sent by the clerk of the crown to the grand jury in each term, together with the depositions taken in each cause, and the names of the different witnesses; and the indictments are not to be made out, except in Halifax, until the grand jury shall so direct.

Prothonotaries not bound to issue executions till fees are paid.

12. The prothonotary shall not be obliged to issue any execution until the fees and costs due him on the judgment are paid.

Commissioners for taking affidavits and recognizances of bail, how appointed.

13. The commissioners for taking affidavits to hold to bail and recognizances of bail in the several counties, shall be appointed by the governor in council.

Powers of commissioners.

14. Such commissioners shall have authority to allow writs of certiorari, and also to take affidavits in causes depending in court, and affidavits for holding to bail, and on which to found writs of attachment, and of summons against absent or absconding debtors, and specially to endorse writs in manner as now practised by judges of the supreme court, and subject to the same rules. They shall have the same power as the judges in relation to the rendering by bail of their principal, and they shall also have power to take the examination of witnesses aged, infirm, or about to leave the province, and to administer oaths to such witnesses.

CHAPTER 127.

OF THE COURT OF CHANCERY.

SECTION
1. Practice in chancery, how regulated.
2. Power of court to make rules.
3. Attachments to what cases restrained.
4. Executions may issue to enforce payment of money.
5. The master of the rolls to be responsible adviser and judge of the court; to sign orders, &c.
6. Conveyances of land under decree.
7. When a party ordered to execute an instrument shall refuse, a master may execute it.
8. Proceedings where some defendants are in, and some out of the province.
9. Witnesses aged, or about to depart the province, may be examined.
10. Oral examinations may be ordered.
11. Powers of masters extraordinary.

Practice in chancery, how regulated.

1. In all proceedings in the court of chancery, not regulated by the practice thereof, the practice of the high court of chancery in England shall be adopted.

2. The court shall make such rules as they may deem expedient for regulating the practice. Power of court to make rules

3. No writ of attachment or other process of contempt shall be necessary in order to have a bill in the court taken *pro confesso* The issuing of process of attachment shall be restrained to cases where it shall be necessary to compel obedience to the order or decree of the court. Attachments, to what causes restrained.

4. For enforcing payment of any sum decreed to be paid, writs of execution similar in form, and having the same effect as those issued out of the supreme court, may be obtained. Executions may issue to enforce payment of money.

5. The master of the rolls, except on appeals from his decisions, and hearings thereon, shall be the responsible adviser and judge of the court, and shall sign all orders and decrees made by him therein, and the signature of the chancellor shall not be necessary for the validity of any orders or decrees not made by himself: but all decrees to be enrolled, shall be signed by the chancellor. The master of the rolls to be responsible adviser and judge of the court; to sign orders, &c.

6. All conveyances of land made in pursuance of any order or decree of the court shall be effectual, when confirmed by the court, for conveying such land, without the persons whose interests are conveyed being made parties thereto. Conveyances of land under decree.

7. When a party to a cause depending before the court shall refuse, after an order has passed therefor to execute or acknowledge an instrument, such instrument may be executed or acknowledged by a master thereof, and when confirmed by the court shall have the same efficacy as if made by the party refusing. When a party ordered to execute an instrument shall refuse, a master may execute it.

8. When there are two or more defendants, one or more of whom are out of the province, then such as are within the jurisdiction of the court may be served with process: and the proceedings and remedies pursued shall be assimilated as nearly as may be to those in like cases in the supreme court. Proceedings where some defendants are in, and some out of the province.

9. Witnesses aged, infirm, or departing from the province, may be examined under an order of the court, and the depositions taken shall be evidence in any cause then pending. Witnesses aged, or about to depart the province may be examined

10. The court may order the oral examination of witnesses. Oral examinations may be ordered.

11. Masters extraordinary shall have power to administer oaths to all persons answering or making affidavits to be used in the court, and shall also act as examiners of the court. Powers of masters extraordinary.

CHAPTER 128.

OF THE COURT OF MARRIAGE AND DIVORCE.

SECTION
1. Of the president and vice president of the court of marriage and divorce.
2. Vice president's duty.
3. Court, how constituted.
4. Jurisdiction of the court.
5. Of the examination of witnesses, and the sentence of the court; its power over costs.
6. Power of the court to enforce its sentence.
7. Rules, orders, &c., how signed.

Of the president and vice president of the court of marriage and divorce.

1. The governor shall be president of the court of marriage and divorce, and shall appoint, by warrant under his hand and seal, the chief justice, the master of the rolls, or any one of the judges of the supreme court, to be vice president thereof.

Vice president's duty.

2. The vice president shall sit as a member of the court when the governor is present, and shall preside in his absence.

Court, how constituted.

3. The court shall consist of the president, vice president, and the members of the executive council: but the vice president and any two members of the council shall constitute a court.

Jurisdiction of the court.

4. The court shall have jurisdiction over all matters relating to prohibited marriages and divorce, and may declare any marriage null and void for impotence, adultery, cruelty, pre-contract or kindred within the degrees prohibited in an act made in the thirty second year of king Henry the eighth, entitled an act concerning pre-contracts, and touching degrees of consanguinity, and whenever a sentence of divorce shall be given the court may pronounce such determination as it shall think fit on the rights of the parties or either of them to curtesy or dower.

Of the examination of witnesses, and the sentence of the court; its power over costs.

5. The court may direct the examination of witnesses orally, and declare, by definitive sentence or otherwise, the marriage between the parties in the suit to be null and void from such time as the court may deem proper, and may allow costs and alimony to the wife during the suit and upon its termination, and may award costs to either of the parties.

Power of the court to enforce its sentence.

6. The court may enforce the performance of any sentence by means of an execution similar to that issued out of the supreme court, and, when any property is sold by virtue of such execution, the proceeds thereof, deducting poundage and expenses, shall be paid into the registry of the court, to be disposed of as the court may direct.

Rules, orders &c. how signed.

7. The rules, orders, process and other proceedings of the court, may be signed by the registrar, and the signature of the president or vice president shall not be necessary unless the court shall otherwise order.

CHAPTER 129.

OF THE COURT OF ESCHEAT.

SECTION

1. Notice of inquest of office, how given.
2. Inquisitions where to be returned; traversable in supreme court.
3. Tenant neglecting to give landlord information of notice served.
4. Escheated lands when to be granted.

Notice of inquest of office, how given.

1. Before any inquest of office shall be made, notice thereof shall be given in the royal gazette, a copy of which notice shall be

fixed at the door of the court house, and in three other public places of the county in which the land is situate, and if any person be living on the lands, a copy of the notice shall also be delivered to him at least three months before the inquest.

Inquisitions where to be returned; traversable in supreme court.

2. One part of every inquisition shall be returned into the office of the surveyor general, and any inquisition may be traversed in the supreme court, having been previously removed thereto by order of a judge.

Tenant neglecting to give landlord information of notice served.

3. If any tenant shall wilfully neglect to give information of the notice to his landlord, in case he shall be within the province, or to his known attorney or agent, in case he shall be absent therefrom, he shall forfeit one hundred pounds, to be recovered by the party injured.

Escheated lands when to be granted.

4. No lands escheated shall be granted to any person before the expiration of one year from the day of the inquest, except to the original owner.

CHAPTER 130.

OF THE PROBATE COURT.

SECTION

1. Judge and registrar, how appointed and sworn.
2. Judge of county where deceased last dwelt, to grant probate, &c.
3. Probate, &c. where granted when deceased lived out of the province.
4. Real estate may be ordered by judge to be divided or set off to the eldest children in succession.
5. Divisions and valuations to be by five sworn freeholders.
6. Plans may be ordered by judge.
7. License for sale, mortgage, or letting of real estate where personal property insufficient to pay debts, &c.
8. License to be in force for one year only.
9. License to be entered and registered; certified copy to be evidence.
10. Security for license to be given by bond.
11. In case the executor, &c. shall not give the security, the judge may appoint another person to act.
12. Undevised real estate, if any, to be sold, first for payment of debts, legacies, &c.
13. Judge empowered to issue compulsory process, and to punish for contempt.
14. Letters *ad colligendum* how granted.
15. Where judge interested to a certain amount the case to be transferred to the next county.

SECTION

16. Judge nor registrar to be of counsel with any party.
17. Registrar to have the charge of books, &c.; temporary registrar, how appointed.
18. Different books to be kept by registrar.
19. Oaths to be subscribed in writing.
20. Wills, how registered.
21. Wills, when and how taken from the office.
22. Decrees to be filed and registered.
23. Letters of guardianship, &c. to be registered.
24. Applications for probate or letters of administration, how made; acts and orders to be in writing.
25. Verbal applications, how made.
26. Applications for filing and recording wills proved out of the province, how made; proceedings thereon.
27. Rights of parties without the province to be reserved in applications for administration, &c.
28. Compulsory process, how directed.
29. Proceedings where executor, &c. required to render an account; citations, how served, their form, &c.
30. Citations on final settlement, to whom directed.
31. Who may serve citations; service, how verified; expense, how borne.
32. All persons interested may contest the final settlement.

SECTION
33. Executors, &c. to produce vouchers; may be examined upon oath; sums under forty shillings, how vouched.
34. Parties may file papers and advocate their own causes.
35. Testimony to prove a will or touching a controversy to be in writing and filed.
36. Wills, how proved where witness distant, absent, or sick.
37. Hearings may be adjourned; auditors appointed.
38. Final settlement and allowance of account, of what parts it shall be conclusive evidence.
39. Costs, how allowed, taxed, and recovered; review of taxation provided.
40. Value of estates as to fees, how estimated in the first instance.
41. Appeals to chancery or supreme court provided; time and manner of appeal; bond when to be filed.
42. Judge to transmit appeal; copies of papers, &c. to the court of appeal.
43. Court of appeal may enforce return of papers on neglect of judge.
44. On special cause shewn appeals may be allowed within six months after the ordinary time has elapsed.
45. Costs may be allowed by the court of appeal, and execution may issue; bonds, how and when to be presented.
46. Feigned issues may be ordered.
47. The court of chancery may order a case for the opinion of the supreme court.
48. Forfeiture for executors' neglect to prove a will.
49. Administration with the will annexed may be granted where the executor refuses to act.
50. An executor may be ordered to give bonds upon a complaint of waste.
51. Administration, to whom granted, and in what order.
52. An administrator of a person dying out of the province applying for administration within it to be preferred.

SECTION
53. A previous executor, &c. may be cited by his successor to account, &c.
54. Administrator to give bonds.
55. Inventory to be filed within three months.
56. Further inventories may be filed.
57. Fine for neglecting to file inventory, how and by whom recoverable.
58. Articles to be omitted from inventory.
59. Warrants of appraisement, when and how issued; appraisers' fees.
60. When property in different places there may be two or more inventories; warrant to be filed with the inventory.
61. Appraiser's oath, before whom to be sworn; certificate to be on the warrant.
62. Executors, &c. to advertise in the royal gazette; accounts to be tested according to form; cases of informal attestation provided against.
63. Executor, &c. a creditor to file account one month before distribution.
64. Naming a debtor executor shall not extinguish a debt.
65. Executor, &c. after eighteen months to pay all debts and make distribution.
66. Estates, when and how declared insolvent; order of insolvency may be pleaded; power of judge to adjust claims on petition; appeals in such cases.
67. Order of distribution; preferential claims, &c.
68. Mortgages and judgments and other claims when not affected by the last section.
69. Notice of sale of real estate by license, how given.
70. Executor may adjourn sale if advisable; notice of adjournment to be given.
71. Affidavit of executor, &c.; evidence of sale.
72. Deeds, &c. to be as effectual as if made by deceased.
73. Commissions to executors, &c., how adjusted.
74. A specific legacy as compensation to an executor, unless renounced, shall be in lieu of commission.
75. Forms to be as in schedule.

Judge and registrar, how appointed and sworn.

1. The judge and registrar of probate in each county, shall be appointed by the governor in council, and hold office during pleasure, and shall be sworn before a judge of the supreme court or the custos of the county.

Judge of county where deceased last dwelt to grant probate, &c.

2. The judge of probate for the county wherein the deceased last dwelt shall have power to grant letters testamentary or letters of administration of his estate.

Probate, &c. where granted when deceased lived out of the province.

3. When the deceased shall die out of the province, the judge of probate for the county wherein any estate of such deceased person may lie, if letters testamentary or letters of administration have not been previously granted within this province, shall have power to grant the same.

Real estate may be ordered by judge to be divided, or set off to the eldest children in succession.

4. The judge of probate may order the real estate of the testator or intestate wherever situate within the province, to be divided. Where such division cannot be made without great prejudice to the whole estate, he may order the whole to the eldest son, and on his refusal, to the other sons successively, and, on their refusal, to the eldest and other daughters in like succession, such son or daughter paying to the other children their shares of the value of such estate, or giving satisfactory security for the payment thereof with six per cent interest thereon. Where there shall be a claim for dower, or the widow shall claim any undivided share or right devised by will, the judge of probate shall have power to order the same to be assigned and set off.

Divisions and valuations to be by five sworn freeholders.

5. All divisions and valuations of real estate under an order of the judge of probate, shall be made by five disinterested freeholders, to be appointed by the judge for that purpose, who shall be sworn to the faithful discharge of their duty. No such valuation or division shall be valid unless three at least of the persons so appointed and sworn shall concur therein, and the judge shall approve thereof.

Plans may be ordered by judge.

6. Where such division is made the judge may, if necessary, order a surveyor to prepare a plan to be filed with the registrar.

License for sale, mortgage, or letting of real estate where personal property insufficient to pay debts, &c.

7. In case the personal estate of the deceased shall be found by the judge on affidavit insufficient for the payment of his debts and legacies, such judge, upon security being given by the administrator or executor, to account for the proceeds of the sale or the sum obtained by mortgaging or leasing the same, may, at his discretion, grant a license for the sale of the whole or such part of the real estate of the deceased as he shall deem necessary, or for the mortgaging or leasing thereof, provided such lease be for a term not exceeding twenty-one years.

License to be in force for one year only.

8. No such license shall be in force more than one year after the granting thereof.

License to be entered and registered; certified copy to be evidence.

9. Every license shall be entered in the registrar's book, and a copy thereof duly certified by the judge or registrar shall be registered in the office of the registrar of deeds for the county or district in which the real estate may lie, and such certified copy, or a copy thereof from the registry certified under the hand of such registrar of deeds, shall be evidence of such license in all courts, without further proof.

Security for license to be given by bond.

10. The security to be given by any executor or administrator before the granting of such license, shall be a bond to the judge of the court of probate in a sufficient penalty with two sureties to be approved by him, the bond to be in the form in the schedule.

In case the executor, &c. shall not give the security the judge may appoint another person to act.

11. In case any executor or administrator shall not give such security within a reasonable time, the judge may, on the application of any person interested, order such executor or administrator having been first duly cited, to give such security within a period in the order to be named; and if such executor or administrator without sufficient cause shall neglect so to do, the judge

may appoint some other person interested in the estate, to act as administrator for the sale of the real estate and appropriation of the proceeds, upon his giving the security required.

Undevised real estate, if any, to be sold first for payment of debts, legacies, &c.

12. When any part of the real estate of the testator has been undevised, and the personal estate shall be insufficient for the payment of debts, legacies and expenses, the undevised real estate shall be first sold, unless it shall appear from the will that a different arrangement of his assets for the payment of his debts or legacies was intended, in which case they shall be applied for that purpose in conformity with the provisions of the will.

Judge empowered to issue compulsory process, and to punish for contempt.

13. The judges of probate shall have power to issue such process as may be necessary for the discharge of the trust reposed in them, and also to issue subpœnas to compel the attendance of witnesses and the production of papers material to any inquiry pending before them. The party refusing or neglecting to obey such process may be punished as in a court of law for a contempt, and all such process shall be executed by the officer to whom it is directed.

Letters *ad colligendum*, how granted.

14. No letters *ad colligendum* shall be granted by the judge without due security being first taken.

When judge interested to a certain amount the case to be transferred to the next county.

15. When the judge of probate shall be interested in the estate of the deceased as heir, legatee, debtor or creditor, to the extent of two hundred pounds and upwards, or as executor or administrator, or when a person so interested, after proceedings have been had before the court of probate, shall be appointed judge thereof, the case shall be transferred to the probate court of the next adjoining county, and shall there be disposed of and settled: and so soon as such estate shall be settled, the judge shall transmit to the court of probate where the deceased last dwelt, a certified copy under his hand and the seal of his court, of his proceedings therein, and such proceedings shall be entered and recorded in the books of registry of the court to which they are so transmitted.

Judge nor registrar to be of counsel with any party.

16. No judge or registrar shall be directly or indirectly employed, or professionally concerned, as counsel, attorney, solicitor, proctor, or advocate, for any party in any matter pending or to be brought before the court of which he is judge or registrar.

Registrar to have the charge of books, &c.; temporary registrar, how appointed.

17. The registrar shall have the care and custody of all papers and books to the probate office belonging, and in case of the death, sickness, or necessary absence of the registrar, the judge may appoint and swear into office some fit person to officiate in his stead until the standing registrar shall be able to attend his duty, or until a new one be duly appointed.

Different books to be kept by registrar.

18. The registrar shall keep a book for the registration of wills, a book for the registration of decrees and orders of sale of real estate, a book of acts or a book containing a short abstract of the proceedings of the court, properly indexed.

Oaths to be subscribed in writing.

19. Every oath administered to an executor or administrator on entering into office shall be subscribed in writing.

Wills, how registered.

20. In the book for the registration of wills all original wills

are to be registered, and all interlineations, alterations, or apparent erasures not noticed in the attestation are to be noted at the foot of the record, so as to be as nearly as possible an exact and literal transcript of the original.

Wills, when and how taken from office.

21. No judge of probate shall permit an original will to be in any case taken out of the province, or to be removed from the office but for the purpose of being produced in the court of chancery or the supreme court, and then only on security being taken for its safe custody and return.

Decrees to be filed and registered.

22. All decrees are to be regularly filed and registered.

Letters of guardianship, &c. to be registered.

23. All letters of guardianship and letters *ad colligendum* are to be registered.

Applications for probate on letters of administration, how made; acts and orders to be in writing.

24. All applications for the probate of wills or letters of administration may be made either verbally or in writing; all other official acts and orders shall be in writing.

Verbal applications, how made.

25. Where such application is verbal it shall be made to the registrar of the court of probate at his office, who shall thereupon enter such application in the act book, and shall, upon such entry being signed by the party making such application, submit the same to the judge for his *fiat* thereon.

Applications for filing and recording wills proved out of the province, how made; proceedings thereon.

26. Whenever application shall be made to a judge of probate for filing and recording a copy of a will proved without the province, the testator having real or personal property within his jurisdiction, he shall order the registrar to give public notice in the royal gazette newspaper at Halifax of the application and of the time and place when the application will be heard.

Rights of parties without the province to be reserved in applications for administration, &c.

27. In all cases of application for letters of administration or probate when the party or any one of several parties entitled to administration or probate is without the province, the judge shall reserve the right of such absent person, but shall proceed notwithstanding.

Compulsory process, how directed.

28. All compulsory process shall be directed to the sheriff or his deputy, or to the coroner.

Proceedings where executor, &c. required to render an account; citations, how served, their form, &c.

29. Upon being required by the judge of probate to render an account, the executor or administrator may apply to the judge for a citation requiring the creditors and next of kin of the deceased, and the legatees if any, to appear before him on a day therein to be specified, and to attend the settlement of such account; such citation shall be served personally on all those to whom it shall be directed living in the county of the judge, at least fifteen days before the return thereof, and upon those living out of the county, or whose residence may be unknown, either personally fifteen days previously, or by publishing the same in the royal gazette at least four weeks before the return thereof. The citation to be in the form in the schedule.

Citations on final settlement, to whom directed.

30. It shall not be necessary to serve any citation preparatory to the final settlement of an estate upon any creditor whose debt shall have been paid, nor upon any legatee or next of kin, unless the judge of probate shall order such service and shall in such order name the parties to be so cited.

Who may serve citations; service how verified; expense, how borne.

31. Any literate person may serve such citation, and an affidavit in writing of the service having been regularly made, by the person serving the same, taken before the judge or registrar or any justice of the peace, and filed in the registrar's office, and specifying the time and place of service, shall be sufficient, the expense of which service shall be borne by the party at whose instance the same was granted or paid out of the estate, as the judge may direct.

All persons interested may contest the final settlement.

32. Any person interested in the estate of the deceased may attend the settlement of such account and contest the same, and may obtain from the judge process to compel the attendance of witnesses.

Executors, &c. to produce vouchers; may be examined upon oath; sums under forty shillings, how vouched.

33. On making his account, every executor or administrator shall produce vouchers for all debts and legacies paid, and for all funeral charges and expenses; and such executor or administrator may be examined upon oath by a master in chancery under an order of the court or by the judge of probate, touching any property or effects of the deceased which have come to his hands or knowledge, and the disposition thereof, and such executor or administrator may be allowed any item of expenditure not exceeding forty shillings, for which no voucher is produced, if such expenditure be supported by his own oath positively to the fact of payment, specifying when and to whom the same was paid, and such oath being uncontradicted.

Parties may file papers and advocate their own causes.

34. It shall not be necessary in any case for a party to employ a proctor or advocate in the court of probate, but every party may prepare and file his own papers, and advocate his own cause therein.

Testimony to prove a will or touching a controversy to be in writing and filed.

35. The testimony adduced before any judge of probate in relation to the proof of any will, or in any controversy before him, shall be reduced to writing and filed.

Wills, how proved when witness distant, absent, or sick

36. When any will shall be offered for probate, and the witnesses live out of the province, or more than thirty miles distant, or by reason of age or sickness are unable to appear and give evidence in court, the deposition of such witnesses in writing, taken before any person duly authorized by the judge of probate, shall have the same force and effect as if such witnesses were present and testified in open court.

Hearings may be adjourned; auditors appointed.

37. Any hearing may be adjourned from time to time as shall be necessary, and the judge may appoint one or more auditors to examine the accounts before him and to make report thereon under oath, subject to his confirmation, and may make a reasonable allowance to such auditors, to be paid out of the estate.

Final settlement and allowance of account, of what facts it shall be conclusive evidence.

38. The final settlement of the account and the allowance thereof by the judge, or upon appeal, shall be conclusive evidence against all creditors, legatees, next of kin of the deceased, and all persons in any way interested in the estate upon whom the citation shall have been served, either personally, or by publication as herein directed, of the following facts:

First.—That the charges made in such account for monies paid to creditors, to legatees, to the next of kin, and for necessary expenses, are correct.

Second.—That such executor or administrator has been charged all the interest for monies received by him and embraced in his account, for which he was legally accountable.

Third.—That the monies stated in such account as collected, were all that were collectable on the debts stated in such accounts at the time of the settlement thereof.

Costs, how allowed, taxed, and recovered; review of taxation provided.

39. The judge shall tax and award such costs as are allowed by law, to be paid by the party against whom the decision may be made in any matter contested before the court, and if against the executor or administrator, to be paid out of his own estate or out of the estate of the deceased, as may be just and proper, which taxation and order shall have the like effect as a judgment in a court of record, and execution may be issued by the judge in the form in the schedule. Any such taxation or order may be reviewed by the court of chancery or the supreme court, or by any judge at chambers, upon notice given to the party in whose favor the taxation and order may be made, without any appeal being entered and perfected, and such order made therein as to such court or judge shall seem just and proper.

Value of estates as to fees, how estimated in the first instance.

40. The value of an estate in reference to the fees payable thereon shall be ascertained in the first instance by the oath of the administrator or executor to his belief of the value thereof, to be regulated however eventually, by the actual amount.

Appeals to chancery or supreme court provided, time and manner of appeal; bond when to be filed.

41. Any person may appeal from any order, sentence, decree, or denial of the judge of probate, to the court of chancery, or to the supreme court at its next sitting in the same county, which courts shall have power to confirm, alter or reverse the same, and the appellant shall within thirty days from the making of such order, sentence, decree or denial, enter his appeal, and file in the registry of the court of probate a statement of the grounds on which the appeal is sought, and also, within ten days thereafter, shall file a bond to the judge, with two sureties to be approved by him, in the penal sum of sixty pounds conditioned for the payment of such costs as may be awarded against him upon such appeal, and such appeal when so perfected shall be a stay of proceedings.

Judge to transmit appeal; copies of papers, &c. to the court of appeal.

42. Upon the appeal being perfected and the fees for making the copies hereafter mentioned being paid, the judge of probate shall immediately transmit to the court in which the appeal is to be heard and determined, a copy of the appeal and of all such papers, documents and testimony as shall be ordered by the court or any judge thereof at chambers, on the subject of the appeal, with a statement of the decision made by him, certified under his hand or that of the registrar.

Court of appeal may enforce return of papers on neglect of judge

43. If upon the appeal having been perfected and the fees allowed in the previous section tendered, the judge of probate shall neglect to transmit the appeal and papers connected therewith to

the court wherein the appeal is to be heard and determined, on due proof thereof the court may proceed to enforce the return by attachment as for a contempt.

On special cause shown appeals may be allowed within six months after the ordinary time has elapsed.

44. The court of chancery, supreme court, or any judge at chambers, upon special cause shewn at any time within six months after the time limited for entering and perfecting an appeal, may allow an appeal upon such terms as may seem just, in which case the same proceedings shall be had as if the appeal had been originally entered in the court of probate.

Costs may be allowed by the court of appeal, and execution may issue; bonds how and when to be prosecuted.

45. The court in which the appeal is heard may direct the costs thereof to be paid personally by the parties against whom such costs shall be awarded, or out of the estate which may be the subject of appeal. The payment of the costs may be enforced against the appellant by execution or suit on the bond, and against other parties by execution, but no such suit on the bond shall be commenced without the order of the court of appeal or a judge thereof.

Feigned issues may be ordered.

46. The court of appeal when any matter of fact shall arise may, if they think fit, order a feigned issue to be made up, and prescribe the manner of making the same, and direct the county in which the same shall be tried, and shall have power to grant new trials thereof, and to order by whom, and in what manner the costs attending the determination of the issue shall be paid: the final determination of such issue shall be conclusive as to the facts therein controverted.

The court of chancery may order a case for the opinion of the supreme court.

47. When the court of chancery shall be the court of appeal, and a question of law shall arise, the court may order a case to be stated for the opinion of the supreme court, and may make such order as to the costs attending the determination thereof as it shall deem proper. The judges of the supreme court after the case has been fully argued, shall certify their opinion thereupon to the court of chancery.

Forfeiture for executors' neglect to prove a will.

48. Any executor knowing of his being named as such, and neglecting without sufficient reason to cause the will to be proved and recorded in the probate court of the proper county, or to present such will and declare his refusal of the executorship, shall forfeit, after the lapse of the first month, five pounds for every month he shall neglect his duty therein, which may be recovered to his own use by any person having an interest in the estate of the deceased in an action of debt.

Administration with the will annexed may be granted where executor refuses to act.

49. Upon the refusal of the executor to accept the trust, the judge of probate shall commit administration of the estate with the will annexed to those who would have been entitled to the administration thereof, if the deceased had died intestate.

An executor may be ordered to give bonds upon a complaint of waste.

50. The court of chancery or court of probate may, if they shall think fit, upon summary application and upon due proof that the executor is wasting the estate, order the executor to give security for the performance of his duty: and, if he shall not obey such order, shall cancel his authority, and the court of probate

shall thereupon appoint another executor who shall have full authority to proceed with the settlement of the estate.

Administration, to whom granted, and in what order.

51. Administration of an intestate estate shall be granted to some one or more of the persons hereinafter mentioned, and they shall respectively be entitled thereto in the following order:

First.—The widow or next of kin, or both, as the judge of probate shall think fit, and if they do not voluntarily, either take or renounce administration, they shall, if resident within the county, be cited by the judge for that purpose.

Secondly.—If the persons so entitled shall fail without sufficient cause, to take out administration, within thirty days after the decease of the intestate, the judge of probate shall commit it to one or more of the principal creditors, if competent and willing to undertake the trust, or to any other person on the application of one or more of the creditors duly proved to be such, as he shall think fit.

Thirdly.—If the deceased were a married woman, administration of her estate shall be granted to her husband, if willing to undertake the same, unless she shall by force of a marriage settlement, or other lawful power, have made some testamentary disposition of her separate estate, or some other provision which shall render it necessary or proper to appoint some other person to administer her estate.

An administrator of a person dying out of the province applying for administration within it to be preferred.

52. When administration of the estate of any person dying out of the province shall have been granted in the place where the deceased was last domiciled out of the province, and the person to whom the same was granted shall apply to have administration of such part of the estate as may be within the province, he shall be preferably entitled thereto, and the administration to him granted by the judge of probate shall supersede any other administration thereof.

A previous executor, &c. may be cited by his successor to account, &c.

53. When the authority of an executor or administrator shall cease he may be cited to account before a judge of probate, at the instance of the person succeeding to the administration of the estate.

Administrator to give bonds.

54. Every administrator shall, before entering on the execution of his trust, give bond with two sureties to be approved of by the judge, in such sum as he shall order, and in the form in the annexed schedule.

Inventory to be filed within three months.

55. The executor or administrator to whom letters testamentary or letters of administration shall have been granted, shall within three months thereafter, unless the court on petition allow further time therefor, exhibit and file in the registrar's office upon oath, a full and true inventory of the real and personal estate of the deceased, which shall have come to his possession or knowledge.

Further inventories may be filed.

56. If any real or personal estate of the deceased shall come to the possession or knowledge of the executor or administrator after he shall have filed such inventory, he shall within a reasonable time thereafter, file in the registrar's office a further inventory of the same upon oath.

Fine for neglecting to file inventory, how and by whom recoverable.

57. Any executor or administrator neglecting to file such inventory after having been duly cited to file the same, shall forfeit five pounds for each month's neglect; to be recovered by any person having an interest in the estate of the deceased, in an action of debt.

Articles to be omitted from inventory.

58. In making such inventory, the following articles shall be omitted, and shall not be considered as assets, nor be administered as such, notwithstanding the estate of the deceased should be insolvent, viz:

First.—All the paraphernalia and articles of apparel or ornament of the widow, according to the degree and estate of her husband, and also the apparel of the minor children.

Secondly.—The wearing apparel of the deceased not exceeding ten pounds in value, which shall be distributed at the discretion of the executor or administrator, among the family of the deceased.

Thirdly.—Such provisions and other articles as shall be necessary for the reasonable sustenance of the widow, if any, and also of the family of the deceased, for ninety days after his death.

Warrants of appraisement, when and how issued; appraisers' fees.

59. The judge on granting letters of administration, or letters testamentary, and as often afterwards as may become necessary or advisable, shall, by a warrant of appraisement, appoint two or more disinterested persons to estimate and appraise all the real and personal estate of the testator or intestate; and such appraisers shall be entitled to receive a reasonable compensation for their services for the time they may be actually employed, not exceeding ten shillings for each person per day.

When property in different places there may be two or more inventories; warrant to be filed with the inventory.

60. When appraisers are so appointed, the inventory shall be made by the executor or administrator with the aid of such appraisers; and when property shall be in different and distinct places, two or more inventories may be made, and every such warrant of appraisement shall be returned and filed in the registry of probate with the inventory.

Appraiser's oath, before whom to be sworn; certificate to be on the warrant.

61. Before proceeding to make the appraisement, the appraisers shall be sworn by the judge or registrar or a justice of the peace truly and impartially to appraise the property which may be exhibited to them according to the best of their knowledge and ability; the taking of the oath shall be certified on the warrant of appraisement by the person administering the same.

Executors, &c to advertise in the royal gazette; accounts to be attested according to form; cases of informal attestation provided against.

62. Every executor or administrator, previous to the payment of debts or distribution of the estate of the deceased, shall, by advertisement in the royal gazette newspaper, in all cases where the estate shall be under two hundred pounds for one month, and in other cases for six months, call on all persons who have any demands upon the estate of the deceased, to exhibit such demands within one year from the date of the advertisement,—all which demands when exhibited shall be attested to by the party, or in his absence from the province by his agent, before the judge or registrar or a justice of the peace, and the affidavit shall be in the form in the annexed schedule, but no account shall be rejected by a

judge in his final decree for any mere informality in the same, or the attestation thereof, unless he shall be satisfied that the party claiming to be a creditor shall have had notice of such informality.

Executor &c. a creditor to file account one month before distribution.

63. When the executor or administrator shall be a creditor of the estate, he shall file in the office of the registrar at least one month before the distribution of the estate, a true and correct account of all dealings between the deceased and himself, verified by affidavit in the form in the annexed schedule.

Naming a debtor executor shall not extinguish a debt.

64. The naming of any person executor in a will shall not operate as a discharge of any claim which the testator had against him, but such claim shall be included as part of the estate of the deceased in the inventory, and such executor shall be liable for the same as for so much money assets of the estate in his hands at the time when such debt or demand shall be due, and shall apply and distribute the same as part of the personal estate of the testator.

Executor, &c. after eighteen months to pay all debts and make distribution.

65. Every executor or administrator, at the expiration of eighteen months from the date of the letters testamentary or letters of administration, advertisement having been made as hereinbefore prescribed, shall pay all such legal and just claims as shall then be exhibited, so far as the estate of the deceased in his hands will enable him; and shall make such distribution of the surplus as directed by the will of the deceased or by this chapter.

Estates, when and how declared insolvent; order of insolvency may be pleaded; power of judge to adjust claims on petition; appeals in such cases.

66. Any executor or administrator may make oath before the judge of probate who has granted administration of the estate, that he believes the same to be insolvent, and the judge may, if he shall think fit, by an order for that purpose, declare the estate insolvent, and the executor may plead such order in bar of any legal proceedings instituted against such executor or administrator for any cause of action accruing in right of the deceased, and judgment shall thereupon be given in favor of such executor or administrator. On the petition of any creditor or person interested in the insolvent estate, the judge of probate may proceed to adjust the claims of all parties interested therein, and to settle the estate; and where the judge shall decide against any creditor in respect of any controverted claims, the creditor may appeal to the supreme court in like manner as by this chapter is provided in respect to appeals from other decisions of the judge of probate.

Order of distribution; preferential claims, &c.

67. In the settlement and distribution of the insolvent estate of any deceased person, the whole of the real and personal estate remaining after payment of the funeral charges, the necessary medical and other attendance on him during his last illness, and the expenses attendant on the settlement of the estate, shall be distributed among those creditors who shall have rendered their accounts duly attested, within the period before prescribed, in the following manner.

First.—Domestic and farm servants and rent, to be paid in full when not more than a years' wages or rent is due, the excess to be on the same footing as other claims.

Secondly.—All other creditors to be paid in proportion to the amount of their respective debts.

Mortgages and judgments and other claims when not affected by the last section.

68. Nothing in the preceding section contained shall affect debts due on mortgages of real or personal estate or on judgments registered in the lifetime of the deceased person so far as the value of the property so mortgaged or lands bound by such judgment shall extend and no more, leaving the mortgagee or judgment creditor at liberty to claim as any other creditor for any balance that may remain due to him after the value of such property or lands shall have been realized, or as affecting the widow's dower in real estate, or to prevent any creditor who may not have exhibited his attested account as before prescribed, from recovering his demands against the estate of any deceased person to such amount as may remain in the hands of the executor or administrator for distribution after the settlement of the estate, nor to affect mortgages duly executed and recorded, and judgments docketed and duly recorded, before the nineteenth day of March, one thousand eight hundred and forty-two.

Notice of sale of real estate by license, how given.

69. Where the executor or administrator shall have obtained a license for the sale of the real estate of the deceased, he shall give public notice of the time and place thereof by advertising the same in the royal gazette at Halifax, and by posting up notices thereof in the township or settlement wherein the lands lie for thirty days previous thereto, and shall proceed to sell the same by public auction at the time and place named in the advertisement.

Executor may adjourn sale if advisable; notice of adjournment to be given.

70. Where the executor at the time appointed for the sale shall deem it for the interest of all persons concerned therein that the sale should be postponed, he may adjourn it for any time not exceeding thirty days, and shall give notice of such adjourned sale by posting up notices thereof.

Affidavit of executor, &c., evidence of sale.

71. The affidavit of the executor or administrator, made before a judge or registrar of probate, and filed in the registry within one year after the sale, shall be admitted as evidence of the time, place and manner of the advertisement and notices.

Deeds, &c. to be as effectual as if made by deceased.

72. All deeds of conveyance, mortgages or leases, made pursuant to the license, shall have the same effect as if made by the deceased.

Commissions to executors, &c., how adjusted.

73. In the settlement of any estate, the executors or administrators may be allowed over and above all such actual and necessary expenses as may appear just and reasonable, a commission not exceeding five per cent. on the amount received by them, and the court further may apportion such commission among the executors or administrators of any estate as may appear just and proper, according to the labor bestowed, or responsibility incurred by them respectively.

A specific legacy as compensation to an executor, unless renounced, shall be in lieu of commission.

74. When any provision shall be made by any will for specific compensation to an executor, the same shall be deemed a full satisfaction for his services in lieu of any commission or his share thereof, unless such executor by declaration under his hand filed in the court of probate, shall renounce all claim to such specific legacy.

75. The forms in the annexed schedule shall be observed as near as may be in the court of probate. Forms to be as in schedule.

SCHEDULE.

Form of affidavit to be annexed to any account or claim rendered by a creditor to an executor or administrator.

A. B. of ———, maketh oath and saith, that the foregoing paper writing doth contain a true and correct account of his demand against the estate of ———, deceased, that all the credits to which the deceased was honestly and justly entitled, so far as deponent believes, have been given on said account; and that the balance of ——— is justly and truly owing to deponent.

Sworn before me, at ———, this —— day of ———.

Citation.

Nova Scotia.

To A. B. of ———, in the county of ———.

Greeting:

Whereas, A. B., executor [*or administrator, or other person interested as the case may be,*] hath prayed that you may appear and [*here state in short forms the object,*] you are therefore required to appear before me at a court of probate, to be held at ———, within and for the said county, on the —— day of —— next, to [*here state in short forms the object.*]

Given under my hand and seal of the said court, this —— day of ———, 18—.

C. D., judge of probate

E. F., registrar of probate.

Attachment.

Probate court.

County of ———, ss.

To the sheriff of ———.

Greeting:

You are hereby required to attach by his body, if found within your bailiwick, and him safely keep, so that you may have his body before me at my office in ———, on the —— day of ——— next coming, to answer concerning a contempt lately by him committed in neglecting to appear before me pursuant to a subpœna issued in that behalf, [*or in case it may be for refusing to testify after appearing*, for refusing to testify before me] in a certain matter lately pending before me as a judge of probate for said county; and have then there this writ.

Given under my hand this —— day of ———, 18—.

C. D., judge of probate.

E. F., registrar.

Execution.

Probate court.
County of ———, ss.
To the sheriff of the said county of ———.
Greeting:

You are hereby required [*or in case it be an alias execution* as before,] to levy of the goods and chattels of ———, within your bailiwick, the sum of ———, for costs awarded in favor of ———, in a certain proceeding lately had before me as judge of probate in and for the said county, and have that money before me at my office in ———, within thirty days from the date hereof, to be rendered to the said ———, and for want of such goods and chattels whereon to levy you will take the body of the said ———, and him safely keep until the said sum and your costs of levying this execution be paid, and make return hereof within thirty days from the date hereof.

Given under my hand this —— day of ———, 18—.
C. D., judge of probate.

E. F., registrar.

Warrant of appraisement.

Nova Scotia, county of ———, ss.
To A. B., &c.
Greeting:

You are hereby appointed and empowered, to take an inventory of all the real estate, goods, chattels and credits, of which ———, late of ———, in the county aforesaid died seised or possessed within the province, and according to your best skill and judgment truly to appraise the same, which, when completed, you are to deliver to the executor or administrator of the said deceased, to be returned together with this warrant, in three months from the date hereof.

Given under my hand this —— day of ———, 18—.
S. S. C. D., judge of probate.

The above named appraisers personally appeared before me and made oath that they would faithfully and impartially perform the services to which they are appointed by the above warrant.

Bond on appeal.

(The bond to be taken for ——— pounds, payable to the judge of probate in the same manner as administration bonds, and conditioned as follows:)

Whereas the above bounden ——— hath appealed from the decision of the judge of probate, made in a certain matter now pending before the said judge. Now the condition of this obligation is such that if the said ——— shall well and truly pay such costs arising from such appeal, and to such person as the court of appeal may

order and direct, then this obligation to be void, otherwise to remain in full force.

Signed, sealed and delivered, }
in the presence of ———. }

Administration bond.

Know all men by these presents, that we, A.B., C.D., and E.F., all of ———, in the county of ———, are held and firmly bound unto ——, judge of probate for the county of ———, in the sum of ———, to paid to him or his successors in office, for which payment we bind ourselves, our and every of our heirs, executors and administrators, jointly and severally by these presents, sealed with our seals, dated this —— day of ———, 18—.

The condition of this obligation is such, that if the above bounden A.B., administrator of the goods and effects of ———, deceased, do make a true inventory of the goods and effects of the deceased which have or shall come to the possession or knowledge of the said A. B., and the same do exhibit into the registry of the court of probate for the county of ———, on or before the —— day of ——— next ensuing; and the same goods and effects, and all other the goods and effects of the deceased, at the time of his death or which at any time after shall come to the possession or knowledge of the said A. B., do administer according to law, and further do make a true account of his administration, on or before the —— day of ———, in the year of our Lord one thousand eight hundred and ———; and all the residue of the said goods and effects which shall be found remaining upon the said administrator's account, the same being first examined and allowed by the judge of the said court, shall deliver and pay unto such persons respectively as the said judge by his decree shall appoint: and if the said A. B., administrator, shall perform all orders and decrees made by the court, touching the goods and effects of the deceased; and if it shall hereafter appear that any last will was made by the deceased, and the same be proved and allowed by the court, then if the above bounden A. B., being thereunto required, do deliver the said letters of administration to the said judge, or his successor in office, then this obligation to be void.

Signed, sealed, and delivered }
in the presence of ———. }

Bond on sale of real estate.

Know all men by these presents that we [*as in administration bond.*]

Whereas, license has been granted by the above named judge of probate to the above bounden executor of the last will and testament [*or administrator of all and singular the goods, chattles, credits and estate, as the case may be,*] of ———, deceased, to to sell [*or lease or mortgage, as the case may be,*] the real estate of the said deceased for payment of his debts and legacies.

Now the condition of this obligation is such, that if the said A. B. executor [*or administrator*] as aforesaid, shall faithfully apply all all monies arising from the sale [*lease or mortgage*] of any of the real estate of the said deceased, or otherwise from the rents and profits thereof, in payment of the debts or legacies of the deceased, agreeably to law, and shall truly account for the same in his administration account, before the court of probate for the county of ——— or other court of competent authority in that behalf; and shall pay any surplus monies which may be found remaining in his hands upon such accounting unto such person as the court of probate for the said county of ——— or other court of competent authority in that behalf shall by decree appoint, then this obligation to be void.

Signed, sealed and delivered)
in the presence of ———.)

CHAPTER 131.

OF THE JURISDICTION OF JUSTICES OF THE PEACE IN CIVIL CASES.

SECTION

1. Jurisdiction of a single justice, £3; of two justices, £10; no power to sue executors, &c.; jury in cases over £5; account or note to be filed.
4. Return of writ, how made by constable.
5. Affidavit of service required where defendant does not appear.
6. No arrest by capias for a debt under twenty shillings, nor for a debt less than five pounds unless under a special affidavit.
7. Females or minors not to be arrested on capias.
8. Persons arrested to be admitted to bail.
9. Causes to be tried between 10 a. m. and 6 p. m.
10. Causes may be continued by justices if necessary.
11. Jury, how summoned.
12. Fine for juror not attending.
13. Jurors, how sworn; proceedings until verdict.
14. Challenges may be made; jury, how filled up.
15. Proof to be on oath, where action not confessed.
16. Plaintiff's proof confined to his statement filed.
17. Defendant before trial to file his set off, and his proof to be confined thereto.
18. If defendant prove a set off under ten pounds and less, or equal to or above plaintiff's demand as proved, there shall be judgment accordingly.

SECTION

2. Writs to be directed to and served by constables.
3. A copy of summons to be delivered defendant five days before the return.
19. If defendant tender the amount due before suit, and pay in the same, he shall have judgment with costs.
20. The successful party to have costs.
21. Execution, how issued where the justice who tried the cause is dead, absent, or has resigned; where one of the justices dead, &c
22. Return of executions.
23. Executions not to issue after one year from judgment, except in certain special cases.
24. Duty of constable in levying execution on personal property.
25. Sale, how conducted; return of execution; money to whom payable; sale may be adjourned for want of buyers; goods unsold to be returned.
26. Constables not to purchase.
27. Constable for want of goods to commit the party, unless otherwise directed.
28. Appeal and manner of proceeding thereon.
29. Justice to return all papers in the cause to the prothonotary, unless by consent of parties in writing.
30. Fine for constable neglecting to return writ of summons.
31. Fine and proceedings where constable neglects to return a writ of execution.

Jurisdiction of a single justice, £5; of two justices, £10; no power to sue executors, &c.; jury in cases over £5; account or note to be filed.

1. In actions for debt, where the whole dealing or cause of action does not exceed three pounds, one justice, and where the whole dealing or cause of action exceeds three pounds and does not exceed ten pounds, two justices of the county wherein the defendant resides or wherein the debt was contracted, shall have jurisdiction; but justices shall have no power to sue executors or administrators. When the whole cause of action exceeds five pounds and does not exceed ten pounds, either party may obtain a jury by applying to the justices therefor at least two days before the return day of the process. No justice shall issue any writ of summons or capias unless the party applying therefor shall file a statement in writing containing the particulars of his cause of action, or the promissory note or other instrument on which he is suing, a copy of which statement, note, or other instrument shall be furnished to the defendant by the justice, if required. Where final judgment shall have passed thereon, the statement, note, or other instrument shall be retained by the justice, and in cases of appeal shall be transmitted with the other papers in the cause.

Writs to be directed to and served by constables.

2. All writs shall be directed to, and be served and executed by, a constable of the county wherein the writ is made returnable.

A copy of summons to be delivered five days before the return.

3. A copy of the summons or capias shall be delivered to the defendant at least five days before the return day thereof, and the constable serving the same shall, if required, explain such writ to the defendant.

Return of writ, how made by constable.

4. The constable shall make return of such writ, with his doings thereon, on or before the return day, and if required by the justice, shall make an affidavit of the manner in which he has served the same.

Affidavit of service required where defendant does not appear.

5. When the defendant does not personally appear, the justice shall not proceed in the cause unless the constable shall make an affidavit "that he has delivered a copy of such writ to the defendant," and if by the defendant at the time of service required so to do, "that he explained the contents thereof to the defendant."

No arrest by capias for a debt under twenty shillings, nor for a debt less than five pounds unless under a special affidavit.

6. No person shall be arrested for a debt under twenty shillings, nor for any debt less than five pounds, unless the affidavit contain an allegation that the plaintiff verily believes that unless such writ be granted the debt will be lost.

Females or minors not to be arrested on capias.

7. No female or minor shall be arrested on a writ of capias issued by a justice.

Persons arrested to be admitted to bail.

8. Any person arrested on any such writ shall be admitted to bail by the officer in the same manner as in other cases of arrest.

Causes to be tried between 10 a. m. and 6 p. m.

9. All causes shall be tried between the hours of ten o'clock in the forenoon and six o'clock in the afternoon of the day on which process is made returnable.

Causes may be continued by justices if necessary

10. When, from the number of causes to be tried, a cause cannot be heard and determined within the time specified in the preceding section, or when sufficient cause on affidavit is shewn, the justice may continue the cause till some further time, not exceeding eight days, of which continuance he shall notify the parties plaintiff and defendant.

Jury, how summoned.

11. Where a jury has been demanded, the justice shall issue a venire, directed to a constable not being of kin to either party or interested in the suit, commanding him to summon a jury of three persons qualified to act as petit jurors from the township or place wherein the action is to be tried, to appear at the time and place therein to be specified.

Fine for juror not attending.

12. Any juror so summoned, who shall neglect to appear and shall not shew to the justices some sufficient excuse therefor, shall forfeit five shillings, to be levied by warrant of distress upon his goods, such warrant to be issued by the justices upon the oath of the officer that he had summoned the juror at least twenty-four hours before the time appointed for his appearance.

Jurors, how sworn; proceedings until verdict.

13. The jury shall be sworn by one of the justices in open court, well and truly to try the cause according to the evidence; and the evidence of the witnesses produced shall be made and delivered in the hearing and presence of the justices and jury so impanelled: and having heard the directions of the justices, the jury shall, if they require it, retire to some convenient room, under the charge of some constable, or in case no constable shall be in attendance, such other person as shall by such justices be appointed for that purpose, who shall be sworn "to keep such jury together without meat or drink, and not to suffer any one to speak to them nor to speak to them himself, without leave of the justices;" and when agreed, the jury shall return their verdict, whereupon judgment shall be given accordingly.

Challenges may be made; jury, how filled up.

14. Either party may challenge for cause any of the jurors, and if the challenge be allowed, or any of the jurors do not appear, the justices shall direct the constable forthwith to summon any person duly qualified and not liable to be challenged, to fill up the jury.

Proof to be on oath where action not confessed.

15. In all cases under this chapter where the plaintiff's demand or cause of action is not confessed by the defendant in person, or in writing under his hand, the same shall be established, whether the defendant appear or not, on the oath of one witness.

Plaintiff's proof confined to his statement filed.

16. The plaintiff shall not be permitted to give evidence of any thing not contained in the statement filed by him previous to the issue of the writ.

Defendant before trial to file his set off, and his proof to be confined thereto.

17. The defendant before the trial of the cause shall file with the justice a statement of the particulars of any set-off he may have, and he shall be precluded from giving in evidence by way of set-off anything not contained in the statement. The justice, if required, shall furnish the plaintiff with a copy thereof.

If defendant prove a set off under ten pounds and less, or equal to or above plaintiff's demand as proved, there shall be judgment accordingly.

18. Whenever the defendant shall establish a set off equal to or exceeding the demand proved by the plaintiff, or any other sufficient defence thereto, the defendant shall have judgment; if the set off be less than the plaintiff's demand, the plaintiff shall have judgment for the residue only with costs: and if the set off exceeds the plaintiff's demand as proved, and the whole amount of such set off do not exceed ten pounds, the defendant shall in that case have judgment for such excess.

19. When it shall appear that the defendant had tendered the amount due before suit brought, such defendant may before the trial pay the same into the hands of the justice, and shall thereupon be entitled to his costs, which shall be deducted by the justice out of the money so paid into his hands. If defendant tender the amount due before suit, and pay in the same, he shall have judgment with costs.

20. The party succeeding shall in all cases be entitled to his costs. The successful party to have costs.

21. Where judgment has been awarded, the justice or justices before whom the suit was tried, and in case of the death, resignation, or removal of such justice or justices, any other justice, and when such cause has been tried before two justices, in case of the death, resignation, or removal of one of them, the remaining justice shall issue execution against the goods and chattels, and for want thereof against the body of such person, for the sum awarded, with costs. Execution, how issued where the justice who tried the cause is dead, absent, or has resigned; where one of the justices dead, &c.

22. All executions shall be made returnable in thirty days. Return of executions.

23. No execution shall issue after the lapse of one year from the time of giving judgment, unless it shall be made to appear by affidavit that a balance is still due thereon, and that due diligence has been used to levy the same, in which case further executions may issue for the balance at any time within four years after the rendering of the judgment. Executions not to issue after one year from judgment, except in certain special cases.

24. The constable to whom the execution shall be delivered shall proceed forthwith to levy for the sum due, and shall take sufficient goods of the party against whom the execution is issued to satisfy the same, and shall cause an advertisement describing the goods taken, and specifying the time and place of the sale, to be posted up in two or more public places in the township or place wherein such sale is to be held, at least five days before the time appointed for such sale. Duty of constable in levying execution on personal property.

25. At the time and place so appointed, if the amount remain unpaid, the officer acting therein shall sell the goods at auction to the highest bidder, and shall forthwith return the execution with his doings thereon, to the justice who issued the same, and pay the debt and costs levied thereon to the plaintiff or his agent duly authorized after deducting the fees of levy and sale, returning the surplus, if any, to the person against whom the execution issued or his agent duly authorized, or in his absence to the justice for the use of such party; and if the goods shall remain unsold for want of buyers the constable may adjourn the sale for any period not less than twenty-four hours nor more than six days, and may in such case proceed to advertise anew, and sell the same after the return day of the execution: immediately after such sale he shall make return and payment as above specified: and whatever goods remain unsold after satisfying the execution and expenses, shall be restored. Sale, how conducted; return of execution; money to whom payable; sale may be adjourned for want of buyers; goods unsold to be returned.

26. No constable shall, directly or indirectly, purchase any goods at any sale made by him under this chapter, and every such purchase shall be absolutely void. Constables not to purchase.

Constable for want of goods to commit the party, unless otherwise directed.

27. For want of goods whereon to levy, the constable, unless otherwise directed, shall commit the person against whom the same is directed to jail.

Appeal, and manner of proceeding thereon.

28. In case of an appeal the appellant, or in his absence his agent, before the appeal shall be allowed, shall make an affidavit in writing that he is dissatisfied with the judgment and feels aggrieved thereby, and that such appeal is not prosecuted solely for the purpose of delay, and shall file the same with the justice; and the party so appealing, or in his absence his agent, shall, within two days thereafter, enter into a bond with two sureties in a penalty double the amount of the judgment, with a condition that the appellant shall enter and prosecute his appeal and perform the judgment of the court, or shall, before the first day of the term of such court, pay the amount of the judgment together with all costs thereon subsequently accruing; and such justice, or if the action be before two justices then the first one applied to therein, if thereto required, shall prepare the affidavit and appeal bond, which appeal, if applied for at any time within ten days after judgment in such cause, such justice or justices shall be bound to grant, returnable to the next term of the supreme court in the county in which the trial was had, and execution if not issued when the appeal is applied for, and the appellant or his agent shall make or be ready to make the affidavit, shall be stayed; but in such case, if the defendant have given bail, his bail shall continue liable, notwithstanding his personal appearance, until they shall render him, or he shall give an appeal bond within the ten days herein prescribed.

Justice to return all papers in the cause to the prothonotary, unless by consent of parties in writing.

29. In case of appeal the justice, unless he shall receive a notice in writing signed by both parties or their agents to the contrary, shall return to the prothonotary of the supreme court before the opening of the court on the first day of the next term in the county, all papers in the cause, with a transcript of the judgment, and the affidavit and bond whereon the appeal was allowed.

Fine for constable neglecting to return writ of summons.

30. Any constable neglecting to serve or make return of a writ of summons or capias, besides being liable to an action on the case for any damage that may have been sustained, shall forfeit twenty shillings.

Fine and proceedings where constable neglects to return a writ of execution.

31. Any constable neglecting to return an execution for the space of ten days after the return day thereof, unless with the consent of the party in whose favor it was issued, or to pay over within five days the monies received thereon, or to pay the surplus, if any, on demand, shall forfeit twenty shillings, and may also be sued in an action for money had and received; and the justices shall have jurisdiction though the sum claimed exceed ten pounds.

32. The forms shall be as in the schedule.

SCHEDULE OF FORMS.

Summons.

County of ——— s.s.

To any of the constables of the said county:

You are hereby required to summon A. B. of ——— to appear before ——— at ——— on the —— day of ———, at —— o'clock in the —— noon, to answer to C. D. in the sum of ———, and to make return thereof on or before the said day.

Witness —— hand and seal the —— day of ———, 18--

E. F. J. P. (seal.)
G. H. J. P. (seal.)

Capias.

County of ———, s.s.

To any of the constables of said county:

You are hereby required to take A. B. of ———, and him safely keep, so that you may have him before —— at ——— on the —— day of ——— at —— o'clock in the —— noon, to answer to C. D. in the sum of ———, whereof fail not, and to have there then this writ, with your doings thereon.

Witness —— hand and seal at —— the —— day of ——, 18—.

E. F. J. P. (seal.)
G. H. J. P. (seal.)

NOTE.—On the back of the capias, and copy thereof, to be endorsed the sum sworn to in words at length, as follows:

By oath for the sum of ———.

E. F. J. P.

Execution.

County of ——— s.s.

To any of the constables of the said county:

Whereas judgment hath been awarded against C. D. of ——— at the suit of A. B. for the sum of ——— and ——— more for costs. These are therefore to command you to levy from off the goods and chattels of the said C. D., such sums making together ——— by sale of such goods and chattels, after duly advertising the same, and for want thereof you are hereby required to take the body of the said C. D. and him commit to her majesty's jail [*or where there is a lock-up house or other place of confinement in any county nearer the residence of the party to be arrested insert the name of it in place of the jail*] in ———, the keeper whereof is required to take the said C. D. into his custody, and him safely keep until he pay the sum above mentioned, with your fees and jailer's fee, or that he be discharged by the said A. B. or otherwise by due course of law. Whereof fail not, and make due

return of this writ with your doings thereon to —— within —— days. Witness —— hand and seal the —— day of ———. 18—.

E. F. J. P. (seal.)
G. H. J. P. (seal.)

Subpœna.

County of ———, ss.

To J. K. L. M. N. O. and P. Q.

[*according to the number.*]

You and every of you are required to appear at ———, on the —— day of ———, at the hour of ———, o'clock in the —— noon, to give evidence on the part of the [*plaintiff or defendant, as the case may be,*] in a suit now depending between A. B. plaintiff, and C. D. Defendant, and then and there to be tried, which you are not to omit under penalty of the law, in such cases made and provided. Dated the —— day of ———, 18—,

E. F. J. P. (seal.)

Subpœna ticket for each witness.

Between { A. B., Plaintiff, and C. D. Defendant.

J. K. is required to give evidence in this suit, on the part of the [*plaintiff or defendant, as the case may be*] at ———, on the —— day of ———, at —— o'clock in the —— noon. Dated the —— day of ———, 18—.

E. F. J. P.

Venire.

County of ———, ss.

To any of the constables of the said county:

You are hereby required to summon three persons duly qualified to sit as jurors, who are not of kin to either of the parties to come and be present at ———, on the —— day of ———, at —— o'clock in the —— noon, to make a jury between ———, plaintiff, and ———, defendant. Dated the —— day of ———, 18—.

E. F., J. P. (seal.)

NOTE.—All writs of summons, capias, subpœna, and venire require but one seal, and the same, as well as all executions in cases before two justices, are to be prepared by the justice first applied to in the suit. In all cases the capias is to be endorsed by the justice first applied to, who is to prepare the affidavit also. In all suits triable before two justices, the summons and capias must be signed by two justices, and the execution in such case to have two seals, and to be signed by the two justices that issued the mesne process and tried the cause. Writs of subpœna and venire and the subpœna ticket are to be signed by one justice only; all affidavits are to be taken before and all oaths under this act to be administered

by one justice only; and in all suits before two justices all acts required to be done by one justice only are to be had and done by and before the justice first applied to, who is to be the keeper of all papers in the cause, and to make return of the proceedings therein in cases of appeal.

Affidavit to obtain a capias.

A. B. of ———, in the county of ———, maketh oath and saith, that C. D. is justly indebted to the deponent in the sum of ——— after giving full credit, to the best of deponent's knowledge or belief, for all payments or offsets, and that the cause of action does not exceed ten pounds.

A. B.

Sworn at ———, the —— day of ——, before me.
E. F., J. P.

NOTE.—The sum sworn to must in all cases be twenty shillings at least, and if under five pounds then after the words "ten pounds" above add, "and that there is danger of losing the debt unless a capias is allowed the deponent."

RETURNS TO THE FOLLOWING WRITS.

To a summons.

"The within process was duly served on the said C. D. on the —— day of ——— by me."

O. P., constable.

If required, the following affidavit to be made by the officer serving the process:

"O. P. of———, in the county of ———, maketh oath and saith that he did on the —— day of ——— personally serve the defendant in the annexed process named, with a true copy thereof, and at the same time acquainted ——— with the contents thereof.

O. P.

Sworn before me, at ———, the — day of ——, 18—.
E. F., J. P.

To a capias.

The within named defendant was arrested and served with a copy of the within process on the ——— day of ——— and was admitted to bail by me.

O. P., constable.

To a venire.

I have summoned the within jurors as jurors for the trial of the within cause, namely: G. H., J. K., L. M. and N. O.

O. P., constable.

To an execution.

I have levied the debt and costs as within directed.

O. P., constable.

For want of goods and chattels whereon to levy, I have taken the body of the within named C. D. and committed him to jail as within directed.

O. P., constable.

I have levied the sum of ———, part of the debt and costs within mentioned, the remainder not satisfied.

O. P., constable.

I could not find any goods and chattels, or the body of the said C. D.

O. P., constable.

OATHS TO BE TAKEN BY WITNESSES, JURORS AND CONSTABLES, ON TRIALS.

Witnesses.

You shall truly say whether you have any interest in, or can gain or lose by the event of this suit, and shall true answer make to all such questions as shall be put to you touching the same.

So help you God.

NOTE.—This oath only to be administered when either party desires to examine the witnesses as to interest in the suit.

The evidence you shall give to the court [*or to the court and jury*] sworn touching the matter in question, shall be the truth, the whole truth, and nothing but the truth.

So help you God.

Jurors.

You shall well and truly try this cause between A. B., plaintiff, and C. D., defendant, and a true verdict give according to the evidence.

So help you God.

Constable or other person appointed to attend jury.

You shall keep every one of the jury sworn, and now about to make up their verdict, in some convenient place without either meat or drink: you shall not suffer any person to speak to them, nor shall you speak to them yourself, except it be to ask if they are agreed on their verdict, without the leave of the court.

So help you God.

Bail bond on capias.

Know all men by these presents that we [*names, place of residence, and profession or calling of the defendant and his bail.*] are held and firmly bound unto [*name of the plaintiff in the suit, adding his place of residence and profession or calling*] in the sum of [*twice the amount sworn to and endorsed on the capias.*] to be paid to the said [*name of the plaintiff.*] his certain attorney, executors, administrators or assigns, for which payment, we bind ourselves, and every of us by himself, our and every of our heirs, executors and administrators, firmly by these presents, sealed with our seals, and dated the ——— day of ———, 18—.

The condition of the foregoing obligation is such, that if the above bounden [*the defendant*] shall appear before [*name the justice or justices issuing the capias*] on the ——— day of ———, [*insert the day appointed for the trial*] to answer to the suit of the above named [*name the plaintiff*] in the sum of [*here insert the sum sworn to.*] then the above obligation to be void.

Signed, sealed and delivered, in the presence of ———. (seal). (seal). (seal).

Affidavit to be made by the party appealing.

In the court before [*name the justice or justices before whom the trial was had,*] justices of the peace.

Between A. B., plaintiff, and C. D., defendant.

A. B., [*the party making the appeal*] of ———, in the county of ———, the above named [*plaintiff or defendant, as the case may be, or if the party for whom the appeal is made be absent, say "agent for the above named plaintiff" or defendant, as the case may be,*] maketh oath and saith that he is really dissatisfied with, and feels aggrieved by, the judgment given in this cause, and that he does not appeal therefrom solely for the purpose of delay, but that justice may be done therein.

Sworn at ———, the ——— day of———, 18—. Before me, ———, J. P.

To be signed by the party appealing, or, in his absence, the agent.

Bond to be given on appeal being made.

Know all men by these presents, that we, A. B., C. D., and E. F., [*names of the appellant if he be present, or, if absent, of the agent, and the sureties, with their places of residence*] are held and firmly bound to G. H. [*the party against whom the appeal is allowed*] in the sum of [*double the amount of the judgment, debt and costs,*] to be paid to the said G. H., his certain

attorney, executors, administrators or assigns, for which payment we bind ourselves, and every of us by himself, our and every of our heirs, executors and administrators, firmly by these presents, sealed with our seals, and dated the —— day of ———, 18—.

Whereas a certain cause between the above bounden A. B. [*if the party appellant be the principal in the bond, or if he be absent then say between—name the appellant*] and the above named G. H., in which the said [*name the appellant*] was [*plaintiff or defendant, as the case may be*] tried before [*name the justice or justices before whom the trial was made*] justice of the peace for the county of ——— on the ——— day of ———, and judgment was given in favor of the said G. H. for the sum of ———, debt and costs, and an appeal therein hath been demanded on behalf of the said [*name the party appealing*]. Now the condition of the above obligation is such that if the said [*name the appellant*] at the next sitting or term of the supreme court for the county of [*name the county in which the cause was tried*] shall duly enter and prosecute his said appeal, and shall proceed therein to final judgment, and shall abide by and fulfil the judgment of the said court to be given in such appeal, or shall previous to the first day of the sitting of such court pay the full amount of judgment in such cause, together with all costs subsequently accruing thereon, then the above obligation to be void.

Signed, sealed and delivered, in the presence of

A. B. (seal.)
C. D. (seal.)
E. F. (seal.)

CHAPTER 132.

OF BARRISTERS AND ATTORNIES.

SECTION

1. Attornies and barristers to be admitted.
2. Month's notice to be posted of intention to apply for admission.
3. Term of service of clerkship preparatory to admission as an attorney.
4. Time from which service shall be reckoned.
5. Qualifications requisite for admission; attorney's oath.
6. Barristers of Great Britain or Ireland entitled to admission on filing proper certificates.
7. Colonial barristers and attornies, and attornies of Great Britain and Ireland, entitled to admission on filing proper certificates.
8. Barristers, when admitted.
9. Attorney not to allow any other person than his articled clerk or another attorney to sue or defend causes in his name.
10. Barristers, their privileges and precedence; power of courts to control all practitioners.
11. Practising barristers only to take clerks.
12. No barrister to have more than two articled clerks at once.
13. Persons who have voted at elections, or paid rates, entitled to the privileges of barristers, proctors, and advocates.

Attornies and barristers to be admitted.

1. No person shall practise as an attorney or barrister unless he shall have been duly admitted.

Month's notice to be posted of intention to apply for admission.

2. Every person intending to apply for admission as a barrister or attorney shall cause notice thereof to be posted up in the prothonotary's office at Halifax at least one month before the commencement of the term, and his admission shall be moved for in open court within the first four days thereof.

Term of service of clerkship preparatory to admission as an attorney.

3. No person shall be admitted an attorney unless he shall have actually served under articles of clerkship, whether such articles shall be the original articles for the whole term, or any transference thereof, or new articles for the residue of such term, for a period of five years, or if a regular graduate of any college in her majesty's dominions for the period of four years, with some practising barrister, or shall have kept terms for a portion of the time prescribed at one of the inns of court in Great Britain or Ireland, reckoning four terms for one year.

Time from which service shall be reckoned.

4. The term of service shall commence from the time of filing a duplicate of the articles of clerkship in the prothonotary's office in Halifax.

Qualifications requisite for admission.

5. Any student of the age of twenty-one years who shall file satisfactory certificates of his having complied with the requisites of the third section of this chapter, and of his good moral character from the barrister with whom he last served, and shall also undergo a satisfactory examination as to his qualification before a judge and two barristers to be named by the court, shall be entitled to be admitted an attorney on taking the following oath:

Attorney's oath.

"I, A. B., do swear that I will truly and honestly demean myself in the practice of an attorney, solicitor, or proctor, in all and every of the courts of this province in which I shall be employed as such, according to the best of my knowledge and ability."

Barristers of Great Britain or Ireland entitled to admission on filing proper certificates.

6. A barrister of any court in Great Britain or Ireland shall be entitled to be admitted to practise as a barrister and attorney on filing a satisfactory certificate of his being a barrister at the time of application and of his good moral character.

Colonial barristers and attornies, and attornies of Great Britain and Ireland entitled to admission on filing proper certificates.

7. A barrister or attorney of any court in her majesty's colonies, and an attorney of any court in Great Britain or Ireland, on filing a satisfactary certificate of his being a barrister or attorney at the time of application and of his good moral character, and also of his having served as an articled clerk for a term equal to that hereinbefore prescribed for articled clerks in this province, and who shall undergo a satisfactory examination as hereinbefore provided for, shall be entitled to be admitted an attorney on taking the foregoing oath.

Barristers, when admitted.

8. An attorney of the supreme court of one year's standing shall be entitled to be admitted a barrister, if no sufficient objection be made; but any student having regularly graduated shall be entitled to be admitted as a barrister immediately on being admitted an attorney.

Attorney not to allow any other person than his articled clerk or another attorney to sue or defend causes in his name.

9. No attorney shall permit any person not an attorney, other than his articled clerk actually serving in his office, to sue out any writ or process, or to prosecute or defend any action in his name.

Barristers, their privileges and precedence, power of courts to control all practitioners.

10. Barristers of the supreme court shall be counsel, advocates, proctors and solicitors of the court of chancery, court of vice admiralty, court of error, court of marriage and divorce, and all courts within this province, and as such shall be entitled to prosecute and defend all causes therein, and shall have such seniority and pre-audience therein as they are entitled to in the supreme court: but nothing herein contained shall interfere with or affect the wholesome control which the queen's courts are authorized to exert over the several practitioners therein, or to prevent such courts from suspending, silencing, dismissing or striking off the roll any barrister, advocate, attorney, solicitor or proctor for malpractice or misconduct.

Practising barristers only to take clerks.

11. No barrister not actually practising his profession, except only the prothonotary at Halifax being a barrister, shall take or retain any clerk.

No barrister to have more than two articled clerks at once.

12. No barrister shall have at any one time more than two articled clerks.

Persons who have voted at elections, or paid rates, entitled to the privileges of barristers, proctors, and advocates.

13. Any of her majesty's subjects who shall have voted at any election, or paid poor and county rates, may plead and reason in any of her majesty's courts of judicature within this province, enjoying all rights and privileges therein in as full and ample a manner as these are now enjoyed by barristers, proctors and advocates.

TITLE XXXV.

OF ACTIONS IN GENERAL, AND THE PRACTICE OF THE SUPREME COURT.

CHAPTER 133.

OF THE COMMENCEMENT OF ACTIONS, AND THE FORM AND SERVICE OF WRITS.

SECTION

1. Writs, how and by whom to be signed, and how directed.
2. Actions of replevin, how commenced.
3. Writs of mesne process, how long to be served before the return day.
4. No writ to be served on Sunday.
5. Affidavits to hold to bail; before whom made; amount to be endorsed on the capias.
6. Proceedings, in what cases valid when defendant described by initials or a wrong name.

SECTION
7. Supplimental affidavits to hold to bail not allowed.
8. Writs of summons on corporation, how served.
9. Bonds on executing writs of replevin, how taken.
10. Bail bonds, when and in what amount to be taken.
11. Bail bonds, how assigned.
12. Second arrest after non pros, nonsuit, or discontinuance, not to be made without a judge's order.
13. Within what time after action brought, and upon what times, special bail may render their principal.
14. Bail before a commissioner, how taken; recognizance to be transmitted.
15. In what case and how they may justify before a commissioner.

Writs, how and by whom to be signed, and how directed.

1. All writs shall be signed by the prothonotary, with his name and the date of their issue, and be subscribed with the name of the attorney or party by whom they are sued forth, and shall be directed to the proper officer, and be in the forms heretofore used.

Actions of replevin, how commenced.

2. Every action of replevin shall be commenced by writ of summons in the form heretofore used.

Writs of mesne process, how long to be served before the return day.

3. All writs of mesne process shall be served on the defendant if residing within the same county to which process is returnable at least eight days, if residing in any other county at least fourteen days, and if the defendant resides in Cape Breton, and the writ is made returnable in any county not in the Island, or if the defendant resides out of Cape Breton, and the action is brought within any county in the Island, at least twenty-one days before the return day, otherwise the defendant shall have, until the return day of the ensuing term, to enter an appearance.

No writ to be served on Sunday.

4. No person upon the Lord's day shall serve or execute any writ or process, but the service thereof shall be void, and the party serving the same shall be liable to the party grieved as if he had executed the same without any writ or process.

Affidavits to hold to bail; before whom made; amount to be endorsed on the capias.

5. The party applying for a capias shall make and subscribe the usual affidavit for holding a party to bail, which affidavit shall be made before a judge or commissioner, or, in their absence, or in case of the illness of the party making affidavit, before a justice of the peace; and the sum set out in the affidavit shall be endorsed on the capias in words at length, and shall be signed by the person before whom the affidavit was made.

Proceedings, in what cases valid when defendant described by initials or a wrong name.

6. Where the defendant is described in the process or affidavit to hold to bail by initials or by a wrong name or without a christian name, the defendant shall not be discharged out of custody, or the bail bond be delivered up to be cancelled, if it shall appear by the affidavit that due diligence has been used to obtain a knowledge of the proper name.

Supplimental affidavits to hold to bail not allowed.

7. No supplemental affidavit shall be allowed to supply any deficiency in the affidavit to hold to bail.

Writs of summons on corporation, how served.

8. A writ of summons against a corporation may be served on the principal officer or on the clerk or secretary.

Bonds on executing writs of replevin, how taken.

9. The sheriff previously to executing a writ of replevin shall take in his own name from the plaintiff and two sufficient sureties, a bond in double the value of the goods where their value is under

one hundred pounds; but where their value shall exceed that sum he shall not require a bond for any larger sum than the value of the goods, and one hundred pounds more conditional for prosecuting the suit with effect and without delay, and duly returning the goods in case a return shall be awarded.

Bail bonds, when and in what amount to be taken.

10. A defendant, having been arrested, shall be discharged if at any time before the return day of the writ he enter into a bail bond to the sheriff, with two sufficient sureties in double the amount endorsed on the capias where the amount so endorsed does not exceed one hundred pounds and where the amount exceeds one hundred pounds then for the amount so endorsed and one hundred pounds more conditioned for bail to the action being put in and perfected.

Bail bonds, how assigned.

11. The sheriff, at the request of the avowant or party making cognizance in replevin, or of the plaintiff in any other action, or of their attornies, shall assign the replevin bond or bail bond to the avowant or party making cognizance or to the plaintiff, by endorsing his name thereon, which endorsement shall be a sufficient assignment thereof to enable the party to whom it shall be so assigned to bring action thereon in his own name.

Second arrest after non pros, nonsuit, or discontinuance not to be made without a judge's order.

12. After *non pros*, non-suit or discontinuance, the defendant shall not be arrested a second time without the order of a judge.

Within what time after action brought, and upon what times, special bail may render their principal.

13. In all cases where the writ of execution against the defendant in any action is returned *non est inventus*, and an action is prosecuted against his bail upon their recognizance they shall be allowed to render their principal in discharge thereof at any time within the first four days after the returning of the process against them if they pay to the plaintiff the costs which have been incurred in the action against them upon their recognizance.

Bail before a commissioner, how taken; recognizance to be transmitted.

14. Where recognizances of bail are taken before a commissioner, the same shall be transmitted to a judge, who, upon affidavit of the due taking thereof shall receive the same, and such recognizance shall thereupon have the same effect as if taken before a judge.

In what case and how they may justify before a commissioner.

15. When the bail live above twenty miles from the place where action is brought, or where the bail live within that distance but the court shall not be in session, they may justify before a commissioner by affidavit, and the commissioners may examine the sureties upon oath touching the value of their respective estates.

CHAPTER 134.

OF PLEADINGS AND PRACTICE.

SECTION

1. Rules of the supreme court:

RULE

Rule 1°. Defendant to appear and plead, in Halifax, within four days after filing declaration; in other counties before the opening of the court on the succeeding day.

2°. Warrants of attorney need not be filed.

3°. Costs for unnecessary length of declaration disallowed to plaintiff; costs of excess, when allowed defendant.

4° Venue to be in the margin of the declaration, and not in the body, nor in subsequent pleading; where local description necessary it shall be given.

5°. In trespass q. f. g. name or abuttals to be given, or the defendant may demur.

6°. Omission to state a precise time with material fact when the time is not necessary, shall not be cause of demurrer.

7°. Pledges to prosecute not be stated.

8°. Particulars, when to be delivered with declaration.

9°. Summons and order for particulars may be given by a judge or prothonotary without affidavit; further particulars, how obtained.

10°. Time for pleading after delivery of particulars; judgment, when to be signed.

11°. Defendant entitled to a continuance for short service of declaration.

12°. Special bail, when to put in.

13°. When defendant may be discharged on filing common bail.

14°. Plaintiff out of court unless he declare within one year.

15°. Declarations in ejectment, how served, and defaults, how marked.

16°. Consent rule to specify premises defended; contents of rule; proceedings at the trial.

17°. Of payment of money into court; rule for when unnecessary.

18°. Actions specified in which money may be paid into court.

19°. Payment of money into court, how pleaded.

20°. Money to whom paid; receipt how given; how paid out,

21°. Replication and subsequent proceedings when money taken in full, and when not.

22°. Rule for further time to plead, when and how granted.

23°. Pleadings, how filed and served.

24. Fourteen days' notice may be served with pleas, &c.; their effect; defaults marked under, how taken off.

25°. Pleadings must be signed by the party, or his attorney.

26°. Pleas to be waived only by leave.

27°. Pleas of abatement for misnomer in personal actions not to be allowed, proceedings substituted instead.

28°. Mutual debts may be set off.

29°. Set-off may be pleaded, or notice thereof given.

30°. Notice of set-off may be served with any plea; effect of such service.

31°. Set-off, how pleaded in cases of penalties.

32° Formal words, such as *actionem non* and the like, when unnecessary.

33°. Formal defences unnecessary; commencement of plea given.

34°. Leave of the court not required to plead a second or subsequent plea.

35° A single plea to two or more counts, or one replication to two or more pleas, when allowed.

36°. General issue may be pleaded, and the special matter given in evidence, where defendant has acted under any statute.

37°. In such case the words "by statute" to be in the margin of the plea.

38° Where a party appears in any suit in a representative character, his right so to appear shall be held admitted unless specially denied.

39°. Protestations in pleadings forbidden.

40°. Special traverses, &c., to conclude to the country; when the other party may plead over to the inducement

41° Discontinuance how effected.

42° Form of a demurrer.

43°. Demurrers before delivery to have the matter of law for argument in the margin; further matters how added and argued.

44°. Joinder in demurrer secured by a fourteen day notice.

45°. Entries of continuances forbidden.

RULE

pleas *puis darrein*, &c., how pleaded.

46°. Entries of warrants of attorney, and pledges, &c. forbidden.

47°. First entry in a cause, what shall be held.

48°. Plaintiff may file the issue at any time before trial.

49°. Amendments for variances may be allowed on trial.

50°. Order for amendment, how entered.

51°. Party dissatisfied with amendment may apply for new trial.

52°. Instead of an amendment the judge may direct the jury to find the facts and adjudicate thereon.

53°. What defects are cured by verdict.

54°. Special cases may be prepared.

55. Venire, where local, may be changed by application to the court.

56°. Notice of trial, how long necessary; of continued costs of the day, when incurred.

57°. Continuances for the absence of a witness, when and how granted.

58°. One counsel only to be heard on each side on a motion during trial; if cases are cited one counsel in reply.

59°. Defendant's counsel may open his evidence and close his case; the plaintiff to have the general reply.

60°. Where bail is filed, a rule nisi for a new trial being refused, entry of judgment is thereby stayed.

61°. Admission of improper evidence no ground for a new trial if there was other sufficient evidence.

62°. Costs to follow the judgment.

63°. Where damages in trespass or case are under forty shillings, to entitle plaintiff to costs the judge must certify, unless in cases of trespass to land where notice has been given.

64°. In what cases one of several defendants entitled to costs.

65°. Plaintiff shall not recover, but shall pay costs if he have had opportunity of setting off his claim, unless in special cases.

66°. An acceptor of a bill of exchange or a maker of a note may have a stay of proceedings, on payment of debt and costs in that action.

67°. A party in ejectment entitled to costs where lessor of plaintiff refuses to join in a consent rule.

68°. Defendant entitled to execution for his costs against lessor of plaintiff.

69°. Costs, how allowed, and set-off where issues are not all found for one party.

70°. Costs on a *nolle prosequi* for any one count to be allowed.

71°. Costs between attorney and client, how taxable where papers of excessive length.

72°. Costs of new trials, how regulated.

73°. Security for costs, when to be applied for.

74°. If plaintiff shall not give security for costs within twelve months, he shall be out of court.

75°. Costs to be allowed the successful party on all rules, unless otherwise ordered.

76°. Costs on commissions and depositions, when used, to be costs in the cause.

77°. Costs of rules or orders for taking examinations *de bene esse*, how borne.

78°. Costs to be examined by prothonotary, and signed by a judge.

79°. Bill of costs taxed, to be filed.

80°. Notice of taxation of costs accruing in Halifax, how and to whom given; papers to be filed; no notice necessary where there is no appearance.

81°. Execution may issue for interlocutory costs.

82°. Interest, in what cases, and how allowed.

83°. Damages may be allowed in nature of interest.

84°. Upon a default in assumpsit or debt the court or a judge may assess damages.

85°. If the default be marked in vacation, notice of assessment of damages to be given.

86°. Assessment may be had before a jury or special jury, upon application.

87°. Judgment by default, when to be signed.

88°. Judgment by default for want of a plea, how and when marked.

89°. Costs on pleas of abatement, how regulated.

90°. Defendant entitled to judgment for any excess proved under a set-off.

91°. Judgments of *non-pros* may be had.

92°. Final judgment, how and by whom signed.

93°. Judgment to have relation to the day it was signed.

94°. Judgments given at Halifax upon causes removed thither, how entered; transcripts to be transmitted.

95°. A *scire facias* may be sued forth by an administrator *de bonis non*, upon a judgment obtained by an executor.

96°. Writs of execution to be in form as heretofore; returnable from term to term, or in sixty days.

97°. Directions to be endorsed on writ, and the amount to be levied specified.

RULE
98°. Executions not to issue till bill of costs and record filed.
99°. A member of provincial parliament, if released by his privilege, may be retaken in execution.
100°. Current coin may be taken in execution.
101°. Bank notes, &c., may be taken in execution.
102°. Wearing apparel, bedding, tools of trade, and the last cow, exempted from execution.
103°. Writ of execution to bind goods from the date of its receipt by sheriff, to be endorsed thereon.
104°. Satisfaction piece, how signed, &c.; form.
105°. List of continued and new causes in Halifax, when to be given prothonotary.
106°. Rules to guide prothonotary in making up docket; priority in new causes, how determined.
107°. Dockets of continued, and of new causes in Halifax, when to be called; parties required to answer, otherwise judgment.
108°. Docket to be called but once.
109°. Addition and place of residence of a person making an affidavit to be inserted therein, unless he be a party in the cause.
110°. Days, how computed.
111°. Costs of making a judge's order a rule of court, by whom to be paid.
112°. Causes for argument, when to be entered.
RULE
113°. Rules nisi operating to delay judgments, to be entered by the parties obtaining them.
114°. Entry of causes, by whom to be made; cause not be entered a second time.
115°. Demurrer books, affidavits, &c., and papers upon which rules nisi have been granted, when to be filed.
116°. Judges' report of a cause for argument, when to be filed; copies, how procured; report, how amended.
117°. Judgments to be delivered the first day of term; and motions heard.
118°. Rules nisi, how obtained on first day of term.
119°. Remainder of term to be devoted to arguments; order of arguments; no concilium to be moved.
120°. Modes of arguing rules nisi.
121°. Copies of papers to be furnished judges.
122°. One summons only shall be necessary before an order, at chambers.
123°. When a judge is authorized to grant an order he may grant a rule nisi returnable to term.
SECTION
2. Cases not provided for shall be governed by the practice of the queen's bench.
3. Rules touching the pleadings of the court or its practice, how made and published.
4. The practice of the queen's bench relating to defects in pleas, &c., abatement, discontinuance, forfeits, &c., &c., to be continued in force.

1. The following rules shall be observed in the supreme court:

Rules of the supreme court: Defendant to appear and plead in Halifax within four days after filing declaration; in other counties before the opening of the court on the succeeding day. Warrants of attorney need not be filed. Costs for unnecessary length of declaration disallowed to plaintiff; costs of excess, when allowed defendant.

1°. The defendant having been duly served shall be bound to appear and plead within four days after filing of the declaration at Halifax, or before the opening of the court on the day after filing of the declaration in every other county.

2°. It shall not be necessary to file warrants of attorney to prosecute or defend.

3°. If any declaration in assumpsit, being for any of the demands mentioned in the schedule of forms and declarations annexed to an order of the superior courts of common law in England in the year one thousand eight hundred and thirty-one, or demands of a like nature, shall exceed in length such of the forms set forth or directed in the schedule as may be applicable to the case; or if any declaration in debt for similar causes of action, and for which the action of assumpsit would lie, shall exceed such length, no costs of the excess shall be allowed to the plaintiff if he succeeds in the cause, and such costs of the excess as have been incurred by the defendant shall be taxed and allowed to the defendant, and be deducted from the costs allowed to the plaintiff.

Venue to be in the margin of the declaration, and not in the body, nor in subsequent pleading; where local description necessary it shall be given.

4°. The name of a county shall in all cases be stated in the margin of a declaration, and shall be taken to be the venue intended by the plaintiff, and no venue shall be stated in the body of the declaration or in any subsequent pleading, but in cases where local description is now required such local description shall be given.

In trespass q. f. g. name or abuttals to be given, or the defendant may demur.

5°. In actions of trespass *quare clausum fregit* the close or place in which, &c. must be designated by name or abuttals, or other description, in failure whereof the defendant may demur specially.

Omission to state a precise time with material fact when time is not necessary, shall not be cause of demurrer.

6° Where the statement of the real or precise time is unnecessary, the omission to state the time with any material or traversable fact shall not be cause of demurrer.

Pledges to prosecute not to be stated.

7° Pledges to prosecute shall not in future be stated at the conclusion of the declaration.

Particulars, when to be delivered with declaration.

8° With every declaration containing counts in indebitatus, assumpsit, or debt on simple contract, the plaintiff shall deliver full particulars of his demand under those counts when such particulars can be comprised within three folios, and where the same cannot be comprised within three folios he shall deliver such a statement of the nature and amount of his claim as may be comprised within that number of folios, and in all such cases if any declaration be delivered without such particulars or such statement and a judge shall afterwards order a delivery of particulars, the plaintiff shall not be allowed any costs in respect of the particulars he may afterwards deliver.

Summons and order for particulars may be given by a judge or prothonotary without affidavit; further particulars, how obtained.

9° A summons for particulars and order thereon may be obtained from a judge or the prothonotary by either party without the production of any affidavit, but a summons and order for further or better particulars shall be granted only by a judge, and upon affidavit.

Time for pleading after delivery of particulars; judgment, when to be signed.

10° A defendant shall be allowed the same time for pleading after the delivery of particulars under a judge's or prothonotary's order which he had at the return of the summons, nevertheless judgment shall not be signed until the day after the delivery of particulars unless otherwise ordered by a judge, and the judge may order further time.

Defendant entitled to a continuance for short service of declaration.

11° If the declaration be not served on the defendant, if residing within the same county where the action is brought at least eight days, if in any other county at least fourteen days, and if the defendant resides in Cape Breton and the action is brought in any county not in the island or if the defendant resides out of Cape Breton and the action is brought within any county in the island at least twenty-one days, before the return day of the writ, the defendant shall be entitled to a continuance.

Special bail, when to put in.

12°. Special bail shall be put in within the time allowed to appear and plead.

Where defendant may be discharged on filing common bail.

13°. Where a debtor is committed to jail on mesne process, and the plaintiff does not proceed to trial in the same term to

which the writ is returnable, or in the sittings thereafter, the defendant shall be discharged on filing common bail on the last day of such term or sittings thereafter, provided he was ready for trial at such term or sittings, and had pleaded issuably to the declaration, if served upon him, and given notice of his readiness for trial, and provided the cause had been called for trial; and also provided the court shall not on sufficient cause shewn on affidavit be of opinion that the defendant ought not to be discharged.

Plaintiff out of court unless he declare within one year.

14°. A plaintiff shall be deemed out of court unless he shall declare within a year after process is returnable.

Declarations in ejectment, how served, and defaults, how marked.

15° The declaration in ejectment shall be served the same number of days before the return day of the term as is required for service of declarations in other causes, and judgment by default be marked against the casual ejector, as judgment by default may be marked in other causes, and subject to the like rules.

Consent rule to specify premises defended; contents of rule; proceedings at the trial.

16°. In every action of ejectment the defendant shall specify in the consent rule for what premises he intends to defend, and shall consent in such rule to confess upon the trial that the defendant, if he defends as tenant, or in case he defend as landlord, that his tenant was at the time of the declaration in possession of such premises; and if upon the trial the defendant shall not confess such possession, as well as lease, entry, and ouster, whereby the plaintiff shall not be able further to prosecute his suit against the defendant, then no costs shall be allowed for not further prosecuting the same, but the defendant shall pay costs to the plaintiff in that case to be taxed.

Of payment of money into court; rule for when necessary.

17° In all cases in which by the practice of the court of queen's bench previous to the English act third and fourth William the fourth chapter forty-second, and which prevailed in this province, money could be paid into court in certain actions by obtaining a side bar rule for such payment, no such rule shall be hereafter necessary therefor.

Actions specified in which money may be paid into court.

18° In all personal actions, except actions for malicious arrest or prosecution, criminal conversation, or debauching the plaintiff's daughter or servant, the defendant, by leave of the court or a judge, may pay into court a sum of money by way of compensation or amends.

Payment of money into court, how pleaded.

19°. When money is paid into court, such payment shall be pleaded in all cases, and in any stage of the cause, and as near as may be in the following form, *mutatis mutandis:*

C. D. ats A. B. } The —— day of ——— the defendant by ———, his attorney, [*or in person, &c.,*] says [*or in case it may be pleaded as to part only, as to £———, being part of the sum in the declaration or ——— count mentioned, or as to the residue of the sum of £———,*] the plaintiff ought not further to maintain his action, because the defendant now brings into court the sum of £———, ready to be paid to the plaintiff; and the defendant further says that the plaintiff hath not sustained damages, [*or in actions of debt, that he was not at the time of the*

commencement of the suit indebted to the plaintiff,] to a greater amount than the said sum, &c., in respect of the cause of action in the declaration mentioned, [*or in the introductory part of this plea mentioned*,] and this he is ready to verify; wherefore he prays judgment if the plaintiff ought further to maintain his action thereof.

Money to whom paid; receipt how given; how paid out.

20° When money is paid into court the same shall be paid to the proper officer, who shall give a receipt for the amount in the margin of the plea, and the same shall be paid out to the plaintiff on demand.

Replication and subsequent proceedings when money taken in full, and when not.

21°. The plaintiff after delivery of a plea of payment of money into court shall be at liberty to reply to the same by accepting the sum so paid into court in full satisfaction and discharge of the cause of action, in respect of which it has been paid in; and he shall be at liberty in that case to tax his costs of suit, and in case of non-payment thereof within twenty-four hours to sign judgment for his costs of suit so taxed, or the plaintiff may reply that he has sustained damages, or that the defendant was and is indebted to him, as the case may be, to a greater amount than the said sum: and in the event of an issue therein being found for the defendant, the defendant shall be entitled to his judgment, and costs.

Rule for further time to plead, when and how granted

22°. No rule for further time to plead shall be granted upon the application of counsel alone, nor unless the grounds of such application be disclosed by affidavit, and it shall then rest with the court in its discretion to grant such rule under the special circumstances of each particular case.

Pleadings, how filed and served.

23° It shall be imperative on the party, plaintiff or defendant, to deliver to the opposite party or his attorney, as well as to file all pleadings within the time limited therefor.

Fourteen days' notice may be served with pleas, &c.; their effect; defaults marked under, how taken off.

24° With any plea and other subsequent pleadings delivered in any cause, in term or vacation, the party so pleading shall be at liberty to serve a notice to the following effect, annexed thereto: "fourteen days are given to the plaintiff or defendant to reply, rejoin, &c. in this cause," signed A. B., plaintiff's or defendant's attorney—which notice shall supersede and be in place of the rule to plead heretofore taken out; and thereupon, if the party thus notified shall neglect to file his replication, rejoinder, or other pleadings, as the case may be, within fourteen days from the time of service of such notice, and to deliver a copy of the same to the opposite attorney, the party giving such notice shall, after the expiration of that time, be at liberty, being plaintiff in the cause, to mark a default as for want of plea, or, being defendant, to sign judgment of *non-pros*: provided however that the court or a judge may, as heretofore, upon application, grant further time to plead, and may also, upon proper cause alleged and verified, order such default or *non-pros* to be set aside upon such terms as shall be thought reasonable and just; and provided further, that the court or any judge thereof may, in such cases as require it, give a rule or order to reply, &c., within any shorter period than fourteen days.

25°. It shall not be necessary to have a counsel's signature to any pleading, but all pleadings shall be signed with the name of the party or his attorney. Pleadings must be signed by the party or his attorney.

26°. The defendant shall not be at liberty to waive his plea without leave of the court or of a judge. Pleas to be waived only by leave.

27°. No plea in abatement for misnomer shall be allowed in any personal action, but in all cases in which a misnomer could heretofore have been pleaded in abatement of such actions, the defendant shall be at liberty to cause the declaration to be amended at the cost of the plaintiff by inserting the right name upon a judge's summons founded upon an affidavit of the right name, and in case such summons shall be discharged the costs of such application shall be paid by the party applying if the judge shall think fit. Pleas of abatement for misnomer in personal actions not to be allowed; proceedings substituted instead.

28.° Wherever there are mutual debts in the same right, one debt may be set off against the other, although such debts may be deemed in law to be of a different nature. Mutual debts may be set off.

29° The debt in such case may be pleaded in bar, or, provided notice of set-off in the usual form has been served on the plaintiff and filed along with the plea, such debt may be given in evidence under the general issue. Set-off may be pleaded, or notice thereof given.

30°. The notice of set-off may be served with any pleas of the defendant, and shall have the same effect at the trial as if it had been pleaded. Notice of set-off may be served with any plea; effect of such service.

31°. Where the action is brought or the set-off is founded on a penalty contained in any specialty, such set-off shall be pleaded in bar, and the plea shall shew how much is due on either side. Set-off, how pleaded in cases of penalties.

32° In a plea or subsequent pleading intended to be pleaded in bar to the whole action generally, it shall not be necessary to use any allegation of *actionem non*, or to the like effect, or any prayer of judgment; nor shall it be necessary in any replication or subsequent pleading intended to be pleaded in maintenance of the whole action to use any allegation of *precludi non*, or to the like effect, or any prayer of judgment: and all pleas, replications, and subsequent pleadings, pleaded without such formal parts, shall be taken unless otherwise expressed, as pleaded respectively in bar or in maintenance of the whole action: provided that nothing herein contained shall extend to cases where an estoppel is pleaded. Formal words, such as *actionem non* and the like, when unnecessary.

33°. No formal defence shall be required in a plea, and it shall commence as follows: "The defendant by ———, his attorney [*or in person*] says that ———." Formal defences unnecessary; commencement of plea given.

34°. It shall not be necessary to state in a second or other plea or avowry that it is pleaded by leave of the court or according to the form of the statute, or to that effect, nor shall such leave be required. Leave of the court not required to plead a second or subsequent plea.

35° Where there are two or more counts substantially for the same cause of action, or two or more pleas raising substantially the same defence to the same cause of action, the defendant or plaintiff may, on suggesting the fact in his plea or replication, plead a A single plea to two or more counts, or one replication to two or more pleas, when allowed.

single plea or replication to such counts or pleas; and when the opposite party insists that the cause of action or defence is not the same, he may apply on affidavit to the court or a judge, who may set aside the plea or replication on such terms, or make such other order, as shall appear to be right or just.

General issue may be pleaded, and the special matter given in evidence, where defendant has acted under any statute

35° In a suit against any person for anything done under the authority of an act of the imperial parliament or of the general assembly, the general issue may be pleaded and evidence of the special circumstances may be given thereunder.

In such case the words "by statute" to be in the margin of the plea.

36° In every case in which the defendant shall plead the general issue intending to give the special matter in defence by virtue of an act of parliament or of the general assembly, he shall insert in the margin of such plea the words "by statute."

Where a party appears in any suit in a representative character, his right so to appear shall be held admitted unless specially denied.

37°. In all actions by and against the assignees of a bankrupt or insolvent, or executors or administrators, or persons authorized by act of parliament to sue or be sued as nominal parties, the character in which the plaintiff or defendant is stated on the record to sue or be sued, shall not in any case be considered as in issue, unless specially denied.

Protestations in pleadings forbidden.

38° No protestation shall hereafter be made in any pleading, but either party shall be entitled to the same advantage in that or other actions, as if a protestation had been made.

Special traverses, &c., to conclude to the country; when the other party may plead over to the inducement.

40°. All special traverses, or traverses with an inducement of affirmative matter, shall conclude to the country: but this regulation shall not preclude the opposite party from pleading over to the inducement, when the traverse is immaterial.

Discontinuance, how entered.

41° To entitle the plaintiff to discontinue after plea pleaded, it shall not be necessary to obtain the defendant's consent, but the rule shall contain an undertaking on the part of the plaintiff to pay the costs when taxed, and judgment therefor may be entered forthwith.

Form of a demurrer.

42° The form of a demurrer shall be as follows:

"The plaintiff [*or defendant*] by ——— his attorney, [*or in person,*] says that the declaration, [*or plea, &c.*] is not sufficient in law," shewing the special cause of demurrer, if any. The form of a joinder in demurrer shall be as follows:

"The plaintiff [*or defendant*] says that the declaration [*or plea, &c.*] is sufficient in law."

Demurrers before delivery to have the matter of law for argument in the margin, other matters how to be argued.

43°. In the margin of every demurrer, some matter of law intended to be argued shall be stated: and if any demurrer shall be delivered without such statement, or with a frivolous statement, it may be set aside as irregular, by the court or a judge, and leave may be given to sign judgment as for want of a plea: but the party demurring may, at the time of the argument, insist upon any further matters of law which have been added to the demurrer by a judge's order.

Joinder in demurrer to be filed by fourteen days notice.

44°. No rule for joinder in demurrer shall be required, but the party demurring may demand a joinder in demurrer: and the opposite party shall be bound within fourteen days after such demand to deliver the same, otherwise judgment

45° No entry of continuances by way of imparlance, *curia advisari vult*, *vicecomes non misit breve*, or otherwise, shall be made upon any record or roll whatever, or in the pleadings; but in all cases in which a plea *puis darrein continuance* is now by law pleadable, the same defence may be pleaded with an allegation that the matter arose after the last pleading, or the issuing of the jury process, as the case may be. Entries of continuances forbidden; pleas *puis darrein*, &c., how pleaded.

46°. No entry shall be made on record of any warrants of attorney to sue or defend, nor of pledges to prosecute. Entries of warrants of attorney, and pledges, &c., forbidden.

47° The entry of proceedings on the record for trial, or on the judgment roll, shall be taken to be, and shall be in fact, the first entry of the proceedings in the cause, or of any part thereof on record. First entry in a cause, what shall be held.

48°. In all causes the plaintiff may file the issue at any time previous to the trial. Plaintiff may file the issue at any time before trial.

49° In any civil action, information in the nature of a *quo warranto*, or proceedings on a mandamus, the judge may at the trial, cause the pleadings, issue roll, writ or document on which the trial is pending to be forthwith amended, wherever any variance shall appear between the recital in such pleadings, issue roll, writ or document, and the proof of any contract, custom, prescription, name, or any other matter not material to the merits of the case on such terms, as to payment of costs or postponement of trial, or both, as the judge may deem reasonable. Amendments for variances may be allowed on trial,

50°. The order for such amendment shall be entered on the issue roll or other document upon which the trial may be had. Order for amendment, how entered.

51° The party against whom such amendment shall be made, if dissatisfied therewith, may apply to the court for a new trial on that ground; and the court shall thereupon make such order as to a new trial, and the terms on which such trial shall be granted, or such other order as they may deem reasonable. Party dissatisfied with amendment may apply for new trial.

52°. In all such cases of variance, the judge, instead of causing the writ, pleadings, issue roll or document, to be amended, may direct the jury to find the facts according to the evidence: and such finding shall be stated on the writ, issue roll or document: and if the judge shall deem such variance immaterial to the merits of the case, and the misstatement such as could not have prejudiced the opposite party, he shall give judgment according to the justice of the case. Instead of an amendment the judge may direct the jury to find the facts and adjudicate thereon.

53° All defects, variances and omissions in the pleadings which could be taken advantage of by a special demurrer only, shall be cured by a verdict. What defects are cured by verdict.

54° The parties in any action or information, after issue joined, may make a special case for the opinion of the court, and judgment shall be entered for the plaintiff or defendant as the court may direct. Special cases may be prepared.

55° In any action in which the venue is local the court or a judge may, on the application of either party, order the issue to be tried, or writ of inquiry to be executed, in another county than that in Venue, where local, may be changed by application to the court.

which the venue is laid, and may for that purpose, order a suggestion to be entered that the trial may be more conveniently had, or writ of inquiry executed in the county or place where the same is ordered to take place.

Notice of trial, how long necessary: of costs of the day, when incurred.

56° A notice of trial shall be given to the defendant or his attorney in every cause where the defendant resides within the county in which the action is brought, at least eight days, if in any other county at least fourteen days, and if the defendant resides in Cape-Breton, and the action is brought in any county not in the Island, or if the defendant resides out of Cape-Breton, and the action is brought within any county in the Island at least twenty-one days before the first day of the term or the sittings thereafter, and if the plaintiff shall not proceed to trial pursuant to such notice he shall be liable to pay to the defendant the costs of not proceeding to trial, unless he can shew good cause to the contrary, or shall have given to the defendant or his attorney, in case he has appeared, notice of countermand of such trial, at least four days, or in case the defendant resides in Cape-Breton, and the action is brought in any county not in the Island, or the action is brought in any county within the island, and the defendant resides out of the Island at least fourteen days, before the first day of the term or of the sittings thereafter: but the plaintiff shall, notwithstanding such countermand pay all the costs which the defendant has actually been put to prior to such notice of countermand in consequence of the notice of trial.

Continuances for the absence of a witness, when and how granted.

57° No rule shall be granted for the continuance of a cause on the ground of the absence of a material witness, unless the affidavit upon which the rule is applied for shall, in addition to the usual grounds, distinctly state that the party so applying has a just defence on the merits of the case, and that the application is not made solely for delay, but to enable the applicant to substantiate his defence.

One counsel only to be heard on each side on a motion during trial: if cases are cited one counsel in reply. Defendant's counsel may open his evidence and close the case; the plaintiff to have the general reply.

58°. The court will hear one counsel only on each side upon any motion arising during the trial of a cause: and if cases be cited in opposition to such motion, one counsel will be heard in reply.

59° When the defendant is about to produce evidence on a trial his counsel shall open the same succinctly to the jury, and after all the evidence on both sides has been adduced, the same counsel shall be entitled to address the jury thereon, after which the plaintiff's counsel shall be entitled to the general reply.

Where bail is filed, a rule nisi for a new trial being in the entry of judgment is thereby stayed.

60°. When the judge shall refuse to grant a rule *nisi* for a new trial in a cause tried before him, and the counsel for the party shall on or before the last day of term or sittings after term in which the cause has been tried, file sufficient bail in such reasonable amount as the Judge shall direct, to respond the judgment to be finally given in the cause, no judgment shall be entered up until after the first four days of the next ensuing term at Halifax.

Admission of improper evidence no ground for a new trial if there was sufficient evidence.

61°. No new trial shall be granted on account of evidence having been improperly received on any trial, if in the judgment of the court there be other evidence sufficient to sustain the verdict,

62 °. The party in whose favor a judgment shall be given shall be entitled to recover from the opposite party his taxable costs. Costs to follow the judgment.

63 °. If the plaintiff in any action of trespass, or trespass on the case other than assumpsit, shall recover less damages than forty shillings on the trial of any issue, or an inquiry or default, he shall not recover any costs, unless the judge before whom the issue is tried shall at the trial certify on the back of the issue roll that the action was brought to try a right, besides the mere right to recover damages for the trespass or grievance for which the action was brought, or that the trespass or grievance for which the same was brought was wilful and malicious: but nothing in this section shall be construed to deprive any plaintiff of costs in any action for a trespass on any lands, or for entering into any tenement, in respect of which any notice not to trespass thereon shall have been previously served on or left at the last place of abode of the defendant, by or on behalf of the owner or occupier. Where damages in trespass or case are under forty shillings, to entitle the plaintiff to costs the judge must certify, unless in cases of trespass to land where notice has been given.

64 °. Any one of several defendants shall be entitled to his taxable costs when the plaintiff shall not prosecute his suit to final judgment against him, and also in cases where upon the trial of the issue a verdict shall pass in his favor, unless in case of a trial the judge before whom the trial was had shall certify at the trial that there was reasonable cause for making him a party to the action. In what cases one of several defendants entitled to costs.

65 °. Whenever it shall appear that the plaintiff hath had an opportunity of setting off his claim, and shall not give a satisfactory reason for not having done so, he shall pay the defendant his costs, and shall not be entitled to recover his own. Plaintiff shall not recover, but shall pay costs if he have had opportunity of setting up his claim, unless in special cases.

66 °. In any action against an acceptor of a bill of exchange or the maker of a promissory note, the defendant shall be at liberty to stay proceedings on payment of the debt and costs in that action only. An acceptor of a bill of exchange or a maker of a note may have a stay of proceedings on payment of debt and costs of that action.

67 °. Where a party is served with a declaration in ejectment and files a consent rule, he shall be entitled to his costs against the lessor of the plaintiff for not proceeding in such action, although such lessor shall refuse or neglect to sign such consent rule. A party in ejectment entitled to costs where lessor of plaintiff refuses to join in a consent rule.

68 °. When a defendant in ejectment obtains judgment, or a rule absolute with costs, he shall be entitled to take out an execution therefor against the lessor of the plaintiff. Defendant entitled to execution for his costs against lessor of plaintiff.

69 °. No costs shall be allowed on taxation to a plaintiff upon any counts or issues upon which he has not succeeded, and the costs of all issues found for the defendant shall be deducted from the plaintiff's costs. Costs, how allowed, and set-off where issues are not all found for one party.

70 °. Where any *nolle prosequi* shall have been entered upon any count the defendant shall be entitled to judgment for and recover his reasonable costs in that behalf. Costs on a *nolle prosequi* for any one count to be allowed.

71 °. On the taxation of costs, as between attorney and client, no costs shall be allowed to the attorney in respect of any excess Costs between attorney and client, how taxable

where papers are of excessive length.

of length in the declaration: and in case any such costs shall be payable by the plaintiff to the defendant on account of such excess, the amount thereof shall be deducted from the attorney's bill.

Costs of new trials how regulated

72 ° If a new trial be granted without any mention of costs in the rule, the costs of the first trial shall not be allowed to the successful party though he shall succeed in the second.

Security for costs, when to be applied for.

73 ° An application to compel the plaintiff to give security for costs must, in ordinary cases, be made before issue joined.

If plaintiff shall not give security for costs within twelve months, he shall be out of court.

74 ° Where the plaintiff shall fail to give security for costs within twelve months after service upon him or his attorney of a rule or order therefor, he shall be deemed out of court.

Costs to be allowed the successful party on all rules, unless otherwise ordered.

75 ° On all rules made absolute or discharged, and on all rules opposed in the first instance thereof, the costs shall be allowed to the successful party unless the court shall otherwise direct

Costs on commissions and depositions, when used, to be costs in the cause.

76 ° The costs attending the issuing of any commission, and of taking depositions thereunder, when used on the trial, shall be costs in the cause.

Costs of rules or orders for taking examinations *de bene esse*, how borne.

77 ° The costs of every rule or order for taking the examination of witnesses *de bene esse*, shall be costs in the cause unless otherwise directed.

Costs to be examined by prothonotary, and signed by a judge.

78 ° The prothonotary shall examine and compare all bills of costs that they contain no other or greater fees than are allowed by law; and before any such bill shall be charged against the plaintiff or defendant, it shall be allowed and signed by a judge.

Bill of costs taxed to be filed.

79 ° All bills of costs when taxed shall be filed among the bills of costs of the term; and every bill of costs taxed on any rule or proceeding in a country cause argued at Halifax shall be filed immediately after taxation at Halifax, otherwise no execution shall issue for enforcing payment of such costs.

Notice of taxation of costs accruing in Halifax, how and to whom given; papers to be filed; no notice necessary where there is no appearance.

80 ° Before taxation of costs accruing in Halifax, one day's notice shall be given to the opposite party, his counsel or attorney, and the bill, with all affidavits and papers substantiating the charges therein, shall be filed with the prothonotary previously to the giving of such notice; but notice of taxing costs shall not be necessary in any case where the defendant has not appeared in person or by his attorney or guardian.

Execution may issue for interlocutory costs.

81 ° When interlocutory costs are taxed against any party, execution may be issued for the recovery thereof.

Interest, in what cases, and how allowed

82 ° Upon all debts or sums certain, the jury, or the court or a judge where there is no jury, may allow interest to the creditor at a rate not exceeding legal interest, from the time the debt or sum became payable if payable at a certain time under a written instrument, or if payable otherwise, then from the time a demand of payment in writing containing a notice that interest will be claimed, from the date of the demand until payment shall have been made.

Damages may be allowed in nature of interest.

83 ° The jury, or the court or a judge where there is no jury, may give damages in the nature of interest over and above the

value of the goods at the time of the conversion or seizure, and over and above the money recoverable in an action on policies of insurance.

Upon a default in assumpsit or debt the court or a judge may assess damages.

84°. In any action of assumpsit or debt where a judgment of default has been marked, the court or a judge may assess the damages on competent evidence in writing or *viva voce*. Upon such assessment signed by the judge or prothonotary being filed, the costs in the action may be taxed and final judgment entered thereon.

If the default be marked in vacation, notice of assessment of damages to be given.

85°. When the default shall have been marked, or interlocutory judgment signed in vacation, a notice in writing of the assessment of damages shall be given the same number of days as required in notices of trial.

Assessment may be had before a jury or special jury, upon application.

86°. Either party, upon due application to the court or a judge, may have the assessment made by a jury, or at any assessment to be made before the court, if the court should think fit, by a special jury; and at any assessment before a judge, he may order such assessment to be made by a jury.

Judgment by default, when to be signed.

87°. All judgments of default may be signed at any time after ten o'clock of the morning following the day on which the time for pleading has expired.

Judgment by default for want of a plea, how and when marked.

88°. In all causes when a copy of the declaration and rule and notice to appear and plead, shall have been duly served and filed, the plaintiff shall be at liberty to mark a default, unless the defendant shall appear and plead within four days after the filing of the declaration against him at Halifax, or before the opening of the court on the day after the filing of the declaration in every other county.

Costs on pleas of abatement, how regulated.

89°. Where a plaintiff on a plea in abatement of the non-joinder of co-defendants having been put in, has, without having proceeded to trial on the plea, commenced another action against the parties named in the plea, and it shall appear that all the original defendants are liable, but that one or more of those mentioned in the plea in abatement, or in any subsequent plea in abatement, are not liable, the plaintiff shall be entitled to a verdict or judgment against those who shall appear to be liable; and every defendant who is not so liable shall be entitled to recover his costs against the plaintiff, and the plaintiff shall be allowed the same as costs in the cause against the defendant pleading such plea. The defendant pleading such plea may adduce evidence at the trial as to the liability of the defendants named by him in his plea.

Defendant entitled to judgment for any excess proved under a set-off.

90°. Where a set off greater than the plaintiff's claim has been proved, judgment for the excess shall be given for the defendant.

Judgments of *non pros* may be had.

91°. Judgment may be ordered as in case of a non-suit for not duly proceeding to trial, and notice therefor may be given, notwithstanding a previous trial or trials of the cause may have taken place.

Final judgment,

92°. Final judgment may be signed by any judge, and the

how and by whom signed.

judge shall set down the date upon the docket, and the prothonotary shall mark on the record the day it was filed, but no marginal note shall be required thereon.

Judgment to have relation to the day it was signed.

93 ° No judgment shall have relation to any other day than the day on which it is signed.

Judgments given at Halifax upon causes removed thither, how entered; transcripts to be transmitted.

94 ° When judgment has been given at Halifax upon any cause removed thither from another county, the prothonotary shall enter the judgment in a book to be kept by him for that purpose, and a correct transcript thereof shall be transmitted to the deputy prothonotary of the county whence the cause was removed.

A *scire facias* may be sued forth by an administrator *de bonis non*, upon a judgment obtained by an executor.

95. When any judgment after a verdict, shall be had by or in the name of any executor or administrator, in such case an administrator *de bonis non* may sue forth a *scire facias*, and take execution upon such judgment.

Writs of execution to be in form as heretofore; returnable from term to term, or in sixty days.

96 ° Writs of execution shall be as near as may be in the form heretofore used, and shall be made returnable either in sixty days, or from term to term.

Directions to be endorsed on writ, and the amount to be levied specified.

97 ° It shall be competent for the party suing out the writ to direct by endorsement in what manner it is to be executed, which direction the officer shall obey, and the party shall in all cases specify upon the face of the writ, or by endorsement, for what amount it is to be levied.

Executions not to issue till bill of costs and record filed.

98 °. No execution shall issue on a judgment in a declaration cause until the bill of costs and record be filed.

A member of provincial parliament, if released by his privilege, may be retaken in execution.

99 ° Where any member of the provincial parliament being taken under execution, shall be released by reason of his privilege, he may be taken under a new writ after the expiration of such privilege.

Current coin may be taken in execution.

100 ° Current gold and silver coin may be taken in execution, and may be paid to the creditor as money collected.

Bank notes, &c. may be taken in execution.

101 ° Provincial and bank notes, and all bills or evidences of debt issued by any monied corporation and circulated as money, may be taken in execution and paid to the creditor at their par value as money collected if he will accept them, otherwise they shall be sold as other chattels.

Wearing apparel, tools of trade, and the last cow exempted from execution.

102 °. The necessary wearing apparel and bedding of the debtor and of his family, and the tools or instruments of his trade or calling, and his last cow shall be exempted from execution.

Writ of execution to bind goods from the date of its receipt by sheriff, to be endorsed thereon.

103 °. No writ of execution shall bind the goods of the defendant, but from the time the writ shall be delivered to the sheriff to be executed; and the sheriff shall upon the receipt of the writ, endorse thereon the time at which the same was relieved by him.

Satisfaction piece, how signed, &c.

104 °. All satisfaction pieces shall be signed by the plaintiff or his personal representatives, unless any judge, upon special circumstances set forth in an affidavit, shall dispense with such signature, and shall be witnessed by a practising attorney of the supreme court. The satisfaction piece may be in the form following:

Form.

In the supreme court, ——— term, 18—.

Satisfaction is acknowledged between ———, plaintiff, and ———, defendant, in an action ——— for ——— and ——— costs.

Judgment entered on the —— day of ———, in the year of our Lord one thousand eight hundred and ———.

Signed by the above named ——— in my presence, the same having been previously explained to C. D., attorney. A. B.

List of continued and new causes in Halifax, when to be given prothonotary.

105°. At Halifax the lists of continued jury causes shall be given to the prothonotary on or before the Thursday preceding the first day of term, and of new causes on or before the last Thursday in term.

Rules to guide prothonotary in making up docket; priority in new causes, how determined.

106°. In making up the docket of civil causes for trial, the prothonotary shall be guided by the following rules: 1st. All summary and appeal causes shall have precedence, except when ordered to be tried by a jury, and then they shall be entered on the docket according to seniority, as in declaration causes. 2nd. When declarations are filed on the same day priority shall be regulated by the issue of the respective writs. 3rd. Where the declarations are filed on different days the priority shall be regulated by the filing of the declaration. In ejectment causes the day of the service of the declaration shall be deemed equivalent to the issue of the writ, and priority of the cause shall be governed by the second or third of the above rules, as the case may be.

Dockets of continued, and of new causes in Halifax, when to be called; parties required to answer, otherwise judgment.

107°. At Halifax the docket of continued causes shall be called on the first day of every term, and the docket of new causes on the last day thereof, at or shortly after the opening of the court, and the plaintiff's attorney or counsel, when a cause is first called, shall be required to state whether he intends to try the same at the then next sittings, and, in default of such statement, the cause shall be struck out of the docket: and the attorney or counsel for the defendant shall be required to state whether he intends defending the same, and in default of such statement the cause shall be struck out of the docket, and judgment, whether interlocutory or otherwise, may be entered up for the plaintiff, and further proceedings had as if no plea had been filed; but the court or a judge, upon due cause shewn, and upon such terms as may be thought proper, may order any cause to be again placed on the docket for trial as if it had not been called.

Docket to be called but once.

108° The docket of causes for trial shall be called but once, both at the sittings in Halifax and on the circuit.

Addition and place of residence of a person making an affidavit to be inserted therein, unless he be a party in the cause.

109°. The additions and place of residence of every person making affidavit, except the same is made in a cause by any of the parties thereto, shall be inserted therein.

Days, how computed.

110° In all cases in which any particular number of days not expressed to be clear days is prescribed by the rules or practice of the court, the same shall be reckoned exclusively of the first

day and inclusively of the last day, unless the last shall happen to fall on a Sunday, Christmas day, Good Friday, or a day appointed a public fast or thanksgiving, in which case the time shall be reckoned exclusively of that day also.

Costs of making a judge's order a rule of court, by whom to be paid

111 ° When a judge's order is made a rule of court, it shall be a part of the rule of court that the costs of making the order a rule of court shall be paid by the party against whom the order is made, provided an affidavit be made and filed that the order has been served on the party or his attorney, and disobeyed.

Causes for argument, when to be entered.

112 ° All causes for argument, whether upon demurrer, special verdicts, cases made, or rules nisi which have been granted, or causes in which the party has given bail to respond the judgment as hereinbefore provided, must be entered with the prothonotary at Halifax on or before the Tuesday preceding the first day of the term, and such entry shall be deemed notice to the opposite party to be prepared for the argument. And in case of such entry being omitted from neglect or other cause, judgment shall be entered against the party who ought to have made such entry, unless the court shall otherwise order.

Rules nisi operating to delay judgments, to be entered by the parties obtaining them.

113 °. In all cases where rules nisi have been granted to set aside verdicts or which may otherwise delay judgment, the party who has obtained the rule shall enter the cause for argument on the Tuesday preceding the term.

Entry of causes, by whom to be made; cause not to be entered a second time.

114 ° The party against whom any rule nisi has been granted may enter the cause with the prothonotary, and in such case the cause shall be placed upon the list prepared by the prothonotary for the court, in the order in which it first presents itself under the rule, and shall not be entered a second time.

Demurrer books, affidavits, &c., and papers upon which rules nisi have been granted, when to be filed.

115. ° The demurrer book, special verdict, case, judge's report, and affidavits or other papers upon which rules nisi have been granted, must be on file on the Tuesday before the first day of term at Halifax.

Judges' report of a cause for argument, when to be filed; copies, how procured; report, how amended.

116 °. No rule nisi for a new trial shall be argued at the commencement of the term at Halifax unless the judge's report of the facts proved, or the points reserved, shall have been filed on the Tuesday preceding the term, which either party requiring the same shall apply for to the judge, and the judge will deliver his report to the prothonotary, who will furnish copies thereof to the parties so requiring the same; and as the argument will be confined to the facts therein stated, it shall be competent for either party, on notice to the adverse party, to apply to the judge to alter or amend the same by his original notes or otherwise by consent of the parties, or on affidavit.

Judgments to be delivered the first day of term; and motions heard.

117 ° On the first day of term at Halifax the court will pronounce judgment, if prepared so to do, upon such cases as have been fully argued; after which they will hear motions, which do not require to be entered for argument, in the order in which motions are now heard, beginning with the attorney general and so proceeding through the bar according to seniority.

118°. When rules nisi are moved for on the first day of the term at Halifax, the court, on sufficient grounds laid, will grant the same without hearing the other side. Rules nisi, how obtained on first day of term.

119°. The subsequent days of the term at Halifax shall be devoted to hearing arguments upon the cases duly entered with the prothonotary, in the following order: the first case upon the attorney general's list—secondly, the first case upon the solicitor general's list, and so on through the whole bar, according to seniority; after the first case upon the junior barrister's list has been heard, then the second case upon the attorney general's list, and so on until all the causes entered for argument have been heard. No *concilium* to be moved for upon demurrers, which will take their turn with other causes entered for argument. Remainder of term to be devoted to arguments; order of arguments; no concilium to be moved.

120°. The party who has obtained the rule nisi shall briefly bring under the notice of the court the grounds upon which the rule was granted. The opposite party shall then shew cause, and the party supporting the rule shall reply, unless the court specially direct a different course. Mode of arguing rules nisi

121°. The attornies, in the several causes for argument, must provide each of the judges with copies of all papers necessary to be perused by them, before the argument commences. Copies of papers to be furnished judges.

122°. It shall not be necessary to issue more than one summons for attendance before a judge at chambers upon the same matter, and the party taking it out shall be entitled to an order, unless cause to the contrary be shewn, or the judge shall refuse the same. One summons only shall be necessary before an order, at chambers.

123°. When a judge has power to grant an order he may in place thereof grant a rule nisi returnable in term. When a judge is authorized to grant an order he may grant a rule nisi returnable in term.

2. In all cases not provided for in this chapter, nor in any rule that may be hereafter made, the practice and proceedings of the court shall conform, as nearly as may be, to the practice and proceedings of the superior courts of common law in England in force previous to the first year of the reign of King William the fourth, and in all cases where the proceedings and practice of the superior courts of common law in England differ from each other, those of the court of queen's bench shall be followed. Cases not provided for shall be governed by the practice of the queen's bench.

3. The court at Halifax may make rules as they shall think fit for regulating its proceedings and practice—provided the same be immediately published in the royal gazette; and such rules shall thereupon be as binding and obligatory as if they had been enacted by the general assembly. Rules touching the pleadings of the court or its practice, how made and published.

4. The practice of the court of queen's bench for amending defects in pleas, processes and records, for preventing abatement and discontinuance of suits, for the reformation of jeofails and mispleading, and preventing arrests and reversals of judgments, and for discharging the penalties in bonds, contracts and agreements, shall be and continue in full force, notwithstanding the repeal of the provincial statutes fourth George the third chapters one and two, The practice of the queen's bench relating to defects in pleas, &c., abatement, discontinuance, jeofails, &c., &c., to be continued in force.

fourth and fifth George the third chapter one, and eighth George the third chapter ten.

CHAPTER 135.

OF WITNESSES AND EVIDENCE, AND THE PROOF OF WRITTEN DOCUMENTS.

SECTION

1. Commissions for taking depositions of absent witnesses, how issued.
2. Depositions of witnesses about to leave the Province, aged or infirm, how taken.
3. When such witnesses do not reside in the county where the cause is pending.
4. Notice of examination to be given—length and contents of notice.
5. Refusal on the part of a witness to obey an order for examination, a contempt of court.
6. Writings and documents, what to be produced.
7. Depositions, when to be read in evidence.
8. Written or printed documents in continued causes may be exhibited for admission; notice, when and how given; costs in case of refusal.
9. Costs of proof of such documents to be disallowed when the party neglects to exhibit.
10. What costs relating to proof of written documents to be allowed, and what not.
11. What persons competent as witnesses.
12. Certified copies of papers filed in court admissable as evidence.
13. Certified copies of deeds admissable when originals lost.
14. Copies of grants admissable as evidence.
15. Justices may issue subpœnas where witnesses reside more than five miles distant, &c.
16. Witness' fees to be tendered.
17. Judges' testimony, how taken when necessarily absent from any county.

Commissions for taking depositions of absent witnesses, how issued.

1. In any civil action, the court or a judge, upon sufficient cause being shewn by affidavit, may order a commission to issue for taking the deposition of witnesses residing out of the province, in such manner and under such restrictions as the court or judge may direct; and the depositions so taken may be read in evidence at the trial of the cause.

Depositions of witnesses about to leave the Province, aged or infirm, how taken.

2. In civil causes depositions of witnesses who are about to leave the province, or are aged, infirm, or otherwise unable to travel, may be taken before a judge or commissioner, on due notice being given to the adverse party; and any party upon shewing sufficient cause by affidavit may obtain from a judge an order in such terms as he shall think fit, to compel an unwilling witness in such cases to give evidence before the judge or commissioner.

When such witnesses do not reside in the county where the cause is pending.

3. Where such witnesses reside in any other county than that in which the cause is to be tried, a judge, on sufficient cause being shewn by affidavit, may give such order as he shall think fit for the deposition *de bene esse* of such witnesses to be taken before a judge or commissioner by interrogatories or otherwise.

Notice of examination to be given; length and contents of notice.

4. In all cases of depositions to be taken before any judge or commissioner, at least twenty-four hours notice in writing shall be given to the adverse party or to his attorney, where such party or his attorney resides within the county, otherwise at least eight days

notice shall be given in like manner, and such notice shall in all cases contain the names of the witnesses to be so examined.

Refusal on the part of a witness to obey an order for examination, a contempt of court.

5. Where any order shall be made for the examination of witnesses, and the order, together with a notice containing the time and place where such attendance is required, signed by the person appointed to take the examination, shall have been duly served on the witness, and the witness shall have been tendered his reasonable fees, the refusal to obey any such order shall be deemed a contempt of court.

Writings and documents, what to be produced.

6. No witness shall be compelled under any such order to produce any writing or document that he could not be compelled to produce at the trial of the cause.

Depositions, when to be read in evidence.

7. No such deposition shall be read in evidence without the consent of the party against whom the same is offered, unless the judge shall be satisfied that the deponent is dead, or beyond the jurisdiction, or unable from some infirmity to attend the trial, in which case the deposition certified under the hand of the judge or commissioner shall, without proof of his signature, be received and read in evidence, saving all just exceptions.

Written or printed documents in continued causes may be exhibited for admission, notice, when and how given; costs in case of refusal.

8. Either party in any civil action that has been continued from one term to another, may exhibit to the adverse party or his attorney, any written or printed document to be used at the trial of the cause, and require him within eight days to enter into a rule to admit the same, and if the party so required shall neglect or refuse so to do, and the judge before whom the issue is tried shall be of opinion that the instrument proved was necessary to support the case of the party producing it, the party so neglecting or refusing shall be liable to pay the fees of the witnesses necessary for proving the same.

Costs of proof of such documents to be disallowed where the party neglects to exhibit.

9. No witnesses fees shall be allowed in any case within the preceding section, to a party who shall have adduced in support of an issue, of which it was incumbent on him to prove the affirmative, any written or printed document which shall not have been exhibited, a reasonable time before the trial or inquiry to the opposite party, unless sufficient cause shall be shewn on taxation, why the notice could not have been given.

What costs relating to proof of written documents to be allowed, and what not.

10. No charge for preparing to prove any such document incurred before the service of the notice, or after an offer by the adverse party to admit the same, shall be allowed, except those charges necessarily incurred in consequence of some act of the adverse party, after the service of notice and before the offer of admission.

What persons competent as witnesses.

11. No person shall be an incompetent witness by reason of incapacity from crime or from interest, except a party individually named as such on the record, or the lessor of the plaintiff or tenant of the premises sought to be recovered in ejectment, or the landlord or other person in whose right any defendant in replevin may make cognizance, or any person in whose immediate and individual behalf any action may be brought or defended, or the husband or wife of such persons respectively; but any defendant

in a cause pending in the court of chancery may be examined as a witness on behalf of the plaintiff or of any co-defendant in the cause, saving just exceptions.

Certified copies of papers filed in court, admissable as evidence.

12. Copies of any document, writing or proceeding, filed in any court in this province, shall be received as evidence to the same extent as the original—provided such copies be certified under the seal of the court, or by the proper officer under his hand.

Certified copies of deeds admissable when originals lost.

13. Where an original deed has been lost, a copy from the books of registry, certified under the hand of the registrar, or proved to be a true copy taken therefrom, shall be received as evidence.

Copies of grants admissable as evidence.

14. A copy of any grant of lands, or of any proceedings in her majesty's council respecting titles of lands, certified by the provincial secretary, or clerk of the council, shall be received as evidence.

Justices may issue subpœnas where witness resides more than five miles distant.

15. Where a witness in a cause resides more than five miles from the place where the trial is to be had, a justice of the peace may issue a summons for such person to attend at the trial thereof, which summons shall have the same effect as a subpœna, and may be in the usual form of a justice's subpœna with the necessary alterations.

Witness' fees to be tendered.

16. No person shall be obliged to attend or give evidence in any cause, before he is tendered his reasonable charges for such attendance.

Judge's testimony, how taken when necessarily absent from any county.

17. The testimony of a judge of the supreme court may be taken before any other judge or a commissioner, in the same manner as in the case of a witness about to leave the province; and the testimony may be used on the trial, though the judge be not out of the province, if he shall be necessarily absent from the county on official business.

CHAPTER 136.

OF JURIES.

SECTION

1. Qualification of grand jurors.
2. Qualification of petit jurors.
3. Persons exempted from serving on juries; no persons liable to serve oftener than once in three years, except in special cases.
4. Committee for preparing and revising jury lists, how appointed.
5. Duty of Committee; access to public papers, &c., free.
6. Lists valid, though the whole committee do not act.
7. Lists of grand jurors to contain names, additions, &c,
8. Lists of petit jurors, like particulars.
9. Lists of petit jurors for Halifax, how prepared.
10. Distance from Halifax within which parties residing are liable as jurors.

SECTION
11. Saint Mary's district, grand jury list, how revised.
12. Liability of persons residing within Saint Mary's district to serve as grand jurors.
13. Saint Mary's district grand jury, how drawn for the sessions.
14. Names of grand and petit jurors to be placed by prothonotary in separate boxes.
15. Grand jury, how drawn and summoned.
16. Grand jury for Guysborough sessions, how drawn, &c.
17. Foreman of grand jury, how chosen.
18. Petit juries, how drawn and summoned.
19. Special juries, how obtained; motion for when to be made.
20. How drawn, struck, and summoned.
21. Number of names in panel of petit jurors.
22. Halifax to have two panels; mode of service.
23. Pictou and Cumberland to have each two panels at their long terms respectively.
24. Jury impannelled not to be discharged merely because the trial extends beyond their time of service.
25. Panel to be called on first day; absent jurors to be fined.
26. Second panel when not called to have their their names returned as not drawn.
27. Names of jurors not attending to be returned to the box, and others to be summoned forthwith.
28. Jurors finable for non-attendance.
29. Fines, how levied; how, when and to whom payable.
30. Jurors, how relieved from fines.
31. Amendment of jury lists provided.
32. Special jury, how drawn and called on trial.
33. Petit juries, how drawn and called on trial.
34. *Tales* may be prayed by either party in case of a deficiency of jurymen.
35. Challenges without cause allowed.
36. Duties of prothonotary to be performed by clerk of peace, in certain cases.

Qualification of grand jurors.

1. All persons not hereinafter exempted, or who may not otherwise by law be exempted, who shall have resided twelve months within the county, and shall hold a freehold estate within the same, if within the county of Halifax of the yearly value of thirty pounds, and if in any other county of the yearly value of fifteen pounds, or shall be possessed of a personal estate, if within the county of Halifax of the value of five hundred pounds, and if in any other county of the value of three hundred pounds, shall be qualified to serve as grand jurors for such county.

Qualification of petit jurors.

2. All persons not hereinafter exempted, or who may not otherwise by law be exempted, whether liable to serve as grand jurors or not, who shall have resided twelve months within the county, and shall own property within the county to the value of two hundred pounds, shall be qualified to serve as petit jurors for such county.

Persons exempted from serving on juries; no persons liable to serve oftener than once in three years, except in special cases.

3. The members of the executive and the legislative councils and of the house of assembly, and the officers thereof while in session, the receiver general, the financial secretary and the secretary of the province, the surveyor general of crown lands, and the clerks employed in their several offices, the registrar of deeds, the officers of her majesty's courts, justices of the peace and members of the corporation of the city of Halifax, the officers composing the staff of the army, the clerks belonging to the several departments of the army, the officers and clerks belonging to and laborers employed in the naval yard, naval hospital establishment, the victualling establishment or her majesty's ordnance, or the departments of the customs, or excise or post office: ministers, attornies, physicians, surgeons, keepers of light houses, millers, licensed ferrymen, teachers of academies and licensed schoolmasters, mail couriers, engine men and firemen, persons under twenty-one and above sixty

years of age, and the cashiers or accountants and tellers actually employed in the several banks, shall be exempted from serving on juries; and no person shall be liable to serve on grand or petit juries more than once in three years respectively, unless in cases where a new summons shall be issued for jurors to supply, the place of jurors not attending, as hereinafter directed.

Committee for preparing and revising jury lists, how appointed.

4. The sessions shall from among their number appoint a committee of five justices, resident in different sections of the county or district, for the purpose of preparing and revising the grand and petit jury lists of the county or district, and shall from time to time appoint others to act in the room of such as may die or be removed.

Duty of Committee; access to public papers, &c., free.

5. The committee, having been sworn, shall have free access to all public papers and accounts, and shall prepare and annually revise the lists, and shall transmit copies thereof to the prothonotary.

Lists valid though the whole committee do not act.

6. The lists shall be valid though all the justices appointed shall not act in the compilation or return thereof.

Lists of grand jurors to contain names addations, &c.

7. The list of grand jurors shall contain all the Christian names and the surnames of all those qualified to serve as grand jurors, their places of residence, trades, callings or employments, and whether senior or junior, or by any other appellation by which they may be usually called or known.

Lists of petit jurors, like particulars.

8. The list of petit jurors shall contain all the christian names and the surnames of all those qualified to serve either as grand or petit jurors, their places of residence, trades, callings or employments, and whether senior or junior, or by any other appellation by which they may be usually called or known.

Lists of petit jurors for Halifax sessions, how prepared

9. The committee appointed for the county of Halifax shall also prepare and annually revise a list of those persons not qualified to serve as grand or petit jurors, and shall return such list to the clerk of the peace, which list shall be the list from which the petit juries for the sessions at Halifax shall be drawn; and such petit juries shall be drawn, summoned and sworn in the same manner, and subject to the same rules and penalties as petit juries in the supreme court.

Distance from Halifax within which parties residing are liable as jurors.

10. No person living more than fifteen miles from the city of Halifax shall be placed on any list for the county of Halifax.

Saint Mary's district grand jury list, how revised.

11. The general sessions for the district of Saint Mary's shall appoint three justices to revise the list of grand jurors for the district, as often as may be requisite.

Liability of persons residing within Saint Mary's district to serve as grand jurors.

12. The inhabitants residing within the district of Saint Mary's shall alone be liable to attend as jurors at the sessions held in the district, and they shall not be liable to attend as jurors at the sessions held at Guysborough: but nothing in this section shall be construed to exempt such persons from their liability to attend as jurors at the supreme court at Guysborough.

Saint Mary's district grand jury, how drawn for the sessions.

13. The clerk of the peace for the district of Saint Mary's shall draw from the list a grand jury on the last day of the sittings or term of the sessions, to be summoned to attend the next term or sittings of the court.

14. The prothonotary, as soon as possible after the return of such lists, shall have the names of all persons mentioned therein written on distinct and separate pieces of paper, so folded as to conceal the names thereon, and shall place the same in separate boxes, those names placed on the grand jury list being put into the grand jury box, and those on the petit jury list into the petit jury box. Names of grand and petit jurors to be placed by prothonotaries in separate boxes.

15. During the sitting of the court on the last term in each year, the prothonotary shall draw from the grand jury box in open court, and before drawing the petit jury, the number of names fixed and determined by the sessions or by the committees thereof, to serve as grand jurors for each township or settlement in such county or district during the ensuing year, and shall thereupon make a list of such names as shall first be drawn, setting aside the names of those who have served within two years then next preceding, which list shall be signed by the presiding judge; and the prothonotary shall issue writs of *venire facias* for the summoning of such jurors, and shall deliver the same to the sheriff at least thirty days before the first term or sittings of the supreme court or general sessions at which such grand jury shall be bound to attend, and the sheriff shall thereupon cause such jurors to be summoned at least four days before the time appointed for their attendance. Grand jury, how drawn and summoned.

16. The deputy prothonotary for the county of Guysborough, immediately after drawing the grand jury for the supreme court, shall draw in the usual mode from the apartments of the grand jury box allotted to those portions of the county not included in the district of Saint Mary's, a grand jury to attend at the sessions in Guysborough, who shall be summoned in the usual manner, and shall return the names of such grand jury into the box: such drawing shall not exempt them from serving as grand jurors at the supreme court, but they shall not be liable to serve as jurors at the sessions oftener than once in three years. Grand Jury for Guysboro' sessions, how drawn, &c.

17. When above twelve of the grand jury shall assemble in court for the first time in each term, they shall choose a foreman, who shall be foreman of such jury for the term, and such foreman and jury shall be sworn in the usual manner. Foreman of grand jury, how chosen.

18. At each term of the supreme court the prothonotary shall, in open court, draw from the petit jury box a number of names to form the panel of petit jurors for the ensuing term, and setting aside the names of all those who shall have served either as grand or petit jurors within two years then next preceding, or who shall then be serving or drawn as grand jurors, shall prepare a list containing the names of those first drawn, and have the same signed by the presiding judge, and shall issue writs of *venire facias* for the summoning thereof, and deliver the same to the sheriff at least thirty days before the ensuing term; and the sheriff shall cause such jurors to be summoned at least four days before the time appointed for their attendance. Petit juries, how drawn and summoned.

19. In any civil cause, information or indictment for a misdemeanor, the court upon motion shall order a special jury for the Special juries, how obtained; motion for, when to be made.

trial thereof, which motion shall be made within the time limited for the defendant's appearance; but the court may at its discretion, upon sufficient cause shewn, allow such jury at any future day; and the court may order a special jury for the assessment of damages upon motion in cases where the assessment is to be made before them.

How drawn, struck, and summoned.

20. When special juries are ordered, the prothonotary shall draw forty-eight names from the petit jury box, setting aside the names of any persons then serving as grand jurors; and the number having been reduced to twenty-four in the usual manner, they shall be summoned at least forty-eight hours before the time appointed for their attendance.

Number of names in panel of petit jurors.

21. The panel of petit jurors shall contain in the county of Halifax forty-eight names, and in every other county thirty-six except in Pictou at the October and in Amherst at the June term when such panels shall contain twenty-four names.

Halifax to have two panels; mode of service.

22. There shall be two panels of jurors drawn and summoned for each sittings after term at Halifax, the first whereof shall be summoned for and bound to attend on the first Wednesday of such sittings, and thence until the second Wednesday thereof; and the other shall be summoned for and bound to attend on the second Wednesday thereof, and thence until the termination of the sittings, except at the Michaelmas sittings, when the first panel shall again attend on the third Wednesday for a week, and the respective panels shall so continue to attend by alternate weeks until the termination of the sittings.

Pictou and Cumberland to have each two panels at their long terms respectively.

23. There shall be two panels of jurors drawn and summoned for the county of Pictou at the October term, and for the county of Cumberland at the June term, the first of which panels shall be summoned for and bound to attend on the first day of the term, and thence until the succeeding Monday, and the other shall be summoned for and bound to attend on the first Monday of such term, and thence until the termination of the sittings.

Jury impannelled not to be discharged merely because the trial extends beyond their time of service.

24. A jury impannelled for the trial of a cause which shall go over the time specified for the attendance of such jury, shall not on that account be discharged.

Panel to be called on first day, absent jurors to be fined.

25. The whole panel of jurors shall be called on the first day on which they are bound to attend, and before any cause to be tried by a jury shall be proceeded in, and all jurors not then in attendance shall be fined.

Second panel, when not called, to have their names returned as not drawn.

26. When the second panel shall not have been called upon to serve as a jury, their names shall be returned into the boxes as if not drawn.

Names of jurors not attending to be returned to the box, and others to be summoned forthwith.

27. If a sufficient number of grand or petit jurors do not attend, or if it is probable that a sufficient number may not attend, the names of those who do not attend shall be returned to the box as if they had not been drawn, and the prothonotary shall draw the names of others liable to serve, and shall cause the sheriff immediately to summon those whose names have been so drawn to attend forthwith.

28. Any juror who, having been duly summoned, shall not attend, shall be fined not less than ten nor more than forty shillings for each day's neglect. Jurors finable for non attendance.

29. All fines for non-attendance of jurors shall be levied by warrant of distress; such warrant shall be made out and delivered by the prothonotary to the sheriff, immediately after the calling of the jury each day, and the sheriff shall proceed at once to enforce the same, and shall forthwith return to the prothonotary a statement of all fines received by him, which statement shall also set forth the reasons why such fines, if any, have not been collected, and the sheriff shall at the same time pay over to the prothonotary the full amount by him received, deducting ten per cent., and the prothonotary shall immediately lay such statement before the court, if then sitting, or otherwise at the next term thereof in the county; and he shall also at the end of each term pay over the amount of fines collected, deducting five per cent., to the county treasurer for county purposes, and shall take his receipt therefor, which shall be laid before the court at its next sitting. Fines, how levied; how, when and to whom payable.

30. The court or presiding judge may relieve any juror from such fine, in whole or in part, on sufficient reason being shewn on oath, which, if in writing, may be made before a justice of the peace. Jurors, how relieved from fines.

31. The court or presiding judge may amend the lists of jurors by striking out the names of persons not liable to serve, or inserting the true name or addition of any person therein improperly designated or described, or by adding the name of any qualified person brought to their knowledge, and the prothonotary shall keep a memorandum of all such amendments and annually return the same to the clerk of the peace, to be laid before the revising justices. Amendment of jury lists provided.

32. The prothonotary shall cause the names of the special jurors to be written on distinct and similar pieces of paper, and having folded the same so as to conceal the names, and placed them in a box, shall proceed to draw the jury therefrom, and the twelve whose names shall be first drawn, and who shall be in attendance, shall be the jury for the trial of the cause or assessment of damages. Special jury, how drawn and called on trial.

33. The prothonotary shall cause the names of the petit jurors to be written on distinct and similar pieces of paper, and having folded the same so as to conceal the names, and placed them in a box, shall, on the first cause being called, proceed to draw the jury therefrom, and the twelve whose names shall be first drawn, and who shall be in attendance, and shall not be challenged, shall be the jury for the trial of the cause; and when another cause shall be called, the prothonotary, having returned into the box the names of those who have been challenged, or who have not appeared, shall proceed to draw the jury therefrom until all the names have been drawn, when the names of such as have served on previous juries shall be returned to the box, to be drawn in like manner. Petit juries, how drawn and called on trial.

Tales may be prayed by either party in case of a deficiency of jurymen.

34. When a full jury shall not appear, or appearing, shall be challenged or otherwise prove deficient, *a tales de circumstantibus* shall at the instance of either party be awarded and returned immediately.

Challenges without cause allowed.

35. In all civil causes, informations, and indictments for misdemeanors, either party may peremptorily challenge, if in Halifax four, if in any other county three, of the jurors or talesmen.

Duties of prothonotary to be performed by clerk of peace in certain cases.

36. The duties imposed by this chapter on the prothonotary shall be performed by the clerk of the peace where necessarily devolving on him.

CHAPTER 137.

OF THE RELIEF OF INSOLVENT DEBTORS.

SECTION
1. Commissioners appointed by governor in council.
2. Prisoner to exhibit petition and schedule annexed.
3. Summons thereupon to issue.
4. Copy of summons and schedule, how served; time from date of service till return to be proportioned to distance.
5. Oath to be administered to prisoner if required.
6. Order for discharge upon assignment made and oath taken; form of oath; confession may be required in case of mesne process.
7. Debtors at the suit of the crown, how discharged.
8. Prisoner may be remanded on affidavit.
9. In cases of fraud prisoner may be remanded for a period not exceeding one year.
10. Two justices may relieve in case of process issuing out of justice's court.
11. Appeals to be had by either party.
12. Supreme court or judge thereof, or a special sessions, to be the court of appeal.
13. Powers of the court of appeal.
14. Papers to be returned to the supreme court.
15. Prisoner to be discharged by order
16. Property subsequently acquired liable for the debt.
17. Sheriff's fees; who liable the refor on a discharge.

Commissioners appointed by governor in council.

1. Commissioners for giving relief to insolvent debtors shall be appointed by the governor in council.

Prisoner to exhibit petition and schedule annexed

2. Where any person imprisoned upon any writ of mesne process, execution or attachment for non-payment of costs, issuing out of the supreme court, shall desire to take the benefit of this chapter, he shall exhibit a petition to a judge of the supreme court, or to two commissioners, praying for his discharge. The petition shall be accompanied by a schedule of all the property, real and personal of the debtor, of all debts due or growing due to him, and of all securities by him held, which might by any possibility be made available, or which might become assets in the hands of his representatives, and also, so far as the same can be obtained by the debtor, a statement shewing the amount of his liabilities.

Summons thereupon to issue.

3. The judge or commissioners shall thereupon forthwith issue

a summons calling upon the creditor at whose suit the debtor is imprisoned, at a certain time and place to be therein named, to shew cause why such prisoner should not be discharged.

Copy of summons and schedule, how served, time from date of service till return to be proportioned to distance.

4. True copies of the summons and schedule shall be served on the creditor, his attorney or agent, or where a debtor is imprisoned at the suit of the crown, on the attorney general, at least forty-eight hours before the time appointed for shewing cause: and where the creditor, his attorney or agent or the attorney general, shall reside more than twenty miles from the place so appointed, twenty-four hours additional shall be allowed for every additional twenty miles. The service of such copies, if not admitted, must be proved on oath by the person serving the same, which oath may be administered by a justice of the peace, and a further time may be allowed for the examination, in the discretion of the judge or commissioners, where the creditor himself has not been served.

Oath to be administered to prisoner if required.

5. At the time appointed the judge or commissioners shall, if desired by the creditor, administer an oath to the debtor in the following form:

"I, A. B., do swear that I will true answer make to all such questions as shall be asked me on this examination."

Order for discharge upon assignment made and oath taken; form of oath; confession may be required in case of mesne process.

6. The judge or commissioner shall give an order for the discharge of the debtor, unless in the cases hereafter provided for, upon the debtors making an assignment to the creditor, in trust for the payment of the debt, of his real and personal property, upon his taking and subscribing an oath to the following effect:

I. A. B. do swear that the schedule annexed to my petition contains a true account of all the real and personal estate which I or any person in trust for me at the time of my petition had, or now have, or may hereafter have, except the wearing apparel and bedding for me and my family, and the tools or instruments of my trade or calling, not exceeding ten pounds in the whole, and that I have not since my imprisonment or before, conveyed in trust for myself, or otherwise, except as in such schedule mentioned, any part of my property whereby to defraud any of my creditors. So help me God.

The taking of which oath may be waived by the creditor; and in case of imprisonment under mesne process, if the judge or commissioners are satisfied of the existence and amount of the debt, the debtor shall sign a confession of judgment therefor, and shall do such other acts as the judge or commissioner shall deem right.

Debtors at the suit of the crown, how discharged.

7. When a debtor is imprisoned at the suit of the crown, and the judge or commissioners are satisfied of the insolvency of such debtor, he or they shall certify the same, together with an inventory of all the property of the debtor, and the governor may thereupon by warrant under his hand and seal, order the attorney general to assent on behalf of her majesty to the discharge of the insolvent, either with or without an assignment of his property.

Prisoner may be remanded on affidavit.

8. If the creditor, or in his absence his attorney or agent, shall forthwith, in the presence of the judge or commissioners,

make an affidavit in writing, stating that he has good reason to be dissatisfied with the account given, and believes that the debtor has not disclosed the whole truth, or has other property than that by him admitted, the judge or commissioner shall remand the debtor, and appoint another day for the further hearing of the matter, and shall on that day again meet and discharge or remand the debtor, or make such further order as the justice of the case may require.

In cases of fraud, prisoner may be remanded for a period not exceeding one year.

9. When upon the examination of the debtor, or of any witnesses that may be produced on either side, and which witnesses shall be bound to attend on subpœna as in actions depending in the supreme court, the debt shall appear to have been fraudulently contracted, or any fraudulent circumstances have occurred in respect of such debt, or in respect of the delay of payment thereof, or in respect of the conduct of the debtor with regard to the disposition of his property, the judge or commissioner may remand the debtor for such time, under one year, as he or they shall deem proper under the circumstances, at the end of which time the debtor shall be discharged on making the affidavit and assignment of his property before a judge or any two commissioners.

Two justices may relieve in case of process issuing out of justice's court.

10. Where the debtor is imprisoned under a capias or execution issued by a justice or justices of the peace, any two justices shall possess the same powers in respect to the relief of insolvent debtors as a judge.

Appeal to be had by either party.

11. In cases where the hearing shall be had before commissioners or justices of the peace, the debtor shall be entitled to an appeal; and if the creditor, or in his absence his attorney or agent, shall demand an appeal, and shall make an affidavit in writing that he is dissatisfied with the decision and that the appeal is not made for the purpose of delay only but that substantial justice may be done him therein, or to that effect, the commissioners or justices shall grant such appeal and remand the debtor.

Supreme court, a judge thereof, or a special sessions, to be the court of appeal.

12. The supreme court shall be the court of appeal if it shall be sitting within the same county at the time the order appealed from was made, or if such sitting shall be held within ten days from the making of such order; when such shall not be the case, then any judge of the supreme court, if within such county, and in case a judge shall not be present, then a special sessions of the peace shall be the court of appeal. The special sessions shall be summoned by the prothonotary and be held within three days, and shall consist of any three justices of such county not concerned in the making of the order, the custos to be one in all cases where he shall not have been concerned.

Powers of the court of appeal.

13. The court of appeal shall hear and determine such appeal, and make such orders therein from time to time as it shall deem proper, such orders being not inconsistent with this chapter.

Papers to be returned to the supreme court.

14. The judge, commissioners, justices, and court of appeal shall return to the supreme court of the county all the papers connected with their proceedings on such applications and appeals.

Prisoner to be discharged by order.

15. Upon receiving an order to that effect from the judge,

commissioners, justices or court of appeal, the officer in whose custody such prisoner shall be, shall discharge him therefrom as regards the suit expressed in the order.

16. Where any person shall be discharged under the provisions in this chapter, the property subsequently acquired by him may nevertheless be levied upon for the debt. Property subsequently acquired liable for the debt.

17. When any person shall be discharged under the provisions in this chapter, the party at whose suit he has been committed to jail, or in case of his absence from the province his attorney, shall be liable to pay the sheriff his fees for the service return and travel necessary in serving the process. Sheriff's fees, who liable therefor on a discharge.

TITLE XXXVI.

OF ACTIONS RELATING TO REAL PROPERTY

CHAPTER 138.

OF THE WRIT OF DOWER.

SECTION
1. Widow entitled to sue for dower when not assigned within one month after demand.
2. Writ to be in the form heretofore used.
3. Damage may be assigned for withholding dower.
4. Writ of seisin to be in form heretofore used.
5. Dower, how set forth.
6. Of special endowments where the property is indivisible.
7. Waste not to be committed or suffered.

1. When the heir or other person having the freehold shall not within one month next after demand made assign to the widow her reasonable dower, she may sue for and recover the same by writ of dower. Widow entitled to sue for dower when not assigned within one month after demand.

2. The writ of dower shall be, as near as may be, in the form heretofore used. Writ to be in the form heretofore used.

3. Upon judgment being given for the widow, reasonable damages shall be assigned to her from the time of the demand made. Damage may be assigned for withholding dower.

4. Writs of seisin thereon shall be, as near as may be, in the forms heretofore used. Writ of seisin to be in form heretofore used.

5. The officer to whom the writ is directed shall cause the dower to be set forth by five freeholders of the neighborhood, three of whom at least shall concur, who shall be first sworn before a justice of the peace, to set forth the same impartially, without favor or affection, and as conveniently as may be. Dower, how set forth.

Or special endowment, where the property is indivisible.

6. Where no division can be made by metes or bounds, the widow shall be endowed in a special manner as of a third part of the rents or otherwise.

Waste not to be committed or suffered.

7. A woman endowed of lands shall not commit or suffer waste thereon, but shall maintain the buildings with the fences and appurtenances in good repair, during her term.

CHAPTER 139.

OF THE PARTITION OF LANDS.

SECTION

1. Partition may be as at common law or under this chapter.
2. Proceedings to be commenced by petition to supreme court.
3. Petition, by whom maintained.
4. Same subject.
5. Duration of partition as between tenants for years.
6. Contents of petition; amendments to be allowed at any stage.
7. Petition to be filed, a summons to issue and be served with a copy of petition; rule to plead, &c., &c., as if it were a declaration.
8. Proceedings where some parties are absent, &c.
9. Where a party fails to appear the court may order further notice.
10. Proceedings where it appears that a party out of the province has not had an opportunity of appearing.
11. Guardians may be appointed.
12. Defendants may appear jointly or separately, and pleadings, &c. may be as in other cases.
13. Replication where a party's right to appear and defend is contested.
14. Proceedings thereon.
15. Costs of trial, how regulated.
16. Proceedings in cases of default; rule for partition thereon.
17. Commissioners to be appointed to make partition under rule.
18. Several petitioners may have their shares set off jointly or separately.
19. Commissioners, how sworn.
20. Commissioners to give notice of time and place of partition.
21. The three commissioners shall meet, but the acts of two to be valid.
22. Partition how effected where the premises cannot well be divided.
23. Same subject.

SECTION

24. Tenant liable for misconduct where he has the exclusive occupancy.
25. Liabilities in case of sole occupancy by one tenant in common.
26. Commissioners' returns to be made for confirmation by the court; when confirmed to be filed and registered.
27. Return may be set aside and new proceedings had.
28. Final judgment, upon whom conclusive.
29. Part owners absent from the province for whom a share was left may apply within three years for a new partition.
30. Court may, if justice require it, order a new partition.
31. Commissioners duty on such new partition.
32. Improvements to be considered in new partition, and proceedings in such case.
33. Persons not parties to the partition claiming to hold the premises in severalty not bound by the judgment, but may take proceedings as in other cases.
34. A person not appearing but claiming a share assigned to a part owner shall be bound by the partition, but may have an action for the share.
35. Action in such case, how and against whom brought.
36. Proceedings where two persons claim the same share before division.
37. Defendant against whom judgment on the partition is given, shall not be precluded thereby from subsequently contesting his right with the other.
38. Rights of a party not appearing where the same was not known or allowed, how far affected by the partition judgment.
39. Redress in such case, how and against whom obtained.
40. Rights of heir, or devisee, where, after partition, it shall appear that ancestor or testator died before partition, how affected.

SECTION
41. Remedy where a party is evicted by a person having a paramount title.
42. Lien by mortgage or attachment, how affected by the judgment.
43. Suit not to abate for the death of a party named on a partition.
44. Expenses of commissioners to be allowed, and costs to be taxed, as in other cases.
45. Titles under a judgment of partition, how considered.
46. Orders of a single judge liable to be rescinded or altered.

Partition may be as at common law or under this chapter.

1. All persons holding lands as joint tenants, corparceners or tenants in common, may be compelled to divide the same, either by writ of partition at the common law, or in the manner provided in this chapter.

Proceedings to be commenced by petition to supreme court

2. Any one or more of the persons so holding lands, may apply, by petition to the supreme court for the county where the lands lie, for a partition of the same, and such court may cause partition to be made accordingly; and the shares of the petitioners shall be set off and assigned to them, and the residue of the premises shall remain for the persons entitled thereto, subject to a future partition among them if there is more than one person so entitled.

Petition, by whom maintained.

3. Such petition may be maintained by any person who has an estate in possession, but not by one who is entitled only to a remainder or reversion.

Same subject

4. No tenant for any term of years, unless twenty years thereof at the least remain unexpired, shall maintain such a petition against any tenant of the freehold; but when two or more persons hold jointly or in common, as tenants for any term of years, either of them may have his share set off and divided from the others in the same manner as if they had all been tenants of the freehold.

Duration of partition as between tenants for years.

5. Such partition between two or more tenants for years shall continue in force only so long as their estates endure, and shall not affect the premises when they revert to the respective landlords or reversioners.

Contents of petition; amendments to be allowed at any stage.

6. Every petition for a partition shall set forth the rights and titles, so far as known to the petitioner, of all persons interested in the premises who would be bound by the petition, whether they have an estate of inheritance, or for life, or years, and whether it be an estate in possession or in remainder or reversion, and whether vested or contingent; and if the petitioner holds an estate for life or years, the person entitled to the remainder or reversion after his estate shall be considered as one of the persons so interested, and shall be entitled to notice accordingly: such petition or any subsequent proceeding had thereon may be amended at any time upon such terms as the court or a judge may impose.

Petition to be filed, a summons to issue and be served with a copy of petition; rule to plead, &c., &c., as if it were a declaration.

7. The petition shall be filed in the same manner as a declaration, and a summons to appear and answer thereto shall be signed by the prothonotary, and a copy thereof with a copy of such petition, accompanied by a rule to plead and the usual notices, shall be served on each of the parties named in the petition as interested in the premises if they shall be found within the province, the like number of days before the sitting of the court as is required in declaration suits.

Proceedings where some parties are absent, &c

8. If any of the persons so named as interested are absent from the province, or if there are persons interested in the premises and who would be bound by the partition whose names are unknown to the petitioner, the court or a judge thereof shall order notice to be given to the persons interested who are so absent or unknown, by a publication of the petition or of the substance thereof, with the order of the court or a judge thereon, in one or more newspapers to be designated in the order, or by delivering to such absent party an attested copy of the petition and order, or in such other manner as such court or judge shall consider to be most proper and effectual.

Where a party fails to appear the court may order further notice.

9. If any person entitled to notice shall fail to appear, and if the service of the summons or other notice to him shall appear to the court to have been insufficient, the court or a judge may order such further notice as shall be thought proper.

Proceedings where it appears that a party out of the province has not had an opportunity of appearing.

10. If in any stage of the proceedings it shall appear to the court that any person interested, whether named in the petition or not, is out of the province, and has not opportunity to appear and answer to the suit, it shall be continued from term to term, until sufficient time has been allowed to enable him to appear and answer thereto.

Guardians may be appointed.

11. The court or a judge may assign a guardian for the suit for any infant or insane person who is interested in the premises, in the same manner as a guardian is admitted for an infant plaintiff or defendant at common law.

Defendants may appear jointly or separately, and pleadings, &c. may be had as in other cases.

12. Any person interested in the premises of which partition is prayed for, may appear and answer to the partition, and may plead either separately or jointly with any other defendants, any matter tending to show that the petitioner ought not to have partition as prayed for, either in whole or in part; and the replication and further pleadings shall be conducted as in other actions until issue is joined, which shall be tried and determined as in other cases—all such pleadings to be filed and served in the same way, as the pleadings in declaration suits, and notices of trial to be given in like manner.

Replication where a party's right to appear and defend is contested

13. If any person who is not named in the petition shall appear and plead as a defendant the petitioner may reply that such person has no estate or interest in the lands described in the petition, and may pray judgment if he shall be admitted to object to the petition; and the petitioner may in the same replication plead over in answer to such plea any other matter in like manner as he might have done if he had not disputed the defendant's right to appear.

Proceedings thereon.

14. If upon such a replication it shall appear that the defendant has no estate or interest in the lands, the matter of his plea or objection shall be no further inquired of.

Costs of trial, how regulated.

15. If upon the trial of any issue of law or of fact it shall appear that the petitioner is entitled to have partition as prayed for, he shall recover his costs of such trial against the party who ob-

jected thereto, and shall have execution therefor in the usual form: but if such issue is found or decided against him, in whole or in part, the adverse party shall recover against him the costs of the trial and shall have execution accordingly, and judgment may notwithstanding be entered for the petitioner to have partition and to have assigned to him such part of the premises, if any, as he shall be entitled to.

Proceedings in cases of default; rule for partition thereon.

16. If the defendant shall make default, or if upon such trial it shall appear that the petitioner is entitled to have partition, whether for the share or proportion claimed in his petition or for a less share, a rule that partition shall be made shall pass, but the court shall have the same power of setting aside defaults and in granting new trials as in other cases.

Commissioners to be appointed to make partition under rule.

17. When such rule shall have passed the court shall appoint three disinterested persons as commissioners, to make partition and to set off to the petitioners the shares belonging to them, which shall be expressed in the rule in that behalf.

Several petitioners may have their shares set off jointly or separately.

18. If there are several petitioners they may have their shares set off together, or the share of each one may be set off in severalty at their election.

Commissioners, how sworn.

19. The commissioners, before proceeding to the execution of their duties shall be sworn before any justice, faithfully and impartially to perform the same, a certificate of which oath shall be made on the warrant by the person who administered it.

Commissioners to give notice of time and place of partition.

20. The commissioners shall give sufficient notice of the time and place appointed for making the partition to all persons interested therein, who are known and within the province, that they may be present if they see fit.

The three commissioners shall meet, but the acts of two to be valid.

21. The three commissioners shall meet for the performance of any of their duties, but the acts of any two of them shall be valid.

Partition, how effected where the premises cannot well be divided.

22. When the premises of which partition is demanded, are such as cannot be divided without damage to the owners, or when any specific part of the estate is of greater value than either party's share, and cannot be divided without damage to the owners, the whole estate, or the part thereof so incapable of division, may be set off to any one of the parties who will accept it, he paying or securing to any one or more of the others, such sums of money as the commissioners shall award, to make the partition just and equal. But the partition in such case shall not be established by the court until all the sums so awarded shall be paid to the parties entitled thereto or secured to their satisfaction.

Same subject.

23. In the case mentioned in the preceding section, the commissioners instead of setting off the premises, or a part thereof, in the manner therein provided, may assign the exclusive occupancy and enjoyment of the whole or the part, as the case may be, to each of the parties alternately, for certain specified times, in proportion to their respective interests therein.

Tenant liable for

24. When the whole or any specific part of the premises is as-

misconduct where he has the exclusive occupancy

signed in the manner provided in the preceding section, the person entitled for the time being to the exclusive occupancy, shall be liable to his co-tenants for any injury to the premises occasioned by his misconduct, in like manner and to the like extent as a tenant for years under a common lease without express covenants would be to his landlord, and the other tenants in common may have their remedy therefor against him by an action on the case, either jointly or severally at their election.

Liabilities in case of sole occupancy by one tenant in common

25. Whilst any estate is in the exclusive occupancy of any co-tenant under such an assignment as before mentioned, he shall be entitled to the same remedy against any person who shall trespass upon or otherwise injure the premises as if he held the same under a lease for the same term for which they were so assigned to him, and he and all the other tenants in common shall also be entitled to recover against the wrong doer such other and further damages as they shall have sustained by the same trespass or injury, in like manner as if the premises had been leased by them for such term; and all joint damages recovered by any such tenants in common, by force of this or of the preceding section, shall be apportioned and divided among them according to their respective rights by the court in which the judgment is recovered.

Commissioners' returns to be made for confirmation by the court; when confirmed to be filed and registered.

26. The commissioners shall make a return of their proceedings under their hands, together with their warrant, to the court, and if their proceedings are confirmed by the court judgment shall be thereupon rendered that the partition so made be final, and the return shall then be filed and a certified copy thereof be recorded in the registry of deeds in the county where the lands lie.

Return may be set aside and new proceedings had

27. The court for any sufficient reason shewn may set aside the return and commit the case anew to the same or to other commissioners to be appointed, whereupon the same proceedings shall be had as above directed.

Final judgment, upon whom conclusive

28. The final judgment confirming and establishing the partition shall be conclusive as to all rights, both of property and possession, of all parties and privies to the judgment, including all persons who might by law have appeared and answered to the petition, except as is hereafter provided.

Part owners absent from the province, for whom a share was left, may apply within three years for a new partition.

29. If any person who was a part owner with the petitioners, and for whom a share is left upon the partition, should be out of the province when the summons or notice to him is served, and should not return in time to appear and answer to the suit, he may at any time within three years after the final judgment apply to the court for a new partition of the premises.

Court may, if justice require it, order a new partition

30. If upon such an application, and after hearing of all parties interested therein, it shall appear to the court that the share left for the applicant was less than he was entitled to, or that the part left for him was not at the time of the partition equal in value to his share of the premises, the court may order a new partition thereof, which shall be made in the manner before provided.

Commissioners

31. In such new partition the commissioners shall not be re-

quired to make a new division of the whole premises, but they may take from any one share or shares and add to any other or others so much as shall in their judgment be necessary to make the partition just and equal, estimating the whole as in the state in which it was when first divided; or if an equal partition of the lands cannot be made without inconvenience to the owners the commissioners may award money to be paid by one party to another as before provided, to equalize the shares.

duty on such new partition.

32. If after the first partition any improvement shall have been made on any part of the premises which, by the new partition, shall be taken from the share of the party who made the improvements, he shall be entitled to compensation therefor, to be estimated and awarded by the commissioners, and to be paid by the party to whom such part of the premises shall be assigned on the new partition, and the court may order execution therefor in the usual form.

Improvements to be considered in new partition, and proceedings in such case.

33. If any person who has not appeared and answered to the petition for partition, shall claim to hold in severalty the premises therein mentioned, or any part thereof, he shall not be concluded by the judgment for partition, but may bring his action for the land claimed by him against any or all of the petitioners or defendants, or of the persons holding under them as the case may require, within the same time in which he might have brought it if no such judgment for partition had been rendered.

Persons not parties to the partition claiming to hold the premises in severalty, not bound by the judgment, but may take proceedings as in other cases.

34. When any person who has not appeared and answered to the petition shall claim the share that was assigned to, or left for any of the supposed part owners in the judgment for partition, he shall be concluded by the judgment so far as it respects the partition and the assignment of the shares in like manner as if he had been a party to that suit, but he shall not be prevented thereby from bringing his action for the share claimed by him against the person to whom it was assigned, or for whom it was left.

A person not appearing but claiming a share assigned to a part owner shall be bound by the partition, but may have an action for the share.

35. The action in such case shall be brought against the tenant in possession, in like manner as if the plaintiff had originally claimed the specific piece of land demanded, instead of an undivided part of the whole land, and it may be brought within the same time in which it might have been brought if no such judgment for partition had been rendered.

Action in such case, how and against whom brought.

36. If two or more persons appear as defendants claiming the same share of the premises to be divided, it shall not be necessary to decide upon their respective claims except only for the purpose of determining which of them shall be admitted to appear and plead in the suit; and if partition is made, the share so claimed shall be left for which ever of the parties shall prove to be entitled to it, in a suit to be thereafter brought between themselves.

Proceedings where two persons claim the same share before division.

37. If in such a case it shall be decided in the original suit for partition upon the replication of the petitioners or otherwise, that either of the defendants is not entitled to the share that he claims, he shall be concluded by the judgment so far as it respects the partition and the assignment of the shares, but he shall not be preven-

The defendant against whom judgment on the partition is given, shall not be precluded thereby from subsequently contesting his right with the other.

ted thereby from bringing his action for the share claimed by him against the other claimant thereof in the manner provided in the three preceding sections.

Rights of a party not appearing where the shar was not known or allowed, how far affected by the partition judgment.

38. If any person who has not appeared and answered as above shall claim any part of the premises mentioned in the petition as a part owner with those who were parties to that suit, or any of them, and if the part or share so claimed was not known or not allowed and left for him in the process for partition, he shall be concluded by the judgment so far as it respects the partition, but he shall not be prevented thereby from bringing an action for the share or proportion claimed by him against each of the persons who shall hold any part of the premises under the judgment for partition.

Redress in such case, how and against whom obtained.

39. If the plaintiff shall prevail in the case last mentioned, he shall not be entitled to demand a new partition of the whole premises, but he shall recover against each of the persons holding under the judgment for partition the same proportion or share of the part held by him that the plaintiff was entitled to out of the whole premises before the partition thereof.

Rights of heir or devisee where, after partition, it shall appear that the ancestor or testator died before partition, how affected.

40. If after making of partition it shall appear that any person for whom a share was left or to whom a share was assigned, had died before such partition was made, the heir or devisee of such deceased person shall not by reason of such heir or devisee having been a party to the suit, either as a petitioner or as a defendant, be barred from claiming the share that belonged to the deceased person, but the heir or devisee in such case shall have the same rights and the same remedies in all respects as if such heir or devisee had not been a party to the suit and had not notice of the pendency thereof.

Remedy where a party is evicted by a person having a paramount title.

41. If any person to, or for whom any share shall have been assigned or left upon any judgment for partition, shall be evicted thereof, by any person who, at the time of the partition, had a title thereto paramount to the title of those who were parties to the suit for partition, the person so evicted shall be entitled to a new partition of the residue, in like manner as if the former partition had not been made.

Lien by mortgage or attachment, how affected by the judgment.

42. Any person having a mortgage, attachment, or other lien upon the share of any part owner, shall be concluded by the judgment, so far as it respects the partition and the assignment of the shares; but his lien shall remain in full force upon the part that shall be assigned or left for such part owner.

Suit not to abate for the death of a party named on a partition.

43. In case of the death of any party in a petition for partition, the suit need not abate, but may be conducted and prosecuted to final judgment, under such rules and orders for bringing in the heirs or representatives of the deceased party, as the court or judge may think proper, for making them parties to the suit and regulating the proceedings accordingly.

Expenses of commissioners to be allowed and costs to be taxed, as in other cases.

44. The expenses and charge of the commissioners shall be ascertained and allowed by the court, and all the other costs of the proceedings shall be taxed in the usual manner, and the whole shall

be paid by the parties in proportion to their respective shares or interests in the premises, except only the costs of a trial of any issue joined in the case as to which a different provision is before made.

45. Every person holding any lands under a partition made by virtue of this chapter shall be considered as holding them under an apparently good title, so that in case of eviction he shall be entitled to compensation for any improvements made thereon. Titles under a judgment of partition, how considered.

46. Every order made in pursuance of this chapter by a single judge, not sitting in open court, shall be liable to be rescinded or altered by the court in like manner as other orders. Orders of a single judge liable to be rescinded or altered.

CHAPTER 140.

OF FORCIBLE ENTRY AND DETAINER.

SECTION
1. Warrants may issue in case of forcible entry and detainer, and party be held to bail, &c.
2. In what cases a warrant may issue.
3. Proceedings where the complaint is proven.
4. Notice to quit, what to be sufficient.

1. In cases of wrongful and forcible entry into lands, and in cases of wrongful detainer, or withholding with force after possession demanded, and also when the lessee or sub-lessee shall illegally hold possession after the determination of the lease and demand of possession, any two justices residing in the town or place wherein the lands lie, on complaint on oath being made, may by warrant cause the person so in possession to be arrested and detained in custody until he find security for his appearance to answer such complaint at the next term of the supreme court in the county, and to pay the costs of the proceedings if adjudged against him. Warrants may issue in case of forcible entry and detainer, and party be held to bail, &c.

2. No such warrant shall issue where the party complained of or the person under whom he claims has been in quiet possession for three years next before the filing of the complaint, unless in cases of tenancy where the same has terminated. In what cases a warrant may issue.

3. Where such complaint has been proved to the satisfaction of the court they shall order a writ of *habere facias possessionem* to issue, and the party complaining to be put in possession of the lands within ten days thereafter. Proceedings where the complaint is proven.

4. When any house or tenement is let by the year, three months notice to quit, and when by the month one month's notice, and when by the week one week's notice, shall be given to the tenant in possession. Notice to quit, what to be sufficient.

TITLE XXXVII.

OF PROCEEDINGS IN SPECIAL CASES

CHAPTER 141.

OF SUITS AGAINST ABSENT OR ABSCONDING DEBTORS.

SECTION
1. Writs of summons and attachment may issue for five pounds and upwards.
2. Affidavit, its contents, how sworn; declaration, when to be filed: how served.
3. Writ, how endorsed.
4. Levy, for what amount, to include costs.
5. Goods in agent's hands bound by service of process.
6. Goods exhibited to be appraised before levy.
7. Perishable goods may be sold by order of a judge, &c., unless security for their value be given.
8. A person interested as subsequent attacher or otherwise, may contest the attachment.
9. Such attachment may be attached upon affidavit motion and rule.
10. Court may order a jury to try any disputed facts, and make such order as may seem just.
11. Proceedings not to be affected by any act of defendant in prior suit, or judgment thereon.
12. Court may order security for costs, and award costs as shall be just, and grant execution.
13. Defendant may appear of course at the first term, and afterwards only by leave.
14. Damages in undefended cases to be assessed at the third term; if in Halifax at the sittings next thereafter, unless in special cases: where damages laid under twenty pounds suits to be tried in a summary way.
15. Agents to file declarations and submit to examinations; where he has no funds he shall have his costs; agent's costs in summary cases, and how allowed.
16. Agent may appear and file his declaration in the county where he resides, though summoned to another county.
17. Proceedings where agent fails to appear.
18. Special bail may be put in and the property relieved from the attachment.
19. No trial to be had until property shall have attached, or the agent shall have admitted goods in his possession.
20. Summons to be served eight days, or agent not bound to appear till next term.
21. Defendant entitled to a rehearing within three years.
22. Execution may issue against the agent by order of the court.
23. Security to be given before execution shall issue.
24. Agent not liable to principal for the value of goods so taken.

Writs of summons and attachment may issue for five pounds and upwards.

1. Writs of summons and attachment for the sum of five pounds and upwards may be sued out against any debtor absconding or absent out of the province, and shall be in the forms annexed hereto.

Affidavit, its contents, how sworn; declaration, when to be filed; how served.

2. The party applying for such writ, or his agent, shall make affidavit in the usual form for holding a party to bail, which shall also state that the defendant is an absent or absconding debtor, and that the deponent verily believes that the person, if any, about to be summoned, is the agent or trustee of the defendant, or that he hath goods or credits of such defendant in his possession or under his control: which affidavit shall be made before a judge or a commissioner, or in their absence before a justice of the peace, and in declaration cases the declaration shall be filed on or before the first

day of the term, and copies of the writ and declaration shall be left at the last place of abode of the defendant, where he has been a resident in the province, and no rule to plead or notice of trial shall be necessary in such cases.

Writ, how endorsed.

3. The sum set out in the affidavit shall be endorsed on the writ in words at length, and shall be signed by the person before whom the affidavit is made.

Levy, for what amount, to include costs.

4. The sheriff to whom a writ of attachment is directed, shall levy for the amount endorsed on the writ, with thirty pounds for probable costs in declaration causes, and seven pounds in summary suits.

Goods in agent's hands bound by service of process.

5. The service of process on the agent shall bind all the goods and credits of the absent or absconding person then in his possession or under his control, to the amount endorsed on the writ, with thirty pounds for probable costs in declaration causes, and seven pounds in summary suits.

Goods exhibited to be appraised before levy.

6. Where goods are exhibited to the sheriff as the property of the absent or absconding debtor, they shall be valued by two sworn appraisers, and upon an appraisement being made under their hands, the sheriff shall levy upon such part of the goods as shall be sufficient to respond the sum sworn to, and probable costs as above.

Perishable goods may be sold by order of a judge, &c., unless security for their value be given.

7. Where the goods consist of stock, or are shewn upon affidavit to be of a perishable nature, and the agent shall not within three days after notice of the appraisement, give security for the value, a judge, or the prothonotary of the county in his absence, may at his discretion cause the same to be sold at public auction, and the proceeds thereof shall be retained by the sheriff or paid into court to respond the judgment.

A person interested as subsequent attacher or otherwise, may contest the attachment.

8. When any person shall have any title or interest in any real estate, goods or credits attached, as a subsequent attacher or otherwise, he may be allowed to dispute the validity and effect of the attachment, on the ground that the sum demanded was not justly due, or that it was not payable when the action commenced.

Such attachment may be attached upon affidavit motion and rule.

9. The party objecting to the attachment may apply to the court to set it aside, which application shall be grounded on an affidavit, setting out the facts and circumstances on which the motion is made, and also shewing that his claim is just and legal.

Court may order a jury to try any disputed facts, and make such order as may seem just.

10. Upon hearing the motion the court may direct a trial by jury of any question of fact arising on the inquiry, and if it shall appear that the sum demanded in the prior suit or any part of it is not justly due or was not payable when the action was commenced, the court shall order the attachment therein made to be set aside in whole or in part, as justice shall require, but the order shall have no other effect in the prior suit.

Proceedings not to be affected by any act of defendant in prior suit, or judgment thereon.

11. The proceedings between the two adverse claimants shall not be affected by any plea or other act of the defendant in the prior suit, nor by any judgment that shall be rendered therein.

Court may order security for costs, and award costs

12. The court may, upon every such inquiry, direct such security to be given for costs, and, upon any decision thereon, may

as shall be just, and grant execution.

award costs to either party as they shall think just and reasonable, and execution in the common form may be issued therefor.

Defendant may appear of course at the first term, and afterwards only by leave.

13. In actions against absent or absconding debtors, the defendant may appear at any time during the first term and give notice to the plaintiff, but shall not be at liberty to appear thereafter without leave of the court or a judge.

Damages in undefended causes to be assessed at the third term; if in Halifax at the sittings next thereafter, unless in special cases; where damages laid under twenty pounds suits to be tried in a summary way.

14. In suits against absent or absconding debtors, in case there shall be no appearance, the damages shall be assessed before a judge or the court at the third term, or in Halifax at the sittings next after the third term, from the commencement of the suit, unless special matter in bar, abatement, or further continuance be allowed. Where the damages laid shall not exceed twenty pounds the cause shall be tried in the same manner as a summary suit.

Agents to file declarations and submit to examinations; where he has no funds he shall have his costs; agent's costs in summary cases, and how allowed.

15. Where a person summoned as agent or trustee shall file a declaration under his hand that he had not at the time the summons was served upon him any goods or credits of the absent or absconding debtor in his possession or under his control, and shall, if required, submit to an examination upon oath satisfactory to the court, such agent or trustee shall be discharged and be entitled to his reasonable costs, to be taxed and allowed; but in summary cases an agent shall not be allowed more than one pound three shillings and four pence for his costs, besides his travelling fees and attendance as in the case of a witness.

Agent may appear and file his declaration in the county where he resides, though summoned to another county.

16. Where the supposed agent or trustee is summoned to appear in any other county than that in which he resides, he may appear and file his declaration in the county where he does reside, at the first term subsequent to the service of process on him, and shall submit to an examination upon oath, if required, at the same or the next subsequent term.

Proceedings where agent fails to appear.

17. If any person summoned as an agent or trustee shall fail to appear and disclose upon oath, if required, the amount of the goods or credits of the principal in his possession or under his control at the service of process, or acknowledge that he hath sufficient in his hands to respond the judgment, the court may proceed against him as for a contempt, and he shall also be liable to pay the plaintiff his costs if the court shall so order.

Special bail may be put in and the property relieved from the attachment.

18. When the absent or absconding debtor, his agent or trustee, shall desire to relieve the property from the attachment, he shall put in and perfect special bail to respond the judgment, and submit to such terms as the court or a judge shall deem right for the attainment of substantial justice.

No trial to be had until property shall have been attached, or the agent shall have admitted goods in his possession.

19. The plaintiff shall not proceed in the trial of his cause against any absent or absconding debtor, unless his real estate or goods shall have been attached, or until the agent or trustee shall have admitted that he had goods or credits of such absent or absconding debtor in his possession or under his control.

Summons to be served eight days, or agent not bound to appear till next term.

20. When the agent or trustee is summoned, if the summons or declaration be not served at least eight days before the return day of the writ, he shall not be obliged to appear till the next term.

21. Where judgment has been obtained against an absent or absconding debtor, the defendant shall be entitled to a re-hearing at any time within three years. Defendant entitled to a rehearing within three years.

22. After judgment obtained against an absent or absconding debtor, the court or a judge shall grant execution against any agent or trustee who has appeared and acknowledged goods or credits in his hands, for such amount and on such terms as the court or a judge shall think fit, allowing the agent his reasonable costs and commission, such agent or trustee having had notice of the application. Execution may issue against the agent by order of the court.

23. No execution shall issue against an absent or absconding debtor until the plaintiff shall give security, to the satisfaction of the court or a judge, for the re-payment of all monies levied thereunder, in case the judgment should be reversed. Security to be given before execution shall issue.

24. The agent of such absent or absconding debtor shall not be held liable for any goods or credits so taken out of his hands by process and judgment of law. Agent not liable to principal for the value of goods so taken

FORMS.

S. S. Victoria, by the grace of God, of the united kingdom of Great Britain and Ireland, queen, defender of the faith, and of the united church of England and Ireland on earth the supreme head: To the sheriff of the county of ———, or his deputy, greeting: We command you that you summon A. B., an absent or absconding debtor, and C. D. of ———, the agent or trustee of the said A. B., if they may be found within your precinct, to be and appear before our justices of our supreme court at ———, on the —— day of ——— next; the said A. B. then and there to answer to the suit of E. F. in a plea of ———, and the said C. D. then and there to declare, discover, and disclose what goods or credits of the said A. B. were in his hands and possession, or under his management and control, at the time of the service of this writ upon him; to the damage of the said E. F., as is said, of the sum of ——— pounds: hereof fail not and make due return of this writ and your doings thereon according to law.

Witness, the honorable ———, at ——— this —— day of ———, in the —— year of our reign, A. D. 18— -.

———, attorney of plaintiff.

———, prothonotary.

S. S. Victoria, by the grace of God, of the united kingdom of Great Britain and Ireland, queen, defender of the faith, and of the united church of England and Ireland on earth the supreme head: To the sheriff of the county of ———, or his deputy, greeting: We command you that you attach the goods and chattels or the estate of A. B. for the value of ———, and also that you summon the said A. B., if he be found in your precinct, to be and appear before our justices of our supreme court at ———, on the —— Tuesday of ——— next, then and there to answer to the suit of E. F. in a plea of ———, to the damage of the said E. F.

of the sum of ——— pounds, as is said, and hereof fail not; and make due return of this writ, and your doings thereon, according to law.

Witness, the honorable ———, at ——— this —— day of ———, in the —— year of our reign, A. D., 18—.

———, plaintiff's attorney.

———, prothonotary.

CHAPTER 142.

OF SUITS AGAINST JOINT DEBTORS.

SECTION

1. One of several defendants joint debtors, may be arrested.
2. One or more of such defendants served may be proceeded against if the others are absent.
3. Court may grant a continuance in such case upon cause shown.
4. An absent joint debtor may apply to defend at any time before final judgment.
5. Plaintiff shall file his declaration against the defendant served, and enter suggestions as to the others.
6. Plea of abatement to be disallowed unless under special circumstances duly verified.
7. Replications of bankruptcy or insolvency to pleas in abatement.
8. Plaintiff may have a *scire facias* against a joint debtor returning after suit commenced.
9. On what property execution may be levied.

One of several defendants, joint debtors, may be arrested.

1. Where there are several defendants, and it is not intended that all of them shall be arrested, the plaintiff or his attorney may direct the sheriff to arrest one or more only of the defendants and serve a copy of the capias on the others, and such service shall be of the same force and effect as the service of a writ of summons.

One or more of such defendants served may be proceeded against if the others are absent.

2. Where any action founded on contract is brought against several defendants and the writ has been duly served on one or more of them, but no legal service can be made on the others by reason of their absence from the province, the action may nevertheless be prosecuted against those who have been served.

Court may grant a continuance in such case upon cause shown.

3. If such joint debtor shall make application to the court on affidavit, stating that it is necessary for him to receive instruction respecting such suit from his absent partner or joint debtor, and that he cannot safely proceed to trial of the cause without communication with him, and that he is not seeking for delay only—the court may, if it shall think fit, grant a reasonable imparlance.

An absent joint debtor may apply to defend at any time before final judgment.

4. If any such joint debtor, not having been served with process, shall come into the province previously to the final determination of the suit, and shall apply to the court to be admitted to defend, the court shall admit him accordingly, and shall cause such amendment to be made in the proceedings as may be required to make the same consistent and regular.

5. When some only of the defendants have been served with process, the plaintiff may file his declaration against such as have been so served, suggesting therein the names of those defendants who were absent out of the province when the writ was issued, and who, on that account, could not be served with process.

Plaintiff shall file his declaration against the defendant served, and enter suggestions as to the others.

6. No plea in abatement for the non-joinder of a person as a co-defendant shall be allowed, unless it shall be stated in the plea that he was at the commencement of the suit resident within the jurisdiction of the court, and unless his place of residence shall be stated with convenient certainty in an affidavit verifying the plea.

Plea of abatement to be disallowed unless under special circumstances duly verified.

7. To any plea in abatement of the non-joinder of another person, the plaintiff may reply that such person has been discharged by bankruptcy and certificate, or as an insolvent debtor.

Replications of bankruptcy or insolvency to pleas in abatement.

8. If a joint debtor absent at the commencement of the suit shall come into the province after final judgment, and before the plaintiff shall have received full satisfaction thereof, the plaintiff may sue out a writ of *scire facias* against him, requiring him to shew cause why execution should not issue against him to satisfy what may remain due on such judgment; and the defendant may plead either in bar to the original suit or in answer to the *scire facias*.

Plaintiff may have a *scire facias* against a joint debtor returning after suit commenced.

9. The plaintiff after judgment recovered may take out execution thereon, and cause the same to be extended on the joint or separate property, or on the persons of all the joint debtors: but such execution shall not be extended on the separate property or on the person of any joint debtor not brought into court as a party to the suit.

On what property execution may be levied.

CHAPTER 143.

OF SUITS BY AND AGAINST EXECUTORS AND ADMINISTRATORS.

SECTION
1. Actions of trespass, &c., may be brought by executors, &c., within one year after testator's decease, for injuries to real estate done six months before his death.
2. Within what time actions of trespass, &c., may be brought against executors, &c. for injuries done by deceased.
3. Actions for debt may be maintained against executors, &c.
4. Legacies, &c., may be recovered by action at common law.
5. Residuary legatees may sue their co-executors.
6. Executors refusing to act, and to whom probate has not been granted, need not be named in any suit or proceeding.

1. Actions of trespass or trespass on the case may be maintained by executors or administrators for any injury to the real estate of the deceased committed within six months previous to his

Actions of trespass, &c., may be brought by executors within one year after testa-

tors' decease, for injuries to real estate done six months before his death.

decease, for which the deceased might have maintained such action, provided the action be brought within one year after his death.

Within what time actions of trespass, &c., may be brought against executors, &c. for injuries done by deceased.

2. Actions of trespass or trespass on the case may be maintained against the executors or administrators of a deceased person for any injury done by him in his lifetime to the real or personal property of another, so as such injury shall have been committed within six months before his death, and so as such action shall be brought within six months after his executors or administrators shall have undertaken the administration of his estate.

Actions of debt may be maintained against executors, &c.

3. An action of debt on simple contract may be maintained at common law against any executor or administrator.

Legacies, &c., may be recovered by action at common law.

4. Every legatee may recover the amount and value of his legacy, annuity or bequest, at common law, from the administrator with the will annexed or executor, either by action for money had and received or otherwise.

Residuary legatees may sue their co-executors.

5. Any executor being a residuary legatee may maintain an action at common law for money had and received or otherwise against the co-executor, and may in like manner sue for and recover his rateable part thereof, and any other residuary legatee shall have the like remedy against an executor.

Executors refusing to act, and to whom probate has not been granted, need not be named in any suit or proceeding.

6. When two or more persons are named executors in a will and any of them shall neglect or refuse to act, and probate shall be granted to the other or others of them, it shall not be necessary to name the executor who has so refused or neglected, in any action or suit relating to the estate.

CHAPTER 144.

OF SUMMARY SUITS.

SECTION

1. No suit to be commenced in the supreme court unless the amount of debt exceeds five pounds.
2. Debts under twenty pounds to be recovered in a summary manner; the judge may order a trial by jury.
3. No bail need be filed in a summary suit.
4. Declarations and pleas unnecessary; no costs to be allowed therefor.
5. Bail to the sheriff to be liable as special bail.
6. Appellants to enter appeal causes, or judgment may be affirmed for the opposite party.
7. Appeal causes to be tried anew.
8. An application for a jury must be to the court in term, upon affidavit.
9. Judgment upon appeal, how given.
10. Execution may issue against appellant, or the appeal bond be put in suit.
11. Process returnable to Halifax, how long to be served before trial.
12. Summary causes to be tried on first day of term, except in Halifax.
13. List of causes, when to be given prothonotary in Halifax; when to be tried.
14. Notice of trial to be given in continued causes.

No suit to be commenced in the supreme court unless the amount exceeds five pounds.

1. No action for the recovery of any debt shall be commenced in the supreme court unless the amount thereof shall exceed five pounds.

Debts under twenty pounds to be recovered in a summary manner; the judge may order a trial by jury.

2. All actions for the recovery of debts not exceeding twenty pounds shall be brought in a summary manner, and the presiding judge may determine the same or order a trial by jury.

No bail need be filed in a summary suit.

3. It shall not be necessary to file common or special bail in any summary suit.

Declarations and pleas unnecessary; no costs to be allowed therefor.

4. No declaration or plea shall be necessary, nor any costs therefor allowed in any action for the recovery of a debt not exceeding twenty pounds.

Bail to the sheriff to be liable as special bail.

5. In summary suits the bail to the sheriff shall continue liable to the same extent as if they were special bail, and shall be at liberty to render the defendant without putting in special bail.

Appellants to enter appeal causes, or judgment may be affirmed for the opposite party.

6. In appeal causes the appellant shall cause his appeal to be entered on the docket of summary causes, and in case he shall neglect to enter the same, the original judgment shall be affirmed at the instance of the opposite party with costs.

Appeal causes to be tried anew.

7. In all causes brought up by appeal and contested, the court shall try the same anew.

An application for a jury must be to the court in term, upon affidavit.

8. In summary and appeal causes the application for a jury must be by affidavit to the court in term, and it shall be discretionary with the court to grant the same.

Judgment upon appeal, how given

9. In appeal causes where the original judgment is affirmed, the final judgment shall include the debt and costs below, with the further costs, and execution shall issue for such debt and costs, or for costs only, as the case may require. Where the original judgment is reversed after the same has been enforced, the final judgment shall include the amount levied under the original judgment, together with the costs of the reversal.

Execution may issue against the appellant, or the appeal bond be put in suit.

10. In appeal cases the respondent may take out execution against the appellant, or have recourse to the appeal bond.

Process returnable to Halifax, how long to be served before trial.

11. No trial shall take place in a summary cause in Halifax, unless the process by which the action is commenced shall have been served upon the defendant, if within the county eight days, if without the county fourteen days, and if within the island of Cape-Breton twenty-one days, before the day appointed for the trial of summary causes.

Summary causes to be tried on first day of term, except in Halifax.

12. In future the summary causes in all the counties except Halifax, shall be brought to trial and heard on the first day of the term, and the jury causes taken up immediately after the disposal of such summary causes.

List of causes, when to be given prothonotary in Halifax; when to be tried.

13. The list of summary causes for trial at Halifax shall be hereafter given in to the prothonotary on the last Thursday of every term, and the cause shall be set down and tried on the following Tuesday, being the first day of sittings after each term.

Notice of trial to be given in continued causes.

14. In all continued summary and appeal causes a notice of trial shall be given as in declaration cases.

CHAPTER 145.

OF DISTRESS FOR RENT.

SECTION
1. Goods distrained to be appraised and sold within five days after notice, if not replevied.
2. Goods to be sold, and after rent paid, surplus, if any, to remain for owner's use.
3. Grain in the straw, hay in a barn, &c., how distrained.
4. Remedy in case of pound breach, and rescue of goods distrained.
5. Remedy in case of a distress for rent where none is in arrear.
6. Goods not liable to be removed under execution till rent paid, but not to exceed one year's amount, &c.
7. Goods fraudulently removed to avoid distress may, unless previously sold in good faith, be seized within twenty-one days.
8. Rent reserved upon a lease for life may be recovered as in other cases.
9. Rent may be distrained for within six months after determination of lease in certain cases.
10. Executor, &c., may distrain for rent due deceased, and in what cases.
11. Cattle, corn, fruits, &c., which may be taken as a distress for rent.
12. Distress in such case how kept where no barn, &c. on the premises.
13. Notice of the place of such deposit, when and to whom to be given.

Goods distrained to be appraised and sold within five days after notice, if not replevied.

1. Where any goods are distrained for rent reserved and due upon any lease or contract, and the tenant or owner of the goods shall not within five days next after the distress taken, and notice thereof with the cause of taking served upon him, or left at the most conspicuous place on the premises charged with such rent, replevy the same with security to be given to the sheriff, the landlord, with the sheriff or his deputy or a constable, who are required to aid therein, may cause the goods so distrained to be appraised by two sworn appraisers.

Goods to be sold, and after rent paid, surplus, if any, to remain for owner's use.

2. After the appraisement the landlord shall sell the goods distrained for the best price to be gotten therefor, towards payment of the rent due and expenses incurred, leaving the overplus, if any, in the hands of the officer for the owner's use.

Grain in the straw, hay in a barn, &c. how distrained.

3. Sheaves or cocks of grain, grain loose or in the straw, hay in a barn or upon a hovel stack or rick, or upon the land charged with such rent, may be locked up or detained upon the premises by a landlord having rent in arrear, for or in nature of a distress, until the same shall be replevied upon security to be given as above; and in default of being replevied within the time above in that behalf specified, after appraisement made may in like manner be sold, but the same shall not be removed out of the place where found and seized by the distrainer, to the damage of the owner, before such sale.

Remedy in case of pound breach, and rescue of goods distrained.

4. Upon any pound-breach and rescue of goods distrained for rent the person grieved thereby may recover his damages against the offender, or against the owner of the goods distrained if the same be afterwards found to have come to his use or possession.

Remedy in case of a distress for rent where none is in arrear.

5. In case any distress and sale be made by any person for rent, where none is in arrear, the owner of the goods distrained, his ex-

ecutors or administrators, by action of trespass, or trespass on the case, may recover against the persons distraining or either of them, his or their executors or administrators, the value of the goods distrained, and such further damages as the jury may award.

Goods not liable to be removed under execution till rent paid, but not to exceed one year's amount, &c.

6. No goods being upon any messuage or tenement leased shall be liable to be taken by virtue of any execution, unless the party at whose suit the execution is sued out shall before removal of such goods from off the premises pay the landlord or his bailiff at least one years' rent thereof, if so much is in arrear and due; and if the rent be not actually due then a rateable part thereof up to the levy of the execution. If the arrears exceed one years' rent of the premises, then upon payment to the landlord or his bailiff of one years' rent, the execution creditor may proceed to execute his judgment as in other cases; and the sheriff, his deputy or other officer is required to levy and pay to the execution creditor, as well the money so paid for rent as the execution money.

Goods fraudulently removed to avoid distress may, unless previously sold in good faith, be seized within twenty-one days

7. In case any lessee of any messuage, lands or tenements, upon the demise whereof any rents are reserved, shall fraudulently or clandestinely convey from such demised premises his goods, with intent to prevent the landlord distraining the same, such landlord, by himself or his servants, may within twenty-one days then next ensuing such conveying away, seize such goods wherever found as a distress for such arrears of rent, and dispose of the same as if they had been distrained upon the premises, unless such goods shall have been sold in good faith and for a valuable consideration before such seizure, in which case they shall not be liable to a distress.

Rent reserved upon a lease for life may be reserved as in other cases.

8. Rent in arrear and due upon a lease for life or lives may be recovered by action in the same way as if reserved upon a lease for years.

Rent may be distrained for within six months after determination of lease in certain cases.

9. Rent in arrear and due upon a lease for life or lives, or for years or at will, ended or determined, may be distrained for after such determination, in the same way as if such leases were not determined, if such distress be made within six months after such determination, during the continuance of the landlord's title or interest and during the possession of the tenant from whom such arrears are due.

Executors, &c. may distrain for rent due deceased, and in what cases.

10. Executors or administrators of a landlord may distrain upon lands demised for a term or at will, for rent due in his lifetime, and such rent may be distrained for after the determination of such term or lease at will, in the same manner as if such term or lease had not been ended or determined; but the distress in such case must be made within six months next after the determination of such term or lease and during the continuance of the possession of the tenant from whom such rent is due.

Cattle, corn, fruits, &c., which may be taken as a distress for rent.

11. A landlord or his bailiff may seize as a distress for arrears of rent any cattle or stock of his tenant feeding upon any common belonging to any part of the premises demised, and may also seize all sorts of corn, grain, hops, roots, fruits, pulse or other product growing on any part of the premises demised as a distress

for arrears of rent, and may cut, gather, cure, carry and lay them up when ripe in barns or other places on the premises so demised.

Distress in such case how kept where no barn, &c. upon the premises.

12. In case there is no barn or proper place on the premises for receiving the same, then he may cause the same to be placed in any barn or proper place to be procured as near as may be to the premises, and in convenient time shall appraise and dispose of the same towards satisfaction of the rents and the charges of such distress as in other cases. The appraisement to be made after the crop is cut, cured and gathered, and not before.

Notice of the place of such deposit, when and to whom to be given.

13. Notice of the place where the goods so distrained shall be deposited shall, within one week after their being so deposited, be given to the tenant or left at his last place of abode.

CHAPTER 146.

OF ARBITRATIONS.

SECTION

1. Power of arbitrators, when irrevocable; judge may enlarge time for award.
2. Attendance of witnesses, how enforced.
3. Production of documents; witness not compelled to attend more than two days consecutively.
4. Arbitrators may administer oaths to witnesses.
5. Justices of the peace may administer oaths when arbitrators not appointed under rule of court, &c.
6. Obedience to an award, how enforced.
7. Fees to be allowed to arbitrators on taxation of costs.

Power of arbitrators, when irrevocable; judge may enlarge time for award.

1. The power of arbitrators appointed under a rule or submission, containing an agreement that it should be made a rule of the supreme court shall be irrevocable unless the court or a judge shall otherwise order, and the court or a judge may enlarge the time for making an award thereunder.

Attendance of witnesses, how enforced.

2. Where any rule or submission shall have been made, the court or a judge may by rule or order command the attendance of any witnesses and the production of any documents that may be required on the investigation thereof; and if after the rule or order and a notice containing the time and place where the attendance of the witness is required, signed by one at least of the arbitrators, shall have been served on him, and he shall have been tendered his reasonable fees, he shall neglect to attend, he shall be deemed guilty of a contempt of court.

Production of documents; witness not compelled to attend more than two days consecutively.

3. No person shall be compelled to produce, under any rule or order, any writing or document that he would not be compelled to produce at a trial, nor to attend on more than two consecutive days.

Arbitrators may administer oaths to witnesses.

4. Arbitrators so appointed may administer oaths to the witnesses.

5. When arbitrators are appointed under a submission not containing any agreement that it shall be made a rule of court, any justice of the peace may administer oaths to the witnesses in the presence of one or more of the arbitrators.

Justices of the peace may administer oaths when arbitrators not appointed under rule of court, &c.

6. Where a submission has been made a rule of the supreme court, pursuant to the agreement therefor, the court may enforce obedience to any award duly made under such submission by directing a judgment to be entered or execution to issue for the amount thereof with costs.

Obedience to an award, how enforced.

7. The judge taxing the costs of any cause referred under a rule or order shall allow such fees to the arbitrators making the award, as he may think reasonable.

Fees to arbitrators to be allowed on taxation of costs.

CHAPTER 147.

OF PETTY TRESPASSES AND ASSAULTS.

SECTION

1. Sessions to make regulations respecting horses, &c., going at large.
2. Penalty for violation of regulations.
3. A justice to have jurisdiction over trespasses by horses, &c., to three pounds.
4. Replevin may be granted by justice.
5. Form of writ.
6. Cause to be tried as in other cases.
7. Penalty for damaging or defacing a common.
8. Penalty for injuring ornamental trees on public roads, &c.
9. Penalty for trespassing in cultivated enclosures.
10. Penalty for cutting down or injuring trees on private lands.
11. The above penalties to be cumulatory remedies.
12. Two justices of the peace to have jurisdiction over assaults to forty shillings.

SECTION

13. Executions may issue for fines and costs, and imprisonment may be ordered not exceeding thirty days.
14. Justices may dismiss a complaint, and give a certificate accordingly.
15. Justices may give to or withhold costs from either party.
16. When the offence is aggravated the justices may bind over the parties to appear at the supreme court.
17. Compliance with the justices judgment shall acquit from all further criminal proceedings.
18. Limitation of prosecutions.
19. Proceedings to be by summons; form given.
20. Conviction to be endorsed or annexed to the summons; form given.

1. The sessions shall make regulations for preventing trespasses by horses, cattle, sheep, swine or goats going at large.

Sessions to make regulations respecting horses, &c., going at large.

2. Persons violating the regulations shall forfeit a sum not exceeding forty shillings.

Penalty for violation of regulations.

3. Where a trespass has been committed by horses, cattle, sheep, swine or goats, and the damage alleged to have been suffered shall not exceed three pounds, the case may be tried before a justice of the peace in the same manner and with the like costs, and subject to appeal and other proceedings as if it were an ordinary debt.

A justice to have jurisdiction over trespasses by horses, &c., to three pounds.

Replevin may be granted by justice.

4. The justice shall grant replevin where required upon security being given for prosecuting the same with effect within seven days.

Form of writ.

5. The writ of replevin shall be in the following form:

You are hereby commanded to replevy to A. B. his cattle, viz: [*here describe them*] which C. D. unjustly, as is alleged, detains under pretence of having committed a trespass not exceeding three pounds, and also to summon the said C. D. to appear before me at ———, on the —— day of ———, at —— o'clock, in the —— noon, there to answer such things as shall be objected against him by the said A. B.

Witness my hand and seal, this —— day of ———, A. D. one thousand eight hundred and ———.

E. F., J. P. (seal.)

Cause to be tried as in other cases.

6. The justice shall try the cause commenced by such writ, and give judgment with the like costs as in ordinary cases of debt and subject to the same further proceedings thereon.

Penalty for damaging or defacing a common.

7. If any person shall cut or carry away the soil or sods of any common whereby the pasturage shall be injured or the ground defaced, he shall forfeit a sum not exceeding twenty shillings.

Penalty for injuring ornamental trees on public roads, &c.

8. If any person shall cut down or injure any trees planted for ornament or left growing on the side of any public square, street or highway, he shall forfeit for every such tree a sum not exceeding forty shillings: but no penalty shall attach for the removal of any such trees by a commissioner of streets or surveyor of highways.

Penalty for trespassing on cultivated enclosures.

9. If any person shall trespass in a cultivated enclosure he shall forfeit a sum not exceeding ten shillings for the use of the occupier of the land.

Penalty for cutting down or injuring trees on private lands.

10. If any person shall illegally cut down or injure any tree growing on private lands, or shall illegally carry away such tree when cut down, he shall for every such tree forfeit a sum not exceeding forty shillings for the use of the owner of the soil.

The above penalties to be cumulatory remedies.

11. Nothing in the two preceding sections contained shall take away from the party injured any right of action at law for the trespass committed.

Two justices of the peace to have jurisdiction over assaults to forty shillings.

12. Two justices of the peace may hear and determine in a summary way all complaints for common assaults and batteries, and upon conviction the offender shall forfeit a sum not exceeding forty shillings, to be paid over when recovered to the county treasurer, and the justices shall forthwith file the receipt of the county treasurer with the clerk of the peace.

Executions may issue for fines and costs, and imprisonment may be ordered not exceeding thirty days.

13. If the fine and costs awarded shall not be paid forthwith, or within the time appointed for that purpose by the justices, the same may be levied by execution in the usual form, under which the offender may be imprisoned for a period not exceeding thirty days, unless the fine and costs be sooner paid.

Justices may dismiss a complaint

14. If the justices upon the hearing shall deem the offence not

proved, or so trifling as not to merit punishment, they may dismiss the complaint, and if required shall give the party acquitted a certificate accordingly. and give a certificate accordingly.

15. The justices may give costs either to complainant or defendant, or dismiss the complaint without costs on either side. Justices may give to or withhold costs from either party.

16. If the offence charged be of an aggravated kind, or if upon the hearing the justices think the offender deserving a higher punishment than above prescribed, they may bind the offender over by recognizance to appear at the next supreme court to answer the charge, and if necessary may also bind over the prosecutor to appear and prosecute, and the witnesses to give evidence. Where the offence is aggravated the justices may bind over the parties to appear at the supreme court.

17. If any person shall have obtained a certificate as above, or, having been convicted, shall have paid the whole amount adjudged, or shall have suffered the punishment awarded for non-payment thereof, he shall be thereby acquitted of all criminal proceedings for the same offence. Compliance with the justices judgment shall acquit from all further criminal proceedings.

18. Every prosecution under this chapter shall be commenced within three months after the offence committed. Limitation of prosecutions.

19. The justices shall proceed by summons in the form following: Proceedings to be by summons; form given.

To any of the constables of the county of ———:

You are hereby commanded to summon A. B., of ———, to appear before us at ——— on the —— day of ——— next, to answer C. D. for a petty trespass [*or for a petty assault and battery, as the case may be*] committed on or about the —— day of ———, contrary to the provisions of chapter 147 of the revised statutes.

Witness our hands at ——— the —— day of ———, A. D. 18—.

E. F. J. P. (seal.)
G. H. J. P. (seal.)

20. The conviction under this chapter shall be endorsed upon or annexed to the original summons in the form following: Conviction to be endorsed or annexed to the summons; form given.

The within named C. D., having been duly summoned, was this day convicted of a petty trespass [*or a petty assault and battery, or a petty assault*] upon his own confession [*or upon default, or upon the oath of J. K. as the case may be, stating the manner of the party's conviction and the names of the witnesses examined*] and was thereupon fined the sum of ———, with costs, amounting in all to the sum of ———, to be paid forthwith [*or within —— days next*].

Witness our hands this —— day of ———, A. D. 18—.

E. F., J. P.
G. H., J. P.

Which, when signed by the justices, shall be a valid record of such conviction.

CHAPTER 148.

OF THE WRIT OF CERTIORARI.

SECTION
1. Bail to be filed before issuing a writ of certiorari; endorsements required on the writ.
2. Court above may enquire anew into the facts, and may order a trial by jury.

Bail to be filed before issuing a writ of certiorari; endorsements required on the writ.

1. Previous to issuing a writ of certiorari the judge or commissioner shall require the person applying therefor to file sufficient bail, in such reasonable amount as the judge or commissioner shall direct, to respond the judgment to be finally given in the cause, and the judge or commissioner shall endorse on the writ the amount for which bail is filed, with the names of the bail, and also the date when the writ was allowed, and shall put his signature thereto.

Court above may enquire anew into the facts, and may order a trial by jury.

2. In all causes and proceedings brought up by certiorari, the court may inquire into the facts anew, if it shall seem to them to be necessary, and may order a trial thereof by jury.

CHAPTER 149.

OF INTERPLEADER.

SECTION
1. When defendant alleges the interest in the subject of the suit to be in a third party, he may, before plea, apply for a rule or order upon him to appear and state his claim.
2. The court or judge may hear the case, and in the meantime stay the proceedings.
3. The court or judge may make such third party defendant in that or another action, or by consent dispose of the matter on the merits.
4. Rules and orders may be made as to costs, &c., as are just.
5. Judgment to be final.
6. If such third party shall not appear he shall be barred from any claims against the defendant, but not against the plaintiff; power of the court as to costs.
7. Order of a judge liable to be reviewed by the court.
8. A judge may at any stage refer the proceedings to the court.
9. Provisions of this chapter made applicable to sheriffs, constables, &c.
10. Rules, orders, &c., to be entered of record, and have the effect of judgments.

When the defendant alleges the interest in the subject of the suit to be in a third party, he may, before plea, apply for a rule or order upon him to appear and state his claim.

1. If in any action of assumpsit, debt, detinue or trover, the defendant, after declaration and before plea, shall by affidavit or otherwise, shew that he claims no interest in the subject matter of the suit, but that the right thereto is claimed or supposed to belong to some third party, who has sued or who is expected to sue for the same, and that such defendant does not in any manner collude with such third party, but is ready to bring into court or to pay, or to

dispose of the subject matter of the action in such manner as the court or any judge thereof may order or direct, the court or a judge may make rules or orders calling upon such third party to appear and state the nature and particulars of his claim, and maintain or relinquish the same.

The court or a judge may hear the case, and in the meantime stay the proceedings.

2. Upon such rule or order the court or a judge may hear the allegations as well of such third party as of the plaintiff, and in the mean time may stay the proceedings in the action.

The court or judge may make such third party defendant in that or another action, or by consent dispose of the matter on the merits.

3. The court or a judge may finally order such third party to make himself defendant in the same or some other action, or to proceed to trial on a feigned issue, and may also direct which of the parties shall be plaintiff or defendant on such trial, or with the consent of the plaintiff, or such third party, their counsel or attornies, may dispose of the merits of their claims and determine the same in a summary manner.

Rules and orders may be made as to costs, &c., as are just.

4. The court or a judge may make such other rules and orders therein as to costs and all other matters as may appear to be just and reasonable.

Judgment to be final.

5. The judgment in the issue or action, and the decision of the court or judge in a summary manner, shall be final and conclusive against the parties and all persons claiming under them.

If such third party shall not appear he shall be barred from any claims against the defendant, but not against the plaintiff; power of the court as to costs.

6. If such third party shall not appear upon being duly served with such rule or order to maintain or relinquish his claim, or shall neglect to comply with any rule or order after appearance, the court or a judge may declare such third party, and all claiming under him, barred forever from prosecuting his claims against the original defendant or his representatives, saving nevertheless the right or claim of such third party against the plaintiff, and may thereupon make such order between such defendant and the plaintiff as to costs and other matters as may appear just and reasonable.

Order of a judge liable to be reviewed by the court.

7. Any order made in pursuance of this chapter by a single judge not sitting in open court, shall be liable to be rescinded or altered by the court, in like manner as other orders made by a single judge.

A judge may at any stage refer the proceedings to the court.

8. If upon application to a judge, in any stage of the proceedings, he shall think the matter more fit for the decision of the court, he may refer it to the court, and thereupon the court shall hear and dispose of the same, as if the proceedings had commenced by a rule of court instead of the order of a judge.

Provisions of this chapter made applicable to sheriffs, constables, &c.

9. Where claim shall be made to any goods taken or intended to be taken under any writ of execution or attachment, issuing out of any court, the supreme court, or any judge thereof, upon application of a sheriff, constable or other officer, made before or after the return of such process, and as well before as after any action brought against such sheriff, constable or other officer, may call before them by rule of court, as well the party issuing such process as the party making such claim: and thereupon exercise for the adjustment of such claims, and the relief and protection of the sheriff, constable or other officer, all or any of the powers and au-

thorities hereinbefore contained, and make such rules and decisions as shall appear to be just, according to the circumstances of the case, and the costs of all such proceedings shall be in the discretion of the court.

Rules, orders, &c. to be entered of record, and have the effect of judgments.

10. All rules, orders, matters and decisions, in pursuance of this chapter, excepting only the affidavit to be filed, may, together with the declaration in the cause, if any, be entered of record, with a note in the margin, or an endorsement thereon by the prothonotary, expressing the date of entry, and which shall be evidence thereof. Every rule or order so entered shall have the effect of a judgment, except as to the becoming a charge upon lands; and such rules or orders may be enforced by execution as in other cases.

CHAPTER 150.

OF THE PROTECTION OF JUSTICES OF THE PEACE.

SECTION

1. Actions against justices to be actions on the case; allegations of malice, &c. necessary in the declaration.
2. Malice, &c., when need not be alleged; action in such case when only to be brought.
3. Cases in which no action shall lie against the justice for any thing done under his warrant.
4. Justice issuing a warrant not liable to an action where another justice makes an illegal conviction.
5. Justice granting a warrant of distress for a rate not liable for any deficiency in the rate.
6. Supreme court may compel a justice by rule to do an act relating to his office; proceedings in such case, how taken.
7. No action shall be brought against a justice for granting a warrant upon a defective conviction, &c., confirmed by appeal.
8. Actions brought when forbidden may be set aside.
9. Month's notice to be given a justice before action brought; contents of notice; limitation of action.
10. Justice may tender amends or pay money into court; proceedings in such case.
11. Proof required on the part of the plaintiff.
12. If plaintiff on trial is proved guilty of the offence of which he was convicted, and has suffered no undue punishment, he shall recover nominal damages and costs only.
13. Cases where plaintiff on recovery of damages shall have full costs.

Actions against justices to be actions on the case; allegations of malice, &c., necessary in the declaration.

1. Every action against a justice of the peace for any act done in the execution of his office with respect to a matter within his jurisdiction shall be an action on the case, and it shall be expressly alleged in the declaration that the act was done maliciously and without reasonable and probable cause, and if upon the trial the plaintiff fail to prove such allegation, judgment shall be given for the defendant.

Malice, &c. when need not be alleged; action in such case when only to be brought.

2. If the action be brought for an act done in a matter where he has no jurisdiction, or where he has exceeded his jurisdiction, the party injured thereby or by any act done under a conviction, or order or warrant issued by the justice, need not allege malice

or want of reasonable and probable cause in his declaration. But no action in such case shall be brought until such conviction shall have been quashed, nor shall any action be brought for any thing done under any warrant issued by such justice to procure the appearance of a party, which shall have been followed by a conviction or order, until the same shall have been quashed.

Cases in which no action shall lie against the justice for any thing done under his warrant.

3. If a warrant shall not have been followed by a conviction or order, or if it be a warrant upon an information for an alleged indictable offence, and a summons had been previously issued and served, and the party did not appear in obedience to the summons, in any such case no action shall be maintained against the justice for any thing done under the warrant.

Justice issuing a warrant not liable to an action where another justice makes an illegal conviction.

4. Where a conviction or order shall be made by a justice, and a warrant of distress or commitment by some other justice in good faith and without collusion, no action shall be brought against the justice who granted the warrant for any defect in the conviction or order, or for want of jurisdiction in the justice who made it, but the action, if any, shall be brought against the justice who made such conviction or order.

Justice granting a warrant of distress for a rate not liable for any deficiency in the rate.

5. Where a poor or county rate shall be made, and a warrant of distress shall issue against a person rated therein, no action shall be brought against the justice who granted the warrant for any irregularity or defect in the rate, or by reason of any such person not being liable to be rated.

Supreme court may compel a justice by rule to do an act relating to his office, proceedings in such case, how taken.

6. Where a justice shall refuse to do any act relating to the duties of his office, the party requiring such act to be done may apply to the supreme court, upon affidavit of the facts, for a rule calling upon the justice, and also upon the party to be affected by such act, to shew cause why such act should not be done; and if after service of such rule good cause be not shewn against it, the court may make the rule absolute, with or without costs as they may see meet, and the justice, upon being served with the rule absolute, shall obey the same and do the act required. No action or proceeding shall be commenced or prosecuted against such justice for having obeyed such rule.

No action shall be brought against a justice for granting a warrant upon a defective conviction, &c., confirmed by appeal.

7. Where a warrant of distress or of commitment shall be granted by a justice upon a conviction or order, which either before or after the granting the warrant shall have been confirmed upon appeal, no action shall be brought against the justice granting the warrant for any thing done thereunder, by reason of any defect in such conviction or order.

Actions brought when forbidden may be set aside.

8. If any action shall be brought in a case where by this chapter it is forbidden, a judge of the court where it is brought, upon application of the defendant upon affidavit, may set aside the proceedings with or without costs as he shall see fit.

Month's notice to be given a justice before action brought; contents of notice; limitation of action.

9. No action shall be commenced against a justice for any thing done in the execution of his office, until one month at least after notice in writing of such intended action shall have been delivered to him or left at his usual place of abode, by the party in-

tending to commence the action, his attorney or agent, in which notice the cause of action and the court in which it is intended to be brought shall be explicitly stated, and upon the back thereof shall be endorsed the name and place of abode of the party intending to sue, and the name and place of abode or of business of the attorney or agent, if the notice has been served by an attorney or agent; and the venue in every such action shall be laid in the county where the act complained of was committed, and such action shall be brought within six months next after the cause of action shall have accrued.

Justice may tender amends or pay money into court; proceedings in such case.

10. After notice so given and before action commenced, such justice may tender to the party complaining, his attorney or agent, such sum of money as he may think fit as amends for the injury complained of in the notice: and after action commenced, and before issue joined, the defendant, if he have not made a tender, or in addition to the tender, may pay money into court: and the tender and payment into court or either of them may be given in evidence on the trial under the general issue. If the jury shall be of opinion that the plaintiff is not entitled to damages beyond the sum tendered or paid into court, then they shall find a verdict for the defendant, and the plaintiff shall not be at liberty to elect to be non-suit; and the sum so paid into court, or so much thereof as shall be sufficient to satisfy the defendant's costs, shall thereupon be paid out of court to him, and the residue, if any, be paid to the plaintiff; or if the plaintiff shall elect to accept the money so paid into court in satisfaction of damages in the action, he may obtain a judge's order for the money, and that the defendant shall pay him his costs to be taxed, and thereupon the action shall be determined, and the order shall be a bar to any other action for the same cause.

Proof required on the part of the plaintiff.

11. If at the trial the plaintiff shall not prove the action brought within the time limited in that behalf, or that the notice was not given a month before action commenced, or if he shall not prove the cause of action stated in such notice, or that it arose in the county laid as venue in the margin of the declaration, the plaintiff shall be non-suit or the jury shall give a verdict for the defendant.

If plaintiff on trial is proved guilty of the offence of which he was convicted, and has suffered no undue punishment, he shall recover nominal damages only.

12. In all cases where the plaintiff shall be entitled to recover, and he shall prove the levying or payment of any penalty or sum of money under any conviction or order as part of his damages, or if he prove an imprisonment thereunder, he shall not be entitled to recover the amount of the penalty or sum levied or paid, or any damages beyond two pence for such imprisonment, or any costs of suit, if it shall be proved that he was actually guilty of the offence of which he was convicted, or that he was liable to pay the sum he was so ordered to pay, and with respect to the imprisonment that he had undergone no greater punishment than that assigned by law for the offence of which he was convicted or for the non-payment of the sum he was so ordered to pay.

Cases where plaintiff on reco-

13. If the plaintiff recover a verdict or the defendant allow judgment to pass by default, the plaintiff shall recover costs as if

this chapter had not passed. If it be stated in the declaration that the act complained of was done maliciously and without reasonable and probable cause, the plaintiff, if he recover a verdict for any damages, or if the defendant allow judgment to pass by default, shall be entitled to full costs.

very of damages shall have full costs.

CHAPTER 151.

OF THE PROTECTION OF CONSTABLES.

SECTION
1. Demand of perusal and copy of warrant to be served upon constable, &c. before action brought.
2. If justice not made a party where notice complied with defendant shall have judgment; proceedings where action against justice and constable.
3. Limitation of action.
4. Constable, &c. may plead the general issue, and give the special matter in evidence.

Demand of perusal and copy of warrant to be served upon constable, &c. before action brought.

1. Before any action shall be brought against a constable or other officer, or any person acting in his aid, and for any thing in obedience to a warrant under the hand and seal of a justice, a demand in writing of the perusal and copy of such warrant, signed by the person making the same, shall be served upon him personally or left at his usual place of abode for the space of six days.

If justice not made a party when notice complied with defendant shall have judgment; proceedings where action against justice and constable.

2. If after such demand and a compliance therewith, an action be brought against such constable or other officer, or person acting in his aid, without making the justice a party thereto, on the proof of such warrant upon the trial judgment shall be given for the defendant, notwithstanding any want of jurisdiction in the justice. If the action be brought against the constable or other officer, or person acting in his aid jointly with the justice, then on proof of such warrant, judgment shall be given for the constable other officer or person acting in his aid; and if a verdict pass against the justice the plaintiff shall recover costs to be taxed so as to include the costs he may be liable to pay to the other defendant.

Limitation of action.

3. No action shall be brought against a constable, or other officer or person acting in his aid, unless the same be commenced within six months next after the cause of action shall have accrued.

Constable, &c. may plead the general issue, and give the special matter in evidence.

4. In an action brought against a constable, or other officer or person acting in his aid, for anything done in the discharge of his duty of office, such constable, or other officer or person acting in his aid, may plead the general issue and give the special matter in evidence.

CHAPTER 152.

OF THE CUSTODY AND ESTATES OF LUNATICS.

SECTION
1. Guardians, how appointed for insane persons.
2. Allowances for expenses incurred by ward.
3. Debts and expenses, how provided for; powers of guardian.
4. Duty of guardian as to the ward, his family, &c.
5. Deeds of real estate to be made by guardian.
6. Guardians, how removed; new guardians how appointed.
7. Guardians to give bonds to her majesty; conditions set forth.

Guardians, how appointed for insane persons.

1. When the relations or friends of any insane person, or the overseers of the poor of the township of which he is an inhabitant, shall apply to the supreme court or a judge thereof to have a guardian appointed for him, notice shall be given to such insane person of the time and place appointed for hearing the case not less than fourteen days before the time so appointed; and if after a full hearing it shall appear to the court or judge that the person in question is incapable of taking care of himself, such court or judge shall appoint a guardian of his person and estate, with the powers and duties hereinafter specified. Every guardian so appointed shall have the care and custody of the person of the ward and the management of his estate until legally discharged.

Allowances for expenses incurred by ward.

2. When a guardian shall be appointed for an insane person, the court or judge shall make an allowance to be paid by the guardian out of the estate of the insane person, for all reasonable expenses incurred by the ward in defending himself against the complaint.

Debts and expenses, how provided for; powers of guardian.

3. Every guardian of an insane person shall pay all just debts due from the ward out of his personal estate, if sufficient; and if not, out of his real estate, upon obtaining a license for the sale thereof from the supreme court or any judge thereof. He shall also settle all accounts of the ward, and sue for and receive all debts due to him, or may compound for the same and give discharges to the debtors; and he shall appear for and represent the insane person in all legal suits and proceedings.

Duty of guardian as to the ward, his family, &c.

4. The guardian shall also manage the estate frugally and without waste, and apply the profits thereof, as far as may be necessary, to such insane person's comfortable and suitable maintenance, and that of his family; and if such profits be insufficient the guardian may sell or mortgage the real estate upon obtaining a license therefor, and shall apply the proceeds, so far as may be necessary, for the maintenance and support of such insane person and his family.

Deeds of real estate to be made by guardian.

5. On a sale taking place under a license to sell the real estate of an insane person, the guardian shall execute in the name of the insane person a deed thereof, which shall convey the same to the purchaser either absolutely or by way of mortgage as therein specified, in the same way as if executed by himself when of sound mind.

Guardians, how removed; new guardians, how appointed.

6. When any guardian so appointed shall remove from the province, or become insane or otherwise incapable of discharging his trust or evidently unsuitable therefor, the supreme court or a judge thereof, after notice to such guardian, if resident in the province, and to all others interested, may remove him; and every guardian may, upon his request, be allowed to resign his trust, when it shall appear to the court or a judge proper to allow the same; and upon every such resignation or removal, and also upon the death of any guardian, the court or a judge may appoint another in his stead.

Guardians to give bonds to her majesty; conditions set forth.

7. Every guardian shall give bond with sureties to her majesty, with the following conditions:

First.—To make a true inventory of all the real estate, and all the goods, chattels, rights and credits of the insane person that shall come to his knowledge, and to return the same into the supreme court at such time as the judge shall order.

Secondly.—To dispose of and manage all such estate and effects according to law, and for the best interests of the insane person, and faithfully to discharge his trust in relation thereto.

Thirdly.—To render an account on oath of the property in his hands, including the proceeds of all real estate sold by him, and of the management and disposition of all such property, within one year after his appointment, and at such other times as the judge shall direct: and—

Fourthly.—At the expiration of his trust to settle his accounts with the court or a judge, or with the insane person in case of his restoration to reason, or in case of his death with his legal representatives, and to pay over and deliver all the estates and effects remaining in his hands or due from him on such settlement to the person lawfully entitled thereto.

TITLE XXXVIII.

CHAPTER 153.

OF THE LIMITATION OF ACTIONS.

SECTION
1. Actions which require to be brought within six years.
2. A promise to take a case out of the statute must be in writing; joint contractors, co-executors, &c. how affected by promise of several contractor, co-executor, &c.
3. Issue on plea in abatement for non-joinder under this chapter, how found.
4. Endorsements by payee not evidence.
5. Set-off due on simple contract within the statute.
6. A promise after full age to pay a debt contracted while a minor must be in writing.
7. Provisions of the last five sections limited to actions commenced after the 1st April, 1853.
SECTION
8. In case of mutual accounts accruing of the cause, how computed.
9. Actions which require to be brought within one year.
10. Actions against minors, married women persons insane, imprisoned or out of the province, within what time to be brought.
11. When judgment reversed or arrested, within what time action may be brought.
12. Entry upon and action for lands to be within twenty years.
13. Minors and persons under disabilities, within what time allowed to bring actions.
14. Actions and claims of her majesty limited to sixty years.

Actions which require to be brought within six years.

1. No action of assumpsit, trespass, *quare clausum fregit*, detinue, trover, replevin, debt grounded upon any lending or contract without specially or for rent, account, or upon the case shall be brought but within six years next after the cause of action.

A promise to take a case out of the statute must be in writing; joint contractors, co-executors, &c. how affected by promise of several contractor, co-executor, &c.

2. In actions grounded upon any simple contract, no acknowledgment or promise, by words only, shall be deemed sufficient evidence of a new or continuing contract, whereby to take any case out of the operation of the preceding section, or to deprive any party of the benefit thereof, unless such acknowledgment or promise shall be in some writing signed by the party chargeable thereby; and where there shall be two or more joint contractors or executors or administrators of any such contractor, no such joint contractor, executor or administrator, shall lose the benefit of the preceding section by reason only of any written acknowledgment or promise made or signed by any other of them. But nothing herein contained shall alter or take away, or lessen the effect of any payment of any principal or interest made by any person whomsoever; and in any action to be commenced against two or more joint contractors, or executors or administrators, if it shall appear at the trial or otherwise that the plaintiff though barred by this provision as to one or more of such joint contractors, or executors or administrators, shall nevertheless be entitled to recover against any other of the defendants, by virtue of a new

acknowledgment or promise or otherwise, judgment may be given and costs allowed for the plaintiff, as to such defendant against whom he shall recover, and for the other defendants against the plaintiff.

Issue on plea in abatement for non-joinder under this chapter, how found.

3. If any defendant in any action on any simple contract, shall plead any matter in abatement, to the effect that any other person ought to be jointly sued, and issue be joined on that plea, and it shall appear at the trial, that the action could not by reason of this chapter be maintained against the other person named in such plea, the issue joined in such plea shall be found against the party pleading the same.

Endorsements by payee not evidence.

4. No endorsement or memorandum of any payment, written or made upon any promissory note, bill of exchange or other writing, by or on behalf of the party to whom such payment shall be made, shall be deemed sufficient proof of such payment, so as to take the case out of the operation thereof.

Set-off due on simple contract within the statute.

5. This chapter shall apply to the case of any debt on simple contract, alleged by way of set off on the part of any defendant, either by plea, notice or otherwise.

A promise after full age to pay a debt contracted while a minor must be in writing.

6. No action shall be maintained whereby to charge any person upon any promise made after full age to pay any debt contracted during infancy, or upon any ratification after full age of any promise or simple contract made during infancy, unless such promise or ratification shall be made by some writing signed by the party to be charged therewith.

Provisions of the last five sections limited to actions commenced after 1st April, 1853

7. The provisions of the last five sections shall not apply as against either the plaintiff or defendant in any action commenced before the first day of April one thousand eight hundred and fifty three.

In case of mutual accounts accruing of the cause, how computed.

8. In an action to recover a balance due upon a mutual open and current account, where there have been reciprocal demands between the parties, the cause of action shall be deemed hereafter to accrue from the time of the last item proved in the account claimed or proved to be chargeable on the adverse side.

Actions which require to be brought within one year.

9. No action of trespass for assault, battery, wounding or imprisonment, and no action on the case for words, and no action or prosecution for taking illegal interest, shall be commenced but within one year next after the cause of action, or after the offence was committed.

Actions against minors, married women, persons insane, imprisoned, or out of the province, within what time to be brought.

10. Actions by or against minors, married women, persons insane, imprisoned or out of the Province, may be commenced within the like period after the removal of the disability, as is allowed for bringing the action in ordinary cases.

When judgment reversed or arrested, within what time action may be brought.

11. If in any action judgment be given for the plaintiff, and the same be reversed by error, or if judgment be arrested after verdict, then the plaintiff may commence a new action within one year after such judgment reversed or arrested.

Entry upon and action for lands to be within twenty years.

12. No entry into any lands shall be made, or action therefor brought, but within twenty years after the right descended, or cause of action accrued.

Minors and persons under disabilities, within what time allowed to bring actions.

13. Minors, married women, persons insane, imprisoned or out of the province, being and continuing under such disability, may make such entry or bring such action within ten years after the removal thereof. But no such action shall be brought or entry made but within forty years after the right or action shall have descended or accrued.

Actions and claims of her majesty limited to sixty years.

14. No claim for lands or rent shall be made by her majesty, but within sixty years after the right of action to recover such lands or rent shall have accrued.

TITLE XXXIX.

CHAPTER 154.

OF COSTS AND FEES.

SECTION

1. Fees to be as in this chapter prescribed.
2. Penalty for taking excessive fees.
3. Actions for penalties, where to be brought, their limitation.

Fees payable at the provincial secretary's office.

SUPREME COURT.

Prothonotary's fees.
Commissioner's fees.
Attorney's fees.
Counsel's fees.
Sheriff's fees.
Appraiser's fees.
Juror's fees.
Witnesses fees.
Crier's fees.
Constable's fees.

Coroner's fees.

COURT OF CHANCERY.

Chancellor's fees.
Counsel and solicitors' fees.
Master's fees.
Registrar's fees.

Arbitrator's fees, under rule of court.

SECTION

COURT OF MARRIAGE AND DIVORCE.

Governor, vice president, and judge's fees
Advocate and proctor's fees.
Registrar's fees.

Commissioner's fees on examination of witnesses.

PROBATE COURT.

Judge's fees.
Registrar's fees.
Proctor and advocate's fees.
Sheriff or other ministerial officer's fees
Appraiser's fees.

MAGISTRATE'S COURT.

Justice's fees.
Constable's fees.
Witness's fees.
Juror's fees.

Jailer's fees.

BASTARDY CASES.

Justice's fees.
Constable's fees.

Registrar of Deed's fees.

DISTRESS FOR RENT.

Fees for necessary services.

Fees to be as in this chapter prescribed.

1. Fees for the services mentioned in the schedule to this chapter shall be as therein prescribed.

Penalty for taking excessive fees.

2. Any person taking greater fees shall, for each offence, forfeit to the party aggrieved ten pounds, which sum with such excessive fees, may be recovered by him in an action of debt.

3. Actions for such forfeitures shall be brought in the county where the offence was committed, and within six months next after the date of such offence. Actions for penalties, where to be brought, their limitation.

SCHEDULE.

Fees to be taken at the provincial secretary's office, and paid into the treasury. Fees payable at the provincial secretary's office.

	£	s	d
Certificate under the governor's hand and seal,	1	10	0
If under the great seal, additional,	0	16	8
Marriage license and bond,	1	0	0
Commissions, viz:			
Judges of supreme court,	5	16	8
Judges and registrars of probate, each,	2	6	8
Sheriffs,	2	6	8
Coroners,	2	6	8
Notaries public,	2	6	8
Fish inspectors,	2	6	8
Health officers,	1	10	0
Collectors of colonial revenue,	2	6	8
Justices of the peace,	1	0	0
Copies of grants, proceedings in council, or other papers in the secretary's office, per folio,	0	0	6
Every search, the same fee as for searches at the registry of deeds.			
Certificates of discharge of seamen,	0	5	0
Other fees as authorized by the several chapters of the revised statutes.			

SUPREME COURT.

Supreme court.

Prothonotary's fees. Prothonotary's fees.

Entering action, filing oath, warrant and præcipe,	0	2	6
Sealing and signing every writ, execution, or other process,	0	1	0
Filing every writ and entering return,	0	0	6
Filing declaration and all other pleadings,	0	0	6
Entering appearance,	0	1	6
Entering and filing every rule of court,	0	0	6
Copy of every rule when given by prothonotary,	0	0	6
For drawing and striking a special jury, and for copies of the lists furnished to the respective parties, and all other services connected therewith,	0	10	0
Swearing and impannelling jury,	0	1	0
Swearing each witness or constable,	0	0	6
Taking and entering verdict,	0	1	0
Entering judgment,	0	2	0
The prothonotary at Halifax for the entry of a judgment not belonging to the supreme court at Halifax, and for the transcript thereof,	0	2	6
Filing retraxit or discontinuance,	0	0	6

	£		
Copies of all records or pleadings, per folio,	0	0	6
Every exhibit in a cause filed in court,	0	0	4
Taking affidavit in court,	0	1	0
Filing affidavit,	0	0	6
Searching the records,	0	0	6
Entering every default,	0	0	6
Entry of confession, lease, entry and ouster,	0	1	0
Taking and filing special bail piece,	0	1	0
Drawing and taking every recognizance,	0	1	0
Entering every non-suit,	0	0	6
Sealing and signing subpœna,	0	1	0
Continuance of every cause,	0	1	0
Filing the roll in every cause,	0	1	0
Taxing every bill of costs,	0	1	0
In summary suits, signing and sealing writs,	0	2	6
For all other services, including final judgment where not tried by a jury,	0	2	6
For every alias, summary writ and præcipe,	0	2	0
In sub-summary suits, signing and sealing writ,	0	1	0
" " " judgment,	0	1	6
" " every subpœna or ticket,	0	0	6

No commission shall be allowed or deducted from money paid into court under any rule or plea.

Commissioner's fees.

Commissioners:

For administering oath and marking writ.	0	2	0
Taking recognizance of bail or bail piece,	0	5	0
Taking depositions of witnesses each witness,	0	5	0
and for taking deposition per folio.	0	0	6

Travelling fees when necessary, 3d. per mile.

Attorney's fees.

Attorney's fees.

For writ, præcipe, affidavit and declaration, in all summary cases,	0	11	8
For all other proceedings in summary or appeal causes, until final judgment,	0	15	10
Retaining fee in each cause above £20,	0	10	0
Drawing affidavit of debt,	0	1	6
Every writ, summons or other original process,	0	5	0
Term fee,	0	5	0
Every declaration not containing more than three folios,	0	5	0
Copies for filing and service, each,	0	2	6
Every common plea, replication or rejoinder,	0	1	0
Copies for service and filing, each,	0	0	9
Drawing every special declaration, plea, replication, rejoinder or other necessary pleadings, each folio,	0	1	0
Copies to file and serve, every folio,	0	0	6

	£	s.	d.
Brief and copies not less than 7s. 6d. nor more than £5, to be taxed by the court.			
Notice of trial, copy and service,	0	3	6
Notice of taxing costs,	0	2	6
Drawing notice of exceptions to bail copy and service,	0	3	6
Every continuance,	0	1	0
Every discontinuance or retraxit,	0	1	0
Attending ballotting or striking special jury,	0	10	0
Attending taking every inquisition before sheriff,	0	10	0
Making bill of costs,	0	2	6
Attending to get same taxed,	0	2	6
Arguing a demurrer, special verdict, motion for a new trial, or other special motion,	0	10	0
Trial fee,	1	0	0
Drawing common rule in ejectment,	0	3	0
Copy,	0	2	0
All other rules and copies, each,	0	1	0
Every subpœna,	0	2	0
Every ticket and service,	0	2	6
Travel per mile for service the same as to sheriff.			
Attending the examination of every witness, taken before a judge or commissioner,	0	11	8
Every execution, habeas corpus, writ of error, and writ of inquiry, each,	0	6	0
Making up issue per folio,	0	0	6
Copy for filing per folio,	0	0	3
Making up record per folio,	0	0	6
Engrossing the same per folio,	0	0	6
All other drafting necessary to be done by an attorney in the conducting of a cause per folio,	0	1	0
All necessary engrossing per folio,	0	0	6
In sub-summary suits as follows:			
Writ,	0	5	0
Trial and judgment,	0	4	0
Subpœna and tickets, each,	0	1	0
Execution,	0	2	6

Counsel's fees.

Counsel's fees.

In summary, sub-summary, or appeal causes, when trial had before a jury, to be taxed by the court, not to exceed three pounds and ten shillings.

In all other causes tried by a jury, to be paid by the party against whom a verdict or non-suit on trial shall pass, not to exceed five pounds.

Sheriff's fees.

Sheriff's fees.

Serving summons and making return thereof,	0	3	6
Serving every other writ of mesne process or *scire facias*, and making return thereof,	0	5	0

	£		
Serving every execution and making return thereof,	£0	5	0
Returning every execution where the same has not been served.	0	1	6
Serving every writ of possession and making return thereof,	0	15	0
Travel per mile from the place of residence of the sheriff to the place where he shall serve a writ,	0	0	3
One penny per mile from the place of residence of the sheriff to the court-house where the writ is returnable. provided the same be out of the county and also provided the writ be actually served.			
Every bail bond,	0	3	0
Summoning a jury in each cause,	0	2	6
Executing writ of inquiry, summoning jury, and making return,	0	10	0
Returning every special jury,	0	15	0
On execution or attachment where a sale shall take place extended on personal property, sale and payment of the money to the party or his attorney, as follows:			
For any sum not exceeding £50, one shilling in the pound.			
From £50 to £100, nine pence in the pound.			
For all above £100, six pence in the pound.			
In cases where there shall be no sale, one half the above fees on payment of the money.			
For making inventory of goods attached, such reasonable fees as shall be taxed by the court out of which the writ shall have issued.			
For certifying copy of attachment levied on real estate and making and delivery to the registrar of deeds copy of the appraisement of the real estate,	0	5	0
On the sale of all real estate, whether by virtue of an execution or attachment. or by virtue of any rule or order. and payment of the proceeds to the party or his attorney, six pence in the pound.			
Every deed,	0	10	0
Bringing up prisoner by *habeas corpus*,	0	5	0
Attending prisoner before judge on any special occasion,	0	3	6
For every member returned duly elected to serve in general assembly, to be paid out of the treasury in lieu of all other expenses chargeable upon the treasury,	1	10	0
For summoning the grand and petit juries, a sum not exceeding £5 if allowed by the grand jury and approved by the sessions.			

Appraiser's fees.

Appraiser's fees.

For appraising goods or real estate taken under attachment, each appraiser,	0	2	6

	£	s	d
When property is extensive and complicated, for each day actually employed, each appraiser,	0	3	6

Jurors' fees. Jurors' fees.

On verdict in summary or appeal causes, or on assessment of damages against absent or absconding debtors, each juror,	0	1	0
On verdict in all other civil causes, each,	0	2	6
On verdict in Halifax, each special juror,	0	5	0

Fees of jurors attending on a view to be taxed at the discretion of the court.

In all cases of non-suits jurors shall be paid half fees.

Witnesses' fees. Witnesses' fees.

For attendance, per day,	0	2	6
Travel per mile, coming and going,	0	0	3

To be the same in every court.

Crier's fees. Crier's fees.

For every default or non-suit,	0	0	4
" calling jury in each cause,	0	0	6
" every verdict,	0	0	4
" swearing every witness,	0	0	3
" discharging a party by proclamation,	0	0	6

Constable's fees in supreme court. Constable's fees.

Attending jury in each cause,	0	1	0
Serving every warrant or summons,	0	1	0
Summoning a jury by warrant from coroner, and attendance per day,	0	2	6

Travel per mile the same as sheriff.

Coroner's fees. Coroner's fees.

For every inquisition, including 12s. for fees of jury and 2s. 6d. for fee of constable, to be paid by the province,	2	10	0

Any extraordinary and necessary expense attending the inquest or burial of a deceased person, if approved of by the grand jury and court of sessions, to be a county charge.

The same fees as a sheriff in cases where he discharges the duty of a sheriff.

CHANCERY. Court of chancery.

Chancellor's fees. Chancellor's fees.

Every hearing of a cause, each day,	1	0	0
Pronouncing decree signing and sealing the same,	2	6	8

Counsel and solicitor's fees.

Counsel and solicitor's fees.

	£		
Retaining fee for counsel,	0	10	0
Making draft of bill or answer, per folio,	0	1	0
Engrossing the same, per folio,	0	0	6
Entering an appearance in each cause,	0	3	4
Every subpœna, injunction, or other writ,	0	5	0
Copies for service, each,	0	1	6
Drawing affidavit of service of subpœna, injunction, or master's report,	0	2	0
Every petition necessary in the conducting of a cause,	0	3	4
Counsel fee for making or defending every special motion to be taxed, not to exceed	0	11	8
Drawing brief in every cause, per folio,	0	1	0
Drafting replications and all other pleadings in a cause, per folio,	0	1	0
Engrossing the same, per folio,	0	0	6
Counsel fee for examining and signing each pleading,	0	11	8
Drafting interrogatories, per folio,	0	1	0
Engrossing interrogatories, per folio,	0	0	6
Counsel fee on the trial of a cause to be taxed, not to exceed	3	10	0
Making up bill of costs,	0	3	4
For serving every subpœna or other writ, or master's report,	0	3	6
Travel actually performed from the residence of the person making the service to the place of service, per mile,	0	0	3
Drafting decree, per folio,	0	0	6
Engrossing decree, per folio,	0	0	6
Attending registrar to compare decree before signing and sealing,	0	6	8
Every necessary attendance upon the master, each day,	0	6	8

Master's fees.

Master's fees.

Every hearing, each day,	0	6	8
Examining each witness,	0	5	0
Taking depositions and copies, each folio,	0	0	6
References on which a special report shall be made, and making report, not exceeding six folios,	0	11	8
For every folio beyond 6 folios, per folio,	0	1	0
References for taxing costs,	0	7	6
Attending each sale and receiving and paying over the amount in lieu of all poundage,	1	3	4
Drawing and executing deed,	1	3	4
For administering an oath and signing jurat,	0	1	6
All necessary travel, going and returning, per mile,	0	0	3

Registrar's fees.

Registrar's fees.

Copies of all papers, per folio,	0	0	6
For drawing and signing every rule or order, per folio,	0	1	0

	£		
Every necessary copy thereof, per folio,	0	0	6
Sealing every writ, including order therefor, filing præcipe and certifying copies,	0	2	6
Every search,	0	1	0
Entering and filing every bill,	0	2	0
Entering and filing every answer, plea, replication or demurrer,	0	1	6
Filing all other papers, each paper,	0	0	6
Attending every final or special hearing in a cause, each day,	0	5	0
Setting down every cause for a motion therein,	0	1	0
Making up final decree, enrolling and getting the same sealed,	0	6	8

Fees of all advertising to be allowed and taxed by the court.

Arbitrator's fees under a rule of court. — Arbitrator's fees, under rule of court

Reasonable fees to be taxed.

COURT OF MARRIAGE AND DIVORCE. — Court of marriage and divorce.

For the governor, vice president and judges, for each day they shall actually attend, each,	1	0	0	Governor, vice president, and judge's fees.

Advocate and proctor's fees. — Advocate and proctor's fees.

Retaining fee for counsel,	1	3	4
Proxy,	0	6	8
Draft of libel or other pleading, per folio,	0	1	0
Engrossing same, per folio,	0	0	6
Entering appearance,	0	3	4
Every subpœna, citation or other writ,	0	5	0
Copies for service, each,	0	1	6
Drawing affidavit of service of subpœna, citation, or other process or proceeding,	0	2	0
Every petition necessary in conducting a cause,	0	3	4
Every order,	0	3	4
Counsel fee on making or defending every special motion, not to exceed	1	3	4
Drawing brief in every cause, per folio,	0	1	0
Counsel fee for examining and signing each pleading,	0	11	8
Draft of interrogatories, per folio,	0	1	0
Engrossing ditto,	0	0	6
Counsel fee on hearing or argument, not to exceed	3	10	0
Making up bill of costs,	0	3	4
Serving every subpœna, or other writ or order,	0	3	6
Travel per mile from the residence of the party making service to the place of service,	0	0	3
Every necessary attendance on the registrar,	0	6	8
Draft of decree, per folio,	0	0	6
Engrossing do,	0	0	6

Registrar's fees.

Registrar's fees.

	£		
Entering and filing every bill,	0	2	0
Entering and filing every other pleading,	0	1	6
Filing all other papers, each,	0	0	6
Signing and sealing every writ, and certifying copies,	0	2	6
Every search,	0	1	0
Copies of all papers, per folio,	0	0	6
Drawing and signing every rule or order,	0	1	0
Every necessary attendance on the vice-president,	0	5	0
Every court day,	0	5	0
On procuring signature of final decree,	0	6	8

Commissioner's fees.

By commissioners on examination of witnesses. For taking the examination of every witness, each commissioner per day, 1 3 4

Probate court.

PROBATE COURT.

Judge's fees.

Judge's fees.

Where the estate does not exceed £100 and there is no contest, in full of all fees,	1	0	0
Where the estate does not exceed £200 and there is no contest, in full of all fees.	1	10	0
Every citation including order for the same,	0	2	0
Every order not herein specially provided for,	0	2	0
For the probate of a will or letters of administration where the estate does not exceed £200, and order for the same.	0	16	8
Ditto ditto when above £200 and not exceeding £1000, and order,	1	0	0
Ditto ditto when above £1000, and order.	2	6	8
For warrant of appraisement and order for the same,	0	2	6
For every subpœna, attachment, execution, or other process not otherwise provided for, including order for the same,	0	1	0
Letters *ad colligendum*.	0	10	0
Sentence or decree in ordinary cases of granting licenses to sell, mortgage or lease real estate, passing accounts of distribution, &c.,	0	10	0
Sentence or decree for probate of a will or codicil, letters of administration, on granting license to sell, mortgage or lease real estate, passing accounts of distribution, &c., where there is a contest,	1	10	0
Transmitting appeal with statement of decision,	1	3	4
Taking testimony in writing where there is a contest, per folio.	0	1	0
Warrant to appraise or divide real estate, on petition of parties.	0	5	0
Dedimus potestatum to take deposition of witnesses and order therefor,	0	5	0

	£		
Appointing and allowing guardians to minors, and order therefor,	£0	15	0
Every oath administered by him,	0	1	0
Examining and taxing costs,	0	2	6

Registrar's fees.

Registrar's fees.

Where the estate does not exceed £100 and there is no contest, in full of all fees,	1	0	0
Where the estate does not exceed £200 and there is no contest, in full of all fees,	1	10	0
For filing every paper,	0	0	4
Probate of will and letters of administration and entry of order therefor, where the estate is under £200,	0	16	8
Where estate is above £200 and does not exceed £1000, and entry of order,	1	0	0
Where estate is above £1000, and entry of order therefor,	2	6	8
Letters of guardianship or *ad colligendum*, and entry of order,	0	10	0
Copy of will and probate per folio,	0	0	6
For preparing bond in all necessary cases,	0	4	0
Preparing citation and seal,	0	2	0
Each copy thereof,	0	1	0
Preparing necessary affidavits, each,	0	1	0
Filing every warrant and seal,	0	2	6
" every certificate of licence to sell real estate,	0	5	0
For all copies of papers, per folio,	0	0	6
For every certificate and *dedimus potestatem*,	0	5	0
For entry of every decree in registry book, and of every order not specially provided for, per folio,	0	0	6
Every search or inspection of documents,	0	1	0
Preparing subpœna and seal,	0	2	0
Filing each ticket for the same,	0	0	6
Filing every caveat or appeal,	0	2	0
Preparing every execution, attachment, or other process not specially provided for, and entry of order therefor,	0	2	0
Filing every decree,	0	10	0
Every oath administered by him,	0	1	0
Taxing costs,	0	2	6

Proctor and advocate's fees.

Proctor and advocate's fees.

Taking instructions for client to commence or defend proceedings in probate court,	0	10	0
Preparing every petition,	0	3	4
Preparing every allegation or other paper necessary to be prepared by him, per folio,	0	1	0

		£		
	Every additional copy thereof, per folio,	0	0	6
	Every necessary attendance on judge,	0	6	8
	Every hearing or argument before the judge, not less than half a guinea nor more than two guineas, at the discretion of the judge.			
	Serving every notice or other paper, on each person,	0	1	0
Sheriff or other ministerial officer's fees	*Sheriff or other ministerial officer's fees.*			
	Serving citation or other process, (subpœna excepted), on each person,	0	2	6
	Posting up same in three public places directed by the judge,	0	5	0
	Serving subpœna on each person,	0	1	0
	Travelling fees same as in supreme court.			
Appraiser's fees.	*Appraiser's fees.*			
	For appraising the estate of a deceased person not to exceed, for each day they shall be actually employed,	0	10	0
Magistrate's court.	MAGISTRATE'S COURT.			
Justice's fees.	*Justice's fees.*			
	Each summons or capais, and copies thereof,	0	2	0
	Affidavit for a capias and swearing,	0	0	6
	Subpœna and tickets,	0	1	0
	Trials and judgment in all causes,	0	1	0
	Venire,	0	1	0
	Returning papers on appeal to supreme court,	0	1	0
	Each execution,	0	1	0
	Affidavit of service of summons when required and swearing,	0	0	6
	Affidavit on appeal and swearing,	0	0	6
	Appeal bond,	0	2	6
	All fees taken in any suit wherein the services and presence of two justices are required as well as for the execution therein, except for returning the papers on appeal, to be divided between the two justices acting therein as follows—two thirds to the justice first applied to, and the remaining third to the other.			
Constable's fees.	*Constable's fees.*			
	Serving summons and making return,	0	1	0
	Serving capias and making return,	0	1	0
	Bail bond,	0	1	0
	Summoning a jury,	0	1	0
	Summoning each additional juror where there are not sufficient bye-standers,	0	0	3

Serving subpœna, each witness,	0	0	6
Serving execution,	0	1	0
Poundage on execution on sale of goods,	0	0	6
Poundage on execution where the amount is paid in money, for each pound,	0	0	3
All travelling to be computed from residence of justice to residence of defendant on summons, capias or execution, and from residence of officer to residence of witness on subpœna, each mile where necessarily done,	0	0	3
In cases of execution levied on the body, travelling to be computed from residence of officer to that of defendant and thence to place of confinement, each mile,	0	0	3

Witnesses' fees. Witnesses' fees.

Each day in actual attendance,	0	2	6
All travelling to be computed from the residence of the witness to the place of trial and thence back again, per mile,	0	0	3

NOTE.—If the witness at the time of being served with the subpœna demands his fees, he shall not be bound to attend unless fees equal to one day's attendance and his travel as above, be tendered to him at the time, or at such other reasonable time before the day of trial, as to admit of his attendance with certainty.

Juror's fees. Juror's fees.

Each juror on every trial,	0	1	0

Fees of jailer or keeper of lock-up-house. Jailer's fees.

For every person committed to jail,	0	2	6
For every person discharged therefrom, except insolvents,	0	2	6

BASTARDY CASES. Bastardy cases.

Justice's fees. Justice's fees.

The examination of the woman in writing,	0	1	0
Warrant to apprehend the reputed father before birth of the child,	0	2	0
Bond to indemnify the township or district,	0	3	0
Warrant to bring the reputed father and mother before the justices,	0	3	0
All commitments, each,	0	1	0
Bond to perform order of filiation, whether on appeal or otherwise,	0	3	0

Warrant to apprehend the reputed father when he shall not have appeared at the time of making order of filiation,	0	2	0
Order of filiation, per folio,	0	0	6

Constable's fees.

Constable's fees

The same as in other cases before justices.

Registrar's of deeds fees.

Registrar's of deeds fees.

For the attestation of a subscribing witness,	0	1	0
For entering and registering every deed or conveyance, per folio,	0	0	6
For entering every docket of judgment or attachment with appraisement,	0	2	6
For entering and filing a discharge of judgment or attachment,	0	1	0
For every certificate of registry written on any deed or conveyance, (not to be charged in case of judgment or attachment, or discharge thereof, or of the release of a mortgage,)	0	1	0
For every office copy from the books of registry delivered out, per folio,	0	0	6
For every certificate upon such office copy where such shall be required,	0	1	0
For every search, whether for a single deed or conveyance or for a single title made on one and the same day.	0	1	0

Fees on distress for rent.

Fees on distress for rent.

Warrant to bailiff,	0	2	6
Appraisement,	0	1	0
Notice and each necessary copy,	0	0	6
Appraisers, each,	0	1	3

On a sale, the same fees as to a sheriff.

No custody money to be allowed.

PART IV.

OF THE CRIMINAL LAW AND THE ADMINISTRATION OF CRIMINAL JUSTICE.

TITLE XL.

OF OFFENCES AGAINST THE GOVERNMENT.

CHAPTER 155.

OF TREASON.

SECTION
1. Treason defined; punishment.
2. Proceedings and evidence to be as in England.

Treason defined; punishment.

1. Whoever shall compass or imagine the death of the queen, or of her eldest son and heir, or shall levy war against her, or adhere to her enemies giving to them aid or comfort, and shall thereof be duly convicted, shall be declared and adjudged to be a traitor, and shall suffer death and forfeiture as in cases of high treason.

Proceedings and evidence to be as in England.

2. All acts of the imperial parliament directing the proceedings and evidence on trials for high treason in England, shall have their full force and effect, and be observed as the rule on trials for high treason in this province.

CHAPTER 156.

OF OFFENCES RELATING TO THE ARMY AND NAVY.

SECTION
1. Penalty for assisting soldiers or seamen to desert.
2. Penalty for unlawfully buying, receiving, &c., any regimental necessaries from a soldier or deserter.
3. Penalty for unlawfully buying, receiving, &c., naval stores from seamen, marines, &c.
4. Suspected persons may be apprehended as deserters.
5. Search for deserters, how conducted.

Penalty for assisting soldiers or seamen to desert.

1. Whosoever shall procure or solicit any soldier, seaman or marine to desert her majesty's service, or shall assist any deserter from her majesty's service, knowing him to be such, in deserting or concealing himself from such service, shall forfeit twenty pounds, and in default of payment shall be committed to jail for a term not exceeding six months.

Penalty for unlawfully buying, receiving, &c., any regimental necessaries from a soldier or deserter.

2. Whosoever shall buy, exchange or detain, or otherwise receive from any soldier or deserter, any arms, clothing or furniture belonging to her majesty, or any such articles belonging to any soldier or deserter as are generally deemed regimental necessaries according to the custom of the army, or shall exchange, buy or receive from any soldier any provisions, without leave in writing from the officer commanding the regiment or detachment to which such soldier shall belong, or cause the color of such clothes to be changed, shall forfeit five pounds, and in default shall be committed to jail for a term not exceeding six months.

Penalty for unlawfully buying, receiving, &c., naval stores from seamen, marines, &c.

3. Whoever shall buy, exchange or detain, or otherwise receive from any seaman or marine, upon any account whatever, or have in his possession any arms or clothing, or any such articles belonging to any seaman, marine or deserter, as are generally deemed necessaries according to the custom of the navy, shall forfeit a sum not exceeding twenty pounds, and in default of payment shall be committed to jail for a term not exceeding six months.

Suspected persons may be apprehended as deserters.

4. Any person reasonably suspected to be a deserter from the army or navy, may be apprehended and brought for examination before a justice of the peace, and if it shall appear that he is a deserter, he shall be confined in jail till claimed by the military or naval authorities, or proceeded against according to law.

Search for deserters, how conducted.

5. No officer or other person shall break open any building to search for a deserter, without a warrant from a justice of the peace, to be obtained upon oath that there is reason to believe that the deserter is concealed therein, and that admittance has been demanded and refused; and any person resisting the execution of the warrant shall forfeit twenty pounds.

CHAPTER 157.

OF OFFENCES AGAINST RELIGION.

SECTION
1 Penalty for disturbing persons assembled for public worship.
2 Fine for desecration of the Lord's day.
3 Fine for selling liquors on the Lord's day.

Penalty for disturbing persons assembled for public worship.

1. Whosoever shall maliciously disturb any congregation of persons assembled for religious worship, or shall molest any preacher

or person officiating at such congregation, or any persons there assembled, upon conviction before a justice of the peace shall forfeit not less than ten nor more than forty shillings, and in default of payment shall be committed to jail for a term not less than twenty-four hours nor more than ten days.

Fine for desecration of the Lord's day.

2. Any person who shall be convicted before a justice of the peace of shooting, gambling or sporting, of frequenting tippling houses, or of servile labor, works of necessity and mercy excepted, on the Lord's day, shall, for every offence, forfeit not less than five nor more than forty shillings, and in default of payment shall be committed to jail for a term not less than twelve hours nor more than four days.

Fine for retailing liquors on the Lord's day.

3. No retailer of spirituous liquors or tavern keeper shall sell any spirituous liquors on the Lord's day, on pain of forfeiting ten shillings for every such offence.

CHAPTER 158.

OF OFFENCES AGAINST PUBLIC MORALS.

SECTION

1. Fine for drunkenness.
2. Punishment for incest.
3. Punishment for keeping a gambling, baudy, or disorderly house.
4. Who may be deemed keeper of such house.
5. Fine for profane swearing.
6. Fine for getting up or participating in lotteries or raffles.

Fine for drunkenness.

1. Any person who shall be convicted of drunkenness either on view or upon oath before a justice of the peace, shall, for every offence, forfeit not less than five nor more than twenty shillings, and in default of payment shall be committed to jail for a term not less than twelve hours nor more than four days.

Punishment for incest.

2. Any person who shall be convicted of incest shall be guilty of a misdemeanor, and shall be imprisoned for a term not exceeding two years.

Punishment for keeping a gambling, baudy, or disorderly house.

3. Any person who shall be convicted of keeping a common gambling house, bawdy house or other disorderly house, room or place, shall be imprisoned for a term not exceeding two years.

Who may be deemed keeper of such house.

4. Any person who shall appear or act as master or mistress, or as having the care or management of any gambling house, bawdy house or other disorderly house, shall be deemed to be the keeper thereof, and shall be prosecuted and punished as such, notwithstanding he or she shall not in fact be the real owner or keeper thereof.

Fine for profane swearing.

5. Any person profanely cursing or swearing in the hearing of a justice of the peace, or who shall be convicted thereof, shall forfeit two shillings for the first offence, and for a second offence double, and for a third offence treble that sum, and in default of

payment shall be committed to jail for a term not less than two nor more than twelve hours.

Fine for getting up or participating in lotteries or raffles.

6. Whoever shall undertake or set up, or shall by writing or printing, publish the undertaking or setting up, of any lottery or raffle for money or goods, with intent to have such lottery or raffle drawn or thrown, or to induce persons to purchase tickets or to give money or other valuables for any such lottery or raffle, or shall play, throw or draw at such lottery or raffle, or shall purchase any lot or ticket for any such lottery, or shall take part in any such raffle, shall forfeit a sum not exceeding ten pounds, and in default of payment shall be committed to jail for a period not exceeding thirty days.

CHAPTER 159.

OF OFFENCES AGAINST THE LAW OF MARRIAGE.

SECTION

1. Punishment for bigamy, &c.
2. Cases excepted from the operation of previous section.
3. Penalty and punishment for illegally officiating at the solemnization of matrimony.
4. Fine for solemnizing marriage illegally; limitation of action.

Punishment for bigamy, &c.

1. Whosoever 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 the province or elsewhere, shall be guilty of felony, and shall be imprisoned for a term not exceeding two years and fined at the discretion of the court.

Cases excepted from the operation of previous section.

2. Provided that nothing in the last preceding section shall extend to any second marriage contracted out of this province by any other than a subject of her majesty, 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.

Penalty and punishment for illegally officiating at the solemnization of matrimony.

3. Whosoever not being thereto duly authorized shall presume to solemnize or celebrate marriage, or shall officiate or assist in solemnizing or celebrating any marriage, shall, for every such offence, forfeit, to the use of her majesty, a sum not exceeding one hundred pounds, nor less than twenty-five pounds, and suffer twelve months' imprisonment notwithstanding such marriage shall be invalid by law.

4. Whosoever being duly authorized to solemnize marriage, shall presume to solemnize or celebrate marriage between any persons whomsoever, before notification of bans of matrimony between them first made, or for which a license shall not have been first obtained under the hand of the governor, shall forfeit twenty pounds; but the prosecution therefor must be commenced within twelve months after the offence committed. Fine for solemnizing marriage illegally; limitation of action.

CHAPTER 160.

OF OFFENCES AGAINST THE PUBLIC PEACE.

SECTION

1. Punishment for twelve or more persons remaining riotously assembled after proclamation.
2. Form of proclamation.
3. Punishment for opposing a party making proclamation.
4. Punishment for remaining assembled where proclamation is obstructed.
5. Punishment where three or more persons unlawfully assemble or continue assembled.
6. Punishment for unlawful assemblages damaging churches or machinery.
7. Punishment for public fighting.
8. Punishment for carrying dangerous weapons.

1. If any persons to the number of twelve or more, being unlawfully assembled together to the disturbance of the public peace, and being required by the sheriff, or a justice of the peace of the county, or of any city where such assembly shall be, by proclamation, to be made in the form hereinafter directed, to disperse themselves, shall, to the number of twelve or more, unlawfully, riotously and tumultuously continue together by the space of one hour after such proclamation made, such offenders shall be imprisoned for any term not exceeding four years. Punishment for twelve or more persons remaining riotously assembled after proclamation.

2. The order and form of such proclamation shall be as follows, that is to say, the person authorized to make such proclamation shall, among the rioters, or as near as he can safely come, with a loud voice command silence, and make proclamation in the words following or to the like effect:—"Our sovereign lady the queen charges and commands all persons being here assembled immediately to disperse themselves, and peacefully depart to their habitations or to their lawful business, or they will incur the penalty of the law against unlawful assemblies. God save the queen." Form of proclamation.

3. Whosoever shall forcibly oppose or in any manner obstruct any person lawfully making or endeavoring to make such proclamation, shall be imprisoned for a term not exceeding two years. Punishment for opposing a party making proclamation.

4. If any persons to the number of twelve or more, being unlawfully assembled together, to whom proclamation should or ought to have been made if the same had not been obstructed, shall, knowing of such obstruction, continue together and not disperse them- Punishment for remaining assembled where proclamation is obstructed.

selves within one hour after such obstruction made, such offenders shall be imprisoned for a term not exceeding two years.

Punishment where three or more persons unlawfully assemble or continue assembled.

5. If three or more persons shall assemble, or having assembled shall continue together, with intent without lawful authority, to execute any common purpose with force and violence, or in so violent and tumultuous a manner, or under such circumstances as are calculated to create terror and alarm amongst her majesty's subjects, such persons shall be imprisoned for a term not exceeding two years.

Punishment for unlawful assemblages damaging churches or machinery.

6. If any persons unlawfully assembled together to the disturbance of the public peace, shall damage or destroy any church, chapel or meeting house for the exercise of religious worship, or any building or erection, or any machinery whether fixed or moveable, prepared for or employed in any manufacture, such offenders shall be imprisoned for any term not exceeding two years.

Punishment for public fighting.

7. If two or more persons shall fight together in a public place, in such a manner and under such circumstances as are calculated to create terror and alarm amongst her majesty's subjects, such persons shall be committed to jail for a term not exceeding three months.

Punishment for carrying dangerous weapons.

8. If two or more persons shall openly carry dangerous and unusual weapons in any public place, in such a manner and under such circumstances as are calculated to create terror and alarm amongst her majesty's subjects, such persons shall be committed to jail for a term not exceeding twelve months.

CHAPTER 161.

OF OFFENCES AGAINST THE ADMINISTRATION OF JUSTICE.

SECTION

1. Punishment for assaulting a peace or revenue officer.
2. Punishment for aiding to resist the apprehension of the person so assaulting.
3. Punishment for shooting at or stabbing, &c. to resist the apprehension of a party accused.
4. Punishment for perjury or subornation of perjury.
5. Punishment for rescue or breach of prison.
6. Punishment for false orders, certificates, &c., of public records.
7. Punishment for stealing or injuring documents connected with the administration of justice.
8. Punishment for corruptly taking rewards for helping persons to stolen chattels, securities, &c.

Punishment for assaulting a peace or revenue officer.

1. Whosoever shall assault a peace or revenue officer in the execution of his duty, or any person acting in aid of such officer, shall be committed to jail for a term not exceeding two years and fined at the discretion of the court.

Punishment for aiding to resist the apprehension

2. Whosoever shall assault any person with intent to resist the lawful apprehension or detainer of the party so assaulting, or

of any other person for any offence for which he may be liable to be apprehended or detained, shall be committed to jail for a term not exceeding two years and fined at the discretion of the court. of the person so assaulting.

3. Whosoever shall maliciously shoot at any person, or shall attempt to discharge any kind of loaded arms at any person, or shall maliciously stab, cut or wound any person, with intent to resist the lawful apprehension or detainer of a party accused of any offence for which he may be liable to be apprehended, shall be imprisoned for a term not exceeding seven years. Punishment for shooting at or stabbing, &c. to resist the apprehension of a party accused.

4. Whosoever shall be convicted of perjury or subornation of perjury, shall be imprisoned for a term not exceeding seven years. Punishment for perjury or subornation of perjury.

5. Whosoever shall be convicted of any rescue or breach of prison, shall be imprisoned for a term not exceeding two years. Punishment for rescue or breach of prison.

6. Whosoever having the custody of any public records, shall certify an order as true, knowing the same to be false, or make any false copy or certificate of any indictment or conviction, or shall utter any such copy or certificate with a false or forged signature thereto, or make any false certificate of registry, knowing the same to be false or forged, shall be imprisoned for a term not exceeding three years. Punishment for false orders, certificates, &c. of public records.

7. Whosoever 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 maliciously obliterate, injure or destroy any document connected with the administration of justice, shall be imprisoned for a term not exceeding two years and fined at the discretion of the court. Punishment for stealing or injuring documents connected with the administration of justice.

8. Whosoever shall corruptly take any money or other reward under pretence of helping any person to any chattel, valuable security or moveable thing, which shall have been stolen, taken, detained or converted, shall, unless the person so taking such money or reward shall cause the offender to be apprehended and brought to trial for the same, be guilty of felony, and shall be imprisoned for a term not exceeding seven years. Punishment for corruptly taking rewards for helping persons to stolen chattels, securities, &c.

CHAPTER 162.

OF OFFENCES AGAINST THE PERSON.

SECTION
1. Punishment for murder, &c., being accessories.
2. Petit treason to be deemed and punished as murder.
3. Punishment for manslaughter.
4. Killing by misfortune or in self-defence, &c. not punishable.
5. Punishment for poisoning.
6. Punishment for attempting to commit murder otherwise than by poisoning where no harm ensues.
7. Punishment for causing grievous bodily harm.
8. Punishment for attempting to cause grievous bodily harm.

SECTION
9. Punishment for setting fire to cast away a vessel with intent to murder, &c.
10. Punishment for impeding escape from a wreck.
11. Punishment for attempting to procure abortion.
12. Punishment for endeavoring to conceal the birth of a child.
13. Punishment for rape.
14. Punishment for abusing a female under ten years.
15. Punishment for abusing a female between ten and twelve years.
16. Punishment for buggery.
17. Carnal knowledge, what shall constitute.
18. Punishment of abduction of girls under eighteen.
19. Punishment for assault, with intent to commit a felony.
20. Punishment for assault on a trial for a felony.

Punishment for murder, &c. being accessories.

1. 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 imprisoned for a term not exceeding fourteen years, and fined at the discretion of the court.

Petit treason to be deemed and punished as murder.

2. Every offence which before the year one thousand eight hundred and forty-one would have amounted to petit treason, shall be deemed to be murder only; and all persons guilty in respect thereof, whether as principals or accessories, shall be punished as principals and accessories to murder.

Punishment for manslaughter.

3. Any person convicted of manslaughter shall be committed to jail or imprisoned in the penitentiary, as the court shall direct, for a term not exceeding fourteen years, or shall be fined at the discretion of the court.

Killing by misfortune or in self-defence, &c. not punishable.

4. Provided 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 poisoning.

5. Whosoever shall administer to or cause to be taken by any person, any poison or other destructive thing, or shall cause bodily harm to any person with intent to commit murder, shall be guilty of felony, and shall be imprisoned for a term not exceeding fourteen years.

Punishment for attempting to commit murder otherwise than by poisoning where no harm ensues.

6. Whosoever shall by any means, other than the actually administering or causing to be taken poison or other destructive thing, attempt to commit murder, shall, although no bodily harm be caused, be guilty of felony, and be imprisoned for a term not exceeding seven years.

Punishment for causing grievous bodily harm.

7. Whosoever shall maliciously cut, stab or wound, or shall maliciously maim, disfigure or disable any person, or shall maliciously cause to any person any other grievous bodily harm, shall be guilty of felony, and be imprisoned for a term not exceeding fourteen years.

Punishment for attempting to cause grievous bodily harm.

8. Whosoever shall maliciously attempt to cause grievous bodily harm to any person, shall, whether any bodily harm be caused to such person or not, be imprisoned for a term not exceeding four years.

Punishment for setting fire to cast away a vessel with intent to murder, &c.

9. Whosoever shall unlawfully set 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 put in danger,

shall be guilty of felony, and be imprisoned for the term of his natural life or for any term not less than seven years.

Punishment for impeding escape from a wreck.

10. Whosoever shall maliciously impede any person being on board of, or having quitted any ship or vessel which shall be in distress or wrecked, in his endeavour to save his life, shall be guilty of felony, and shall be imprisoned for a term not exceeding fourteen years.

Punishment for attempting to procure abortion.

11. Every woman being with child who, with intent to procure her own miscarriage, shall maliciously administer to herself any poison or other noxious thing, or use any instrument or other means whatever, and every person who, with intent to procure the miscarriage of any woman, shall maliciously administer to, or cause to be taken by her, any poison or other noxious thing, or shall use any instrument or other means whatsoever, shall be guilty of felony, and shall be imprisoned for a term not exceeding fourteen years.

Punishment for endeavoring to conceal the birth of a child.

12. Where a woman shall have been delivered of a child, any person who shall by any secret disposition of the dead body of such child, whether such child died before, at, or after its birth, endeavour to conceal the birth of such child, shall be imprisoned for a term not exceeding two years.

Punishment for rape.

13. Whosoever shall unlawfully and carnally know any woman against her will and by force or whilst she is insensible, shall be guilty of rape, and shall be imprisoned for the term of his natural life, or for any term not less than seven years.

Punishment for abusing a female under ten years.

14. Whosoever shall unlawfully and carnally know and abuse any girl under the age of ten years, shall be guilty of felony, and be imprisoned for the term of his natural life.

Punishment for abusing a female between ten and twelve years.

15. Whosoever shall unlawfully and carnally know and abuse any girl being above the age of ten years and under the age of twelve years, shall be imprisoned for a term not exceeding seven years.

Punishment for buggery.

16. Whosoever shall commit the crime of buggery, either with mankind or with any animal, shall be guilty of felony, and be imprisoned for the term of his natural life, or for any term not less than seven years.

Carnal knowledge what shall constitute.

17. Any the least degree of penetration, though there be no emission of seed, shall be sufficient to constitute carnal knowledge as regards the crimes mentioned in sections thirteen, fourteen, fifteen and sixteen of this chapter.

Punishment of abduction of girls under eighteen.

18. Whosoever shall unlawfully take, or cause to be taken, any unmarried girl under the age of sixteen years out of the possession or against the will of her father or mother or any other person having the lawful charge of her, shall suffer such punishment by fine or imprisonment, or both, as the court shall award.

Punishment for assault with intent to commit a felony.

19. Whosoever shall assault any person with intent to commit a felony, shall be imprisoned for a term not exceeding two years, and fined at the discretion of the court.

Punishment for assault on a trial for a felony.

20. Whosoever on trial for any felony whatever, and which shall include an assault, shall be convicted of assault, shall be com-

mitted to jail or imprisoned in the penitentiary as the court shall direct for a term not exceeding five years, and shall be fined at the discretion of the court.

CHAPTER 163.

OF OFFENCES AGAINST THE HABITATION.

SECTION
1. Punishment for burglary.
2. Breaking out of a house in the night, having entered with intent to commit felony, &c. to be burglary.
3. Same subject
4. Punishment for burglariously entering a house and assaulting a person with intent to commit murder.
5. Punishment for entering other buildings by night for the purpose of burglary.
6. Night defined for settling questions of burglary.
7. Penalty for unlawfully breaking and entering a dwelling house, office, church, &c. with intent to commit a felony.
8. Punishment where the burglary charged is not clearly proven but the breaking, &c. is proven.
9. When proof of a burglary committed shall not be a defence to a charge of breaking, &c. with intent only, and when offender may be again indicted for burglary.
10. Punishment for maliciously firing a dwelling house, a person being therein.
11. Punishment for damaging a dwelling house with powder, a person being therein.

Punishment for burglary.

1. Whosoever shall commit burglary shall be guilty of felony, and shall be imprisoned for a term not exceeding fourteen years

Breaking out of a house in the night, having entered with intent to commit felony, &c. to be burglary.

2. If any person shall enter the dwelling house of another with intent to commit felony, or being in such dwelling house shall commit a felony, and shall in either case break out of the house in the night time, such person shall be deemed guilty of burglary.

Same subject.

3. Provided always, that no building, although within the same curtilage with the dwelling house, and occupied therewith, shall be deemed to be part of such dwelling house for the purpose of burglary, unless there shall be a communication between such building and dwelling house, either immediately or by means of a covered and enclosed passage leading from one to the other.

Punishment for burglariously entering a house and assaulting a person with intent to commit murder.

4. Whosoever shall burglariously break and enter into any dwelling house, or any inner part thereof, and shall assault with intent to murder any person being therein, or shall cause any bodily harm, or do any personal violence to such person, shall be guilty of felony, and be imprisoned for the term of his natural life, or for any term not less than seven years.

Punishment for entering other buildings by night for the purpose of burglary.

5. If any person shall in the night time break and enter any building, being within the curtilage of a dwelling house and occupied therewith, but not being part thereof, according to the provisions in the third section of this chapter, or any public office, public building, or other building not being a dwelling house for the purpose of burglary, with intent to commit a felony, every such

offender shall be guilty of felony, and shall be imprisoned for a term not exceeding seven years.

Night defined for settling questions of burglary.

6. 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 o'clock of the evening of each day, and to conclude at six o'clock in the morning of the next succeeding day.

Penalty for unlawfully breaking and entering a dwelling house, office, church, &c. with intent to commit a felony.

7. Whosoever shall in the day time unlawfully break and enter any dwelling house, or building within the curtilage of a dwelling house, or any public office or other public building, or any building used for carrying on any business, or any stable, barn, or store house, or any church, chapel or meeting house for the exercise of any mode or form of religious worship whatever, with intent to commit a felony, shall be committed to jail or imprisoned in the penitentiary as the court may direct, for a term not exceeding five years, and shall be fined at the discretion of the court.

Punishment where the burglary charged is not clearly proven but the breaking, &c. is proven.

8. Whosoever shall be indicted for any burglary, where the breaking and entering shall be proved at the trial to have been made in the day time, and no breaking out shall appear to have been made in the night time, or where it shall be left doubtful whether such breaking and entering, or breaking out, took place in the day or night time, shall be acquitted of the felony, but may be convicted of the offence specified in section seven of this chapter.

When proof of a burglary committed shall not be a defence to a charge of breaking, &c. with intent only, and when offender may be again indicted for burglary.

9. It shall not be available, by way of defence to a person charged with the offence specified in section seven of this chapter, that the breaking and entering were such as to amount in law to burglary—provided that the offender shall not be afterwards prosecuted for burglary upon the same facts; but it shall be open to the court before whom the trial for such offence shall take place, upon the application of the officer conducting the prosecution, to allow an acquittal for the misdemeanor, on the ground that such offence, as proved, amounts to burglary; and if an acquittal takes place on such ground, and be so returned by the jury in delivering their verdict, the same shall be recorded together with their verdict, and such acquittal shall not then avail as a bar or defence upon any indictment for such burglary.

Punishment for maliciously firing a dwelling house, a person being therein.

10. Whosoever shall maliciously set fire to any dwelling house, any person being therein, shall be guilty of felony, and be imprisoned for the term of his natural life, or for any term not less than ten years.

Punishment for damaging a dwelling house with powder, a person being therein.

11. Whosoever shall maliciously, by the explosion of gunpowder or other explosive substance, destroy or damage the whole or any part of a dwelling house, any person being therein, shall be guilty of felony, and shall be imprisoned for a term not exceeding fourteen years.

CHAPTER 164.

OF FRAUDULENT APPROPRIATIONS.

SECTION

1. Punishment for robbing the person.
2. Punishment for an assault, with intent to rob.
3. Punishment for robbing the person and causing grievous bodily harm.
4. Punishment for an assault by one or more persons armed with intent to rob, and causing bodily harm.
5. Punishment for demanding property with menace or force, with intent to steal.
6. Punishment for stealing from or plundering a wreck.
7. Punishment for accusing or threatening to accuse, &c. a person with an abominable offence, and thereby extorting property.
8. Punishment for a theft committed by accusing or threatening to accuse a person of felony, &c.
9. Punishment for attempting to commit a theft by sending threatening letters, &c.
10. What shall be held sending threatening letters.
11. Punishment for larceny.

SECTION

12. Punishment for destroying or concealing wills, &c.
13. Punishment for stealing muniments of title.
14. Punishment for stealing valuable securities.
15. Punishment for stealing or killing cattle with intent to steal, &c.
16. Civil remedies not affected by the last four sections.
17. Punishment for a clerk or servant stealing from his master.
18. Punishment for obtaining articles by false pretences.
19. What shall be held "a false pretence."
20. Fraud in games, bets, or wagers to be held a false pretence.
21. When the offence proved is a larceny, in what case it shall be a defence on a charge of false pretence.
22. Punishment for clerk or servant embezzling his master's property.
23. Punishment for receiving goods, knowing them to have been stolen, obtained by false pretences, or embezzled.

Punishment for robbing the person.

1. Whosoever shall rob any person shall be guilty of felony, and shall be imprisoned for a term not exceeding fourteen years.

Punishment for an assault with intent to rob.

2. Whosoever shall assault any person with intent to rob shall be guilty of felony, and shall be imprisoned for a term not exceeding three years.

Punishment for robbing the person and causing grievous bodily harm.

3. Whosoever shall rob any person, and at the time of, or immediately before, or immediately after such robbery, shall cause any grievous bodily harm to any person, shall be guilty of felony, and be imprisoned for the term of his natural life or for any term not less than seven years.

Punishment for an assault by one or more persons and with intent to rob and causing bodily harm.

4. Whosoever shall, being armed with any offensive weapon or instrument, or shall, together with one or more person or persons, assault any person with intent to rob, and at the time of, or immediately before, or immediately after such assault, shall cause any bodily harm or do any violence to the person of another, shall be guilty of felony, and shall be imprisoned for a term not exceeding fourteen years.

Punishment for demanding property with menace or force, with intent to steal.

5. Whosoever shall with menaces, or by force, demand any property of any person, with intent to steal the same, shall be guilty of felony, and shall be imprisoned for a term not exceeding three years.

Punishment for stealing from or plundering a wreck.

6. Whosoever shall plunder or steal any part of a ship or vessel wrecked or cast on shore, or any goods or articles of any kind

belonging to or on board of such ship or vessel, shall be guilty of felony, and shall be imprisoned for a term not exceeding fourteen years.

Punishment for accusing or threatening to accuse, &c. a person with an abominable offence, and thereby extorting property.

7. Whosoever shall accuse or threaten to accuse any person of the crime of buggery, committed either with mankind or with any animal, or any assault with intent to commit the said abominable crime, or of any attempt to commit the same, or of using any solicitation or threat to any person whereby to induce such person to commit or permit the said abominable crime with intent to extort and shall thereby extort from such person any property, shall be guilty of felony, and shall be imprisoned for a term not exceeding fourteen years.

Punishment for a theft committed by accusing or threatening to accuse a person of felony, &c.

8. Whosoever shall commit any theft, where the means by which possession is obtained of the thing stolen are either the accusing or threatening to accuse, or the knowingly sending, delivering or uttering of any letter or writing, accusing or threatening to accuse any person of treason or felony, or of any assault with intent to commit, or of any attempt to commit a rape, shall be guilty of felony, and shall be imprisoned for a term not exceeding seven years.

Punishment for attempting to commit a theft by sending threatening letters, &c.

9. Whosoever shall by any of the means specified in section eight of this chapter attempt to commit a theft, or shall knowingly send, deliver or utter any letter or writing, demanding of any person with menaces, and without any reasonable or probable cause, any thing being the subject of theft, shall be guilty of felony, and shall be imprisoned for a term not exceeding seven years.

What shall be held sending threatening letters.

10. Every species of parting with, placing or disposing of any such letter or writing as is mentioned in the two last preceding sections, to the end that the same may be carried to or otherwise reach or come into the possession of the person for whom it is intended, shall be deemed to be a sending of such letter within the meaning of those sections.

Punishment for larceny.

11. Whosoever shall be convicted of larceny shall be imprisoned for a term not exceeding seven years.

Punishment for destroying or concealing wills, &c.

12. Whosoever shall steal, or for any fraudulent purpose destroy or conceal any testamentary instrument, shall suffer such punishment by fine or imprisonment, or both, as the court shall direct.

Punishment for stealing muniments of title.

13. Whosoever shall steal any muniment of title shall suffer such punishment by fine or imprisonment, or both, as the court shall direct.

Punishment for stealing valuable securities.

14. Whosoever shall steal any valuable security, shall be imprisoned for a term not exceeding seven years.

Punishment for stealing or killing cattle with intent to steal, &c.

15. Whosoever shall steal any cattle, or shall wilfully kill any cattle with intent to steal the carcass or skin or any part of the cattle so killed, shall be guilty of felony, and shall be imprisoned for a term not exeeeding seven years.

Civil remedies not affected by the last four sections.

16. Nothing in the four last preceding sections contained shall in any wise affect any civil remedy of any parties.

Punishment for a

17. Whosoever being a clerk or servant shall steal any thing

clerk or servant stealing from his master.

belonging to or in the possession or under the power of his master, shall be guilty of felony, and shall be imprisoned for a term not exceeding seven years.

Punishment for obtaining articles by false pretences.

18. Whosoever with intent to defraud any person of any thing which is the subject of theft, shall obtain such thing from any person by any false pretence, by which the owner or other person authorized is induced to part with the entire property in such thing, shall be imprisoned for a term not exceeding two years.

What shall be held "a false pretence."

19. A false pretence within the meaning of the last preceding section is a false representation of some state of things past or present.

Fraud in games, bets, or wagers to be held a false pretence.

20. Any fraud or ill practice in playing at any game or in bearing a part in the stakes, or on betting or wagering on the event, shall be deemed to be a false pretence within the meaning of section eighteen of this chapter.

When the offence proved is a larceny, in what case it shall be a defence on a charge of false pretence.

21. It shall not be available by way of defence to a person charged with the offence specified in section eighteen of this chapter that the property in question was so obtained, as to amount in law to larceny, provided that the offender shall not be afterwards prosecuted for larceny upon the same facts.

Punishment for clerk or servant embezzling his master's property

22. Whosoever being a clerk or servant, or person employed for the purpose in the capacity of a clerk or servant, shall embezzle any thing being the property of his employer, received or taken into possession by him by virtue of such employment, shall be deemed to have stolen the same from his employer, and shall be guilty of felony, and be imprisoned for a term not exceeding seven years.

Punishment for receiving goods knowing them to have been stolen and obtained by false pretences, or embezzled.

23. Whosoever shall unlawfully receive or have in his possession any thing which shall have been stolen or obtained by any false pretence, or which shall have been embezzled, knowing the same to have been so stolen, detained or embezzled, shall, in case the stealing, obtaining or embezzling of such thing shall amount to felony, be imprisoned for a term not exceeding seven years, and in all other cases shall be imprisoned for a term not exceeding two years.

CHAPTER 165.

OF FORGERY AND OFFENCES RELATING TO THE COIN.

SECTION
1. Punishment for forging public seals, &c.
2. Punishment for forging or altering a writing.
3. Definition of the word "writing" in last section.
4. Definition of the word "person" in section 2.
5. Punishment for forging a muniment of title.
6. Punishment for counterfeiting coin, &c.

1. Whosoever shall forge or counterfeit, or shall utter knowing the same to be forged or counterfeit, the great seal of the united kingdom, her majesty's privy seal, any privy signet of her majesty, her majesty's royal signmanual, her majesty's great seal of the province of Nova-Scotia, or the privy seal, or the seal at arms of the said province, or of the lieutenant-governor thereof, shall be guilty of felony, and shall be imprisoned for a term not exceeding five years. Punishment for forging public seals, &c.

2. Whosoever shall forge or alter, or shall offer, utter, or put off, knowing the same to be forged or altered, any writing, with intent to defraud any person, shall be guilty of felony, and be imprisoned for a term not exceeding seven years. Punishment for forging or altering a writing.

3. The term "writing," as used in the last preceding section, shall be deemed to apply, whether the words or figures of the forged instrument, or any of them, are expressed at length or abridged, and whether they be so expressed by means of writing, printing or otherwise. Definition of the word "writing" in last section.

4. The term person in section two of this chapter, shall be deemed to include her majesty, any body corporate, company or society of persons not incorporated, or any person or number of persons who may be intended to be defrauded, whether such body corporate, company, society, person or number of persons, shall reside or carry on business in this province or elsewhere, in any place or country, whether under the dominion of her majesty or not. Definition of the word "person" in section 2.

5. Whosoever with intent to defraud any person shall forge any muniment of title, or testamentary instrument, shall be guilty of felony, and be imprisoned for a term not exceeding seven years. Punishment for forging a muniment of title.

6. Whosoever shall be convicted of the false making, impairing or counterfeiting of any coin, or of uttering any counterfeited coin, knowing the same to be counterfeit, shall be imprisoned for a term not exceeding four years. Punishment for counterfeiting coin, &c.

CHAPTER 166.

OF MALICIOUS INJURIES TO PROPERTY.

SECTION

1. Punishment for maliciously firing a building.
2. Punishment for setting fire to or casting away a vessel.
3. Punishment for exhibiting false lights.
4. Punishment for destroying any part of a vessel wrecked or in distress, or goods belonging thereto.
5. Punishment for setting fire to coal mines, &c.
6. Punishment for setting fire to stacks, coals, or cordwood.
7. Punishment for placing gunpowder near buildings, vessels, &c.
8. Punishment for breaking down sea walls, dikes, mill dams or bridges.
9. Punishment for damaging trees in gardens, fields or streets.
10. Punishment for cutting and carrying away corn, robbing gardens, &c., breaking down hedges, or removing vehicles, &c.

SECTION
11. Punishment for damaging glass, wood, metal work, &c. on any public street or square.
12. Penalty for killing or maiming cattle.
13. Penalty for wantonly and cruelly beating cattle.
14. Penalty for setting fire to corn, grain or hay.
15. Punishment for damaging articles in a museum, &c.
16. Punishment for damaging mines.
17. Provisions of last section qualified.
18. Punishment upon a second conviction of felony.
19. Principals in the second degree and accessories in cases of felony, how punished.
20. Punishment for destroying buoys, beacons, &c.
21. Penalty for making vessels fast to buoys, beacons, &c.
22. Punishment for damaging real or personal property where no specific remedy provided.
23. Aiders and abettors liable as principals.
24. Twenty-second section restricted.
25. Appropriation of fines under twenty-second section.

Punishment for maliciously firing a building.

1. Whosoever shall maliciously set fire to any building, to whatsoever purpose the same may be devoted, shall be guilty of felony, and be imprisoned for a term not exceeding fourteen years.

Punishment for setting fire to or casting away a vessel.

2. Whosoever shall maliciously set fire to, cast away, or in anywise damage or destroy, any ship or vessel, whether the same be completed or in an unfinished state, with intent thereby to prejudice any owner or part owner thereof, or of any goods on board thereof, or any underwriter thereon, or on the freight thereof, or upon any goods on board thereof, shall be guilty of felony, and be imprisoned for a term not exceeding fourteen years.

Punishment for exhibiting false lights.

3. Whosoever shall exhibit any false light or signal, with intent to bring any ship or vessel into danger, or shall maliciously do any thing tending to the immediate loss or destruction of any ship or vessel in distress, shall be guilty of felony, and be imprisoned for a term not exceeding seven years.

Punishment for destroying any part of a vessel wrecked or in distress or goods belonging thereto.

4. Whosoever shall maliciously destroy any part of any ship or vessel which shall be in distress or wrecked, or any goods or articles of any kind belonging thereto, shall be guilty of felony, and shall be imprisoned for a term not exceeding seven years.

Punishment for setting fire to coal mines, &c.

5. Whosoever shall maliciously set fire to any mine of coal or cannel coal, shall be guilty of felony, and be imprisoned for a term not exceeding seven years.

Punishment for setting fire to stacks, coals, or cordwood

6. Whosoever shall maliciously set fire to any stack of grain, hay, straw, coals, charcoal, or pile of cord wood, shall be guilty of felony, and be imprisoned for a term not exceeding seven years.

Punishment for placing gunpowder near buildings, vessels, &c.

7. Whosoever shall maliciously place or throw into, upon, against or near any building or vessel, any gunpowder or other explosive substance, with intent to destroy or damage the same, or any machinery or fixtures, or chattels personal, shall, whether or not any explosion takes place, and whether or not any damage is effected, be guilty of felony, and be imprisoned for a term not exceeding three years.

Punishment for breaking down sea walls, dikes, mill-dams, or bridges.

8. Whosoever shall maliciously break or cut down any sea bank or sea wall, or any dike or aboiteau, whereby any lands shall be overflowed or damaged, or shall be in danger of being so, or shall maliciously cut down, break, or otherwise destroy any mill dam,

or shall maliciously pull down, or in anywise damage or destroy any public bridge, shall be guilty of felony, and be imprisoned for a term not exceeding seven years.

Punishment for damaging trees in gardens, fields, or streets.

9. Whosoever shall maliciously destroy or damage any tree or plant growing in any garden, field or street, shall be committed to jail for a term not exceeding one year, or fined in a sum not exceeding ten pounds.

Punishment for cutting and carrying away corn, robbing gardens, &c., breaking down hedges, or removing vehicles, &c.

10. Whosoever shall unlawfully cut and take away any corn, or grain of any kind whatsoever growing, or shall rob any orchard, garden, or other plantation, of any fruit, vegetables, or other things therein growing, or wilfully break down, cut, or remove any part of any hedge, fence or other enclosure, or shall remove from the premises, or injure any vehicle, sleigh or article, belonging to any person, and on his premises, shall be committed to jail for a term not exceeding six months, or fined in a sum not exceeding five pounds.

Punishment for damaging glass, wood, metal work, &c. in any public street or square.

11. Whosoever shall maliciously destroy or damage any glass or wood work, or any metal, or any utensil or fixture, whether made of metal or other material fixed in any square, street or other place dedicated to public use or ornament, shall be committed to jail for a term not exceeding one year, or fined in a sum not exceeding ten pounds.

Punishment for killing or maiming cattle.

12. Whosoever shall maliciously kill any cattle, or cause any harm to any cattle, with intent to kill such cattle, or render the same useless to the owner, either permanently, or for a time, shall be committed to jail for a term not exceeding one year, or fined in a sum not exceeding ten pounds.

Punishment for wantonly and cruelly beating cattle.

13. Whosoever shall wantonly and cruelly beat, abuse, or ill-treat any cattle, shall be punished by fine or imprisonment in jail, at the discretion of the court.

Punishment for setting fire to corn, grain, or hay.

14. Whosoever shall maliciously set fire to any crop of corn, grain or hay, whether standing or cut down, wheresoever the same may be growing, shall be imprisoned in the penitentiary or committed to jail for a term not exceeding three years.

Punishment for damaging articles in a museum, &c.

15. Whosoever shall maliciously destroy or damage any thing kept for the purposes of art, science or literature, or as an object of curiosity in any museum or other repository, which museum or other repository is either at all times, or from time to time, open for the admission of the public, or of any considerable number of persons to view the same, either by permission of the proprietor thereof, or by payment of money before entering the same, shall be committed to jail for a term not exceeding six months, or fined in a sum not exceeding one hundred pounds.

Punishment for damaging mines.

16. Whosoever shall maliciously cause any water to be conveyed into any mine, or into any subterraneous passage communicating therewith, with intent thereby to destroy or damage such mine, or to hinder or delay the working thereof, or shall, with the like intent, maliciously pull down, fill up or obstruct, any air way, water way, drain, pit, level or shaft of or belonging to any mine, shall be imprisoned for a term not exceeding two years.

Provisions of last section qualified.

17. The provision contained in the last preceding section shall not extend to any damage committed under ground by any owner of an adjoining mine in working the same, or by any person duly employed in such working.

Punishment upon a second conviction of felony.

18. Whosoever shall be convicted of any felony not punishable with death, committed after a previous conviction for felony, shall on such subsequent conviction, be imprisoned for a term not exceeding four years.

Principals in the second degree and accessories in cases of felony, how punished.

19. In the case of any felony punishable under and by virtue of this title, every principal in the second degree, and every accessory before the fact, shall be punishable in the same manner as the principal in the first degree is punishable; and every accessory, after the fact to any felony punishable by this title, except only a receiver of stolen property, shall be imprisoned for a term not exceeding two years.

Punishment for destroying buoys, beacons, &c.

20. Whosoever shall maliciously take away, destroy or damage any buoys, beacons, or sea marks, placed by order of the governor, or other person having authority in any harbor, creek or bay, shall forfeit a sum not exceeding one hundred pounds, and on failure in payment, shall be committed to jail for a term not exceeding one year.

Penalty for making vessels fast to buoys, beacons, &c.

21. Whosoever shall make fast any vessel or boat to any such buoy, beacon or sea mark, shall forfeit a sum not exceeding twenty pounds; and on failure of payment, shall be committed to jail for a term not exceeding six months.

Punishment for damaging real or personal property where no specific remedy provided.

22. Whosoever shall maliciously damage or destroy any real or personal property, either of a public or private nature, for which no remedy or punishment is hereinbefore provided, shall be committed to jail for a term not exceeding two years, or fined in a sum not exceeding twenty pounds.

Aiders and abettors punishable as principals.

23. Every person who shall abet or procure the commission of any offence punishable under the preceding section, shall be indicted and punished as a principal offender.

Twenty-second section restricted.

24. Nothing in the twenty-second section 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, nor to any trespass not being wilful and malicious.

Appropriation of fines under twenty-second section.

25. All fines levied and received under the twenty-second section shall, in case of the destruction of private property, or of injury thereto, be respectively paid to the party aggrieved, if known, except where such party shall have been examined in proof of the offence, and in such case, or where any public right or property is concerned, such fines shall be paid into the county treasury.

CHAPTER 167.

OF THE DEFINITION OF TERMS IN THIS TITLE.

SECTION
1. Terms in this title defined.
2. Officer.
3. Woman.
4. Grievous bodily harm.
5. Writing.
6. Testamentary.
7. Moveable thing.
8. Valuable security.
9. Muniment of title.
10. Cattle.
11. Same subject.
12. Night time and day time.
13. Imprisoned, and imprisonment.
14. What shall be deemed custody or possession under this title.
15. Terms to mean as defined unless when otherwise particularly provided.

Terms in this title defined.

1. The terms following, wheresoever occurring throughout this title, shall be understood as hereinafter defined, unless it be otherwise specially provided, or there be something in the subject or context repugnant thereto.

Officer.

2. The term "officer" shall be deemed to signify any person invested with authority to execute and legally bound to execute any public duties.

Woman.

3. The term "woman" shall be deemed to signify any female.

Grievous bodily harm.

4. The term "grievous bodily harm" shall be deemed to signify any bodily harm from which danger to life may reasonably be apprehended, or whereby any limb, member, organ of sense or mental faculty is permanently disabled, weakened or impaired—the mutilation of any part of the body, whereby permanent disfigurement is caused, the fracture or dislocation of any bone, or any bodily harm whereby the person to whom it is caused is, during the space of twenty days at the least, in bodily pain, diseased or unable to follow his ordinary calling or pursuits.

Writing.

5. The term "writing" shall be deemed to include any material on which any words or figures, at length or abridged, are written, printed or otherwise expressed, or any map or plan is described.

Testamentary.

6. The term "testamentary instrument" shall be deemed to include any will, codicil, or other testamentary writing or appointment, as well during the life of the testator whose testamentary disposition it purports to be as after his death, whether the same shall relate to real or personal estate, or to both.

Moveable thing.

7. The term "moveable thing" as used in defining theft and other offences concerning property, shall be deemed to include money, valuable securities, muniments of title, written instruments of justice, testamentary instruments, and all domestic animals; also the bodies, and all parts of the bodies of dead animals, and all other chattels personal.

Valuable security.

8. The term "valuable security" shall be deemed to include any unsatisfied debenture and bond, bill, note, warrant, order, or other security for money, or for the payment of money of this or

any other country—any instrument for the delivery or transfer of any chattel personal—any tally, order or other security entitling or evidencing title to any share or interest in any public stock or fund of any state or country, or in any fund of any body corporate, company or society, or to any deposit in any savings' bank, and any other writing which secures or evidences title to or interest in any chattel personal, or any release, receipt, discharge or other instrument evidencing payment of money, or the delivery of any chattel personal; and every such valuable security shall, where value is material, be deemed to be of value equal to that of such unsatisfied money, chattel personal, share, interest or deposit for the securing or payment of which, or delivery or transfer or sale of which, or for the entitling to or evidencing title to which such valuable security shall be applicable, or to that of such money or chattel personal, the payment or delivery of which shall be evidenced by such valuable security.

Muniment of title. 9. The term "muniment of title" shall be deemed to include any writing as before defined in section five of this chapter, which is or shall be evidence of the title, or of any part of the title to any real estate, or to any interest therein; and any entry of the acknowledgment or registry of any such writing, or of any judgment or recognizance of or concerning any real estate, or any interest therein, under the provisions of any act of the assembly of this province.

Cattle. 10. The term "cattle" shall be deemed to include any horse, mule, ass, sheep, pig or goat, whatsoever be the age or sex of the animal; and also every bull, cow, heifer, calf or ox.

Same subject. 11. When the term "cattle" is used, or any particular animal is mentioned by name, the term shall, unless it be otherwise provided, be deemed to signify living cattle, or a living animal so named.

Night time and day time. 12. When the term "night time" is used, that time shall be deemed to commence at nine o'clock in the evening of each day, and to conclude at six o'clock in the morning of the next succeeding day; and when the term "day time" is used, that time shall be deemed to commence at six o'clock in the morning and to conclude at nine o'clock in the evening of each day.

Imprisoned and imprisonment. 13. The terms "imprisoned" and "imprisonment," whereso-ever they occur in this title, shall be respectively deemed and taken to mean and include imprisonment in the provincial penitentiary.

What shall be deemed custody or possession under this title. 14. When the having any matter or thing in the custody or possession of any person is in any chapter of this title expressed to be an offence, if any person shall have any such matter or thing in his personal custody or possession, or shall knowingly or wilfully have any such matter or thing in any dwelling house or other building, lodging, apartment, field, or other place open or enclosed, whether belonging to, or occupied by himself or not, and whether such matter or thing shall be so had for his own use or benefit, or for that of another, any such person shall be deemed and taken to have

such matter or thing in his custody or possession within the meaning of such chapter, and where there are two or more persons, any one or more shall, with the knowledge and consent of the rest, have any such matter or thing in his or their custody or possession, it shall be deemed and taken to be in the custody or possession of all such persons.

15. All terms defined in any part of this title shall, when they occur in any other part thereof, be understood in their defined sense, unless it be otherwise provided, or the chapter, for the purposes of which any such term or terms is or are defined, be particularly specified.

Terms to mean as defined, unless where otherwise particularly provided.

TITLE XLI.

OF THE ADMINISTRATION OF CRIMINAL JUSTICE.

CHAPTER 168.

OF THE ADMINISTRATION OF CRIMINAL JUSTICE IN THE SUPREME COURT.

SECTION

1. Arrests, how made for offences under this title; proceedings thereunder.
2. Imparlance in cases of a misdemeanor to be disallowed except on special cause shewn.
3. "Not guilty" plead in treason or felony, its effect.
4. Proceedings where a party arraigned shall stand mute.
5. Challenges in cases of treason and felony, to what extent allowed and when void.
6. Plea of attainder, when not allowed.
7. Indictments, &c., not to abate by reason of pleas of misnomer, want of addition, &c., proceedings in such case.
8. On indictments for treason or felony the jury shall not be charged to inquire respecting lands, &c.
9. Counsel to be allowed prisoners in trials for felony.
10. Prisoners, &c., when entitled to copies of examination of witnesses.

SECTION

11. Persons under trial entitled to inspect all depositions, &c.
12. Benefit of clergy abolished; counts may be joined as heretofore.
13. Accessories before the fact, who shall be deemed; how, when, and where they may be tried.
14. Accessories after the fact, how, when and where tried.
15. Accessories may be convicted and punished although the principal have not been attainted.
16. Accessories before the fact in cases of felony may be tried and punished as a principal.
17. Charge, how set out on a second indictment for felony not punishable with death.
18. Bigamy, in what county it may be tried, and punishment therefor inflicted.
19. Indictments for feloniously stealing or receiving property, how drawn; proceedings thereunder.

SECTION
20. Felonies and misdemeanors committed near the boundaries of counties, or begun in one and completed in another county-where tried and punished.
21. Felonies, &c. when committed in a coach, &c. passing through more than one county, or upon a highway, &c. dividing counties, where may be tried and punished.
22. Forgery, altering deeds, &c where tried and punished.
23. Forged or altered instruments, how described in indictments.
24. Ownership of joint property, how described.
25. Ownership of public property, how described.
26. Ownership of property in possession of public officers, how described.
27. Embezzlements, how may be laid, charged, and proved.
28. Injuries feloniously inflicted within the province and a party shall die thereof out of the province, or *vice versa*, where tried and punished.
29. Persons indicted for felony may be convicted of an assault; punishment.
30. Punishment for an assault with intent to commit a felony
31. No allegation of property necessary in prosecutions for offences under sec. 12, chap. 164.
32. What allegations sufficient for prosecution of offences under sec. 13, chap. 164.
33. Receivers of stolen goods, &c. how indicted, convicted, and punished.
34. Receivers of stolen goods, &c., where may be indicted, convicted, and punished.
35. Stolen goods, when and to whom to be restored.
36. Certificates of conviction for previous felony how given and proved; punishment for false certificates.
37. Quaker or Moravian may make solemn affirmation; form given.

SECTION
38. Judgments not to be stayed or reversed for want of formal averments unnecessary to be proved, or other slight imperfections.
39. Same subject.
40. Sentence for felony where party imprisoned or already sentenced for other offence.
41. Punishment of the pillory and whipping abolished.
42. Persons convicted of murder how to be kept and fed after judgment.
43. Pardons to felons and their effect as to subsequent convictions.
44. Punishment endured for felonies not punishable with death to have the effect of pardons.
45. Competency of witnesses on trial for forgeries, &c.
46. Amendment of indictments, informations, &c.
47. On an indictment for child-murder the jury may find the mother guilty of endeavoring to conceal the birth.
48. Proceedings where sentence of death is commuted by exercise of the prerogative.
49. Charges of conveying prisoners to jail to be defrayed by themselves when of ability; proceedings to recover the same.
50. Constable's expenses, how allowed and paid.
51. Poor witnesses, how may be paid their expenses.
52. Where county treasurers have no funds the expenses mentioned in the two last sections to be paid out of the public treasury.
53. In the absence of the attorney and solicitor general the court shall appoint officers to prosecute on behalf of the crown; costs, how taxed.
54. Costs taxed, how paid.
55. Party convicted, if of ability, may be adjudged to pay the expense of prosecution.

Arrests how made for offences under this title; proceedings thereunder.

1. Any person found committing any offence against property punishable by virtue of this title, may be immediately apprehended without a warrant, by a peace officer, or by the owner of the property, or by his servant, or by any person authorized by him, and forthwith taken before some neighboring 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, a reasonable cause to suspect that any person has in his possession, or on his premises, any property whatsoever, with respect to which any such offence shall have been committed, the justice may grant a warrant to search 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 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.

Imparlance in cases of a misdemeanor to be disallowed, except on special cause shown.

2. When any person shall be prosecuted for a misdemeanor either by information or indictment, and shall appear in person or by attorney in term time to answer thereto, such defendant, on being charged therewith, shall not be permitted to imparl to a following term, but shall plead or demur thereto; and the trial, where a trial shall be required, may thereupon proceed in the same term in the time and in manner in such behalf respectively as may be directed or required by the order, rules or practice of the court; and in default of any such plea or demurrer, judgment for want of a plea may be entered against the defendant in default; but the court, on sufficient cause shewn, may allow further time for such defendant to plead or demur to such indictment or information, or to go to trial thereon.

"Not guilty" pleaded in treason or felony, its effect.

3. If any person being arraigned upon an indictment for treason or felony shall plead thereto a plea of "not guilty," he shall, by such plea, without any further form, be deemed to have put himself upon the country for trial, and the court shall in the usual manner order a jury for the trial of such person accordingly.

Proceedings where a party arraigned shall stand mute.

4. If any person being arraigned upon or charged with any indictment or information for treason, felony or misdemeanor, shall stand mute of malice or will not answer directly to the indictment or information, in every such case the court, if it shall so think fit, may order the proper officer to enter a plea of "not guilty" on behalf of such person, and the plea so entered shall have the same force and effect as if such person had actually pleaded the same.

Challenges in cases of treason and felony, to what extent allowed and when void.

5. If any person indicted for treason or felony shall challenge peremptorily a greater number of men returned to be of the jury than thirty-five in cases of treason and twenty in cases of felony, every peremptory challenge beyond the number so allowed in the said cases respectively shall be entirely void, and the trial of such person shall proceed as if no such challenge had been made.

Plea of attainder, when not allowed.

6. 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.

Indictments, &c. not to abate by reason of pleas of misnomer, want of addition, &c.; proceedings in such case.

7. No indictment or information shall be abated by reason of any dilatory plea of misnomer, or want of addition, or of wrong addition of the 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 dilatory plea had been pleaded.

On indictments for treason or felony the jury shall not be

8. Where any person shall be indicted for treason or felony, the jury impannelled to try such person shall not be charged to in-

charged to inquire respecting lands, &c.

quire concerning his lands, tenements or goods, nor whether he fled for such treason or felony.

Counsel to be allowed prisoners in trials for felony.

9. 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.

Prisoners, &c. when entitled to copies of examination of witnesses.

10. All persons who shall be held to bail, or committed to prison, for any offence, shall be entitled to require and have on demand from the persons who shall have the lawful custody thereof, and who are hereby required to deliver the same, copies of the examination 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 half-pence for each folio; but if such demand shall not be made before the day appointed for the commencement of the term or sitting of the court, 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 court shall be of opinion that such copy may be made and delivered without delay or inconvenience to such trial; and it shall be competent for the court, if it 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.

Persons under trial entitled to inspect all depositions, &c.

11. 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 in the court before which such trial shall be had.

Benefit of clergy abolished; counts may be joined as heretofore.

12. Benefit of clergy, with respect of persons convicted of felony, shall be abolished; but nothing herein contained shall prevent the joinder in any indictment of any counts which might have been joined before the passing of this chapter.

Accessories before the fact, who shall be deemed; how, when, and where they may be tried.

13. If any person shall counsel, procure or command any other person to commit any felony, the person so counselling, procuring or commanding, shall be deemed guilty of felony, and may be indicted and convicted either as an accessory before the fact to the principal felony, together with the principal felon, or after the conviction of the principal felon, or may be indicted 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 in the same manner as if such offence had been committed at the same place as the principal felony; and in case the principal felony shall have been committed within the body of any county, and the offence of counselling, procuring or commanding shall have been committed within the body of any other county, the last mentioned offence may be inquired of, tried and punished in either of such counties; but 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.

Accessories after the fact; how, when, and where tried.

14. If any person shall become an accessory after the fact to any felony, the offence of such person may be inquired of, tried, determined and punished, in the same manner as if the act, by reason whereof such person shall have become an accessory, had been committed at the same place as the principal felony; and in case the principal felony shall have been committed within the body of any county, and the act by reason whereof any person shall have become accessory, shall have been committed within the body of any other county, the offence of such accessory may be inquired of, tried, determined and punished, in either of such counties; but no person who shall be once duly tried for any offence of being an accessory, shall be again indicted or tried for the same offence.

Accessories may be convicted and punished although the principal have not been attainted.

15. 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 the attainder; and every such accessory shall suffer the same punishment, if he be in anywise convicted, as he should have suffered if the principal had been attainted.

Accessories before the fact in cases of felony may be tried and punished as a principal.

16. If any person shall become an accessory before the fact to any felony, such person may be indicted, tried, convicted and punished in all respects as if he were a principal felon.

Charge how set out on a second indictment for felony not punishable with death.

17. In any indictment for any felony not punishable with death, committed after a previous conviction for a 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.

Bigamy, in what county it may be tried, and punishment therefor inflicted.

18. In every case of bigamy the offence may be dealt with, inquired of, tried and punished in the county where the offender shall be apprehended or be in custody as if the offence had been actually committed in that county.

Indictments for feloniously stealing or receiving property; how drawn; proceedings thereunder.

19. In every indictment for feloniously stealing property, it shall be lawful to add a count for feloniously receiving the same property knowing it to have been stolen; and in any indictment for feloniously receiving property knowing it to have been stolen, it shall be lawful to add a count for feloniously stealing the same property; and where any such indictment shall have been preferred and found against any person, the prosecutor shall not be put to his election, but it shall be lawful for the jury who shall try the same to find a verdict of guilty either of stealing the property or of receiving it knowing it to have been stolen; and if such indictment shall have been preferred and found against two or more persons, it shall be lawful for the jury who shall try the same to find all or any of the said persons guilty either of stealing the property or of receiving it knowing it to have been stolen, or to find one or more of the said persons guilty of stealing the property, and the

other or others of them guilty of receiving it knowing it to have been stolen.

Felonies and misdemeanors committed near the boundaries of counties, or begun in one and completed in another county, where tried and punished.

20. When any felony or misdemeanor shall be committed on the boundary or boundaries of two or more counties, or within the distance of one mile from any such boundary or boundaries, or in any place or places with respect to which it may be uncertain within which of two or more counties such place or places may be situate, or when any felony or misdemeanor shall be begun in one county and completed in another, every such felony or misdemeanor may be dealt with, inquired of, tried and punished in any of the said counties in the same manner as if it had been actually and wholly committed therein.

Felonies, &c. when committed in a coach, &c. passing through more than one county or upon a highway, &c. dividing counties, where may be tried and punished.

21. When any felony or misdemeanor shall be committed on any person, or on or in respect of any property, or in or upon any coach, waggon, cart, sleigh, sled 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 or boat whatsoever employed on any voyage or journey upon any navigable river, canal or inland navigation, or on or in respect of any property in, upon, or forming part of any raft whatever passing in or upon any such navigable river, canal or inland navigation, such felony or misdemeanor may be dealt with, inquired of, tried, determined and punished in any county through any part whereof such coach, waggon, cart, sleigh, sled, carriage, vessel, boat or raft shall have passed in the course of the journey, voyage or passage during which such felony or misdemeanor shall have been committed, in the same manner as if it had been actually committed in such 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 counties, such felony or misdemeanor may be dealt with, inquired of, tried and punished in either of the said counties through, or adjoining to, or by the boundary of any part whereof such coach, waggon, cart, sleigh, sled, carriage, vessel, boat or raft shall have passed in the course of the journey, voyage or passage during which such felony or misdemeanor shall have been committed, in the same manner as it had been actually committed in such county.

Forgery, altering deeds, &c. where tried and punished.

22. If any person shall commit any offence of forging, or altering any deed, writing, instrument, or other matter whatsoever, or of offering, uttering, disposing of, or putting off, any deed, writing, instrument, or other matter whatsoever, knowing the same to be forged or altered, with intent to defraud any person whomsoever, the offence of every such offender may be dealt with, indicted, tried and punished, and laid and charged to have been committed in any county or place in which he shall be apprehended or in custody, as if his offence had been actually committed in that county or place; and every principal in the second degree, and every accessory, may be dealt with, indicted, tried, and punished, and his offence laid and charged to have been committed in any county or place in which the principal offender may be tried.

Forged or altered instruments, how described in indictments.

23. In all informations or indictments for forgery, or in any manner altering any deed, writing, instrument, or other matter whatever, it shall not be necessary to set forth any copy or fac simile thereof, but it shall be sufficient to describe the same in such manner as would sustain an indictment for stealing the same.

Ownership of joint property, how described.

24. In any indictment or information for any felony or misdemeanor, whenever it shall be necessary 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.

Ownership of public property, how described.

25. In any indictment or information for any felony or misdemeanor committed in, upon, or with respect to any bridge, court-house, jail, house of correction, infirmary, asylum, or other building erected or maintained, in whole or in part, at the public expense, in any county, or on or with respect to any goods or chattels whatsoever, provided for or at the public expense in any county, to be used for building, altering, or repairing any such bridge, court-house, or other building, or to be used in or with any such bridge, court-house, or other building, it shall be sufficient to state any such property, real or personal, to belong to the inhabitants of such county, and it shall not be necessary to specify the names of any such inhabitants.

Ownership of property in possession of public officers, how described.

26. In any indictment or information for any felony or misdemeanor committed on or with respect to any buildings, or any goods or chattels, or any other property, real or personal, in the occupation, or under the superintendance, charge or management of any public officer or commissioner, or any county or township officer or commissioner, it shall be sufficient to state any such property to belong to the officer or commissioner in whose occupation, or under whose superintendance, charge or management such property shall be, and it shall not be necessary to specify the names of any such officers or commissioners.

Embezzlements, how may be laid, charged, and proved.

27. In prosecutions for embezzlement it shall be lawful to charge in the indictment, and proceed against the offender, for any number of distinct acts of embezzlement, not exceeding three, which may have been committed by him against the same master, within the space of six months from the first to the last of such acts; and in every such indictment, except where the offence 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.

Injuries feloniously inflicted within the province and a party shall die thereof out of the province, or *vice versa*, where tried and punished.

28. 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, inquired of, tried, and punished, in the 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 that county or place.

Persons indicted for felony may be convicted of an assault; punishment.

29. On the trial of any person for any felony 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 sentence the person so found guilty of an assault to be committed to jail or imprisoned in the penitentiary for a term not exceeding three years, as the court shall direct.

Punishment for an assault with intent to commit a felony.

30. When any person shall be convicted of an assault with intent to commit a felony, the court may sentence the offender to be committed to jail or imprisoned in the penitentiary for a term not exceeding two years, as it shall direct: and may also, if it shall so think fit, require him to find sureties for keeping the peace.

No allegation of property necessary in prosecutions for offences under sec. 12, chap. 164.

31. In an indictment for any offence within the meaning of the twelfth section of chapter one hundred and sixty-four, it shall not 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.

What allegations sufficient for prosecution of offences under sec. 13, chap. 164.

32. In an indictment for any offence within the meaning of the thirteenth section of chapter one hundred and sixty-four, it shall be sufficient to allege the thing stolen to be evidence of the title or part of the title of the persons or 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.

Receiving of stolen goods, &c.

33. If any person shall receive any chattel, money, valuable security or other property, the stealing, taking, obtaining or con-

verting whereof is an indictable misdemeanor, such person knowing the same to have been unlawfully stolen, taken, obtained or converted, every such receiver shall be guilty of a misdemeanor, and 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 be punished in the manner provided for the person guilty of the principal misdemeanor.

how indicted, convicted, and punished.

34. If any person shall receive any chattel, money, valuable security or other property, 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, indicted, tried and punished in any county or place in which he shall have or shall have had any such property in his possession or in any 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 county or place where he actually received such property.

Receivers of stolen goods, &c. where may be indicted, convicted, and punished.

35. If any person guilty of any felony or misdemeanor, in stealing, taking, obtaining or converting, or in knowingly receiving any chattel, money, valuable security, or other property, shall be indicted for any such offence, by or on the behalf of the owner of the property, or his 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 convicted, shall have power to order the restitution thereof, and the court may in like manner, if it shall see fit, order the restitution of property in cases where the party so indicted as aforesaid may not be convicted, if the jury shall declare that the property is in the prosecutor, and had been stolen, or taken or obtained from him by felony or misdemeanor aforesaid,—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.

Stolen goods, when and to whom to be restored.

36. In any indictment for a felony, not punishable with death, committed after a previous conviction of felony, a certificate containing the substance and effect, 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, shall upon proof of the

Certificates of conviction for previous felony how given and proved; punishment for false certificates.

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 a false certificate of any indictment and conviction for a previous felony, 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.

Quaker or Moravian may make solemn affirmation; form given.

37. Any quaker or moravian who shall be required to give evidence in any criminal case, shall, instead of taking an oath in the usual form, be permitted to take his solemn affirmation or declaration in the words following, that is to say: "I, A. B., do solemnly, sincerely and truly declare and affirm;" which said affirmation or declaration shall be of the same force and effect in all courts of justice and other places, where by law an oath is required, as if such quaker or moravian had taken an oath in the usual form.

Judgments not to be stayed or reversed for want of formal averments unnecessary to be proved, or other slight imperfections.

38. 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 want of a proper or perfect venue, where the court shall appear by the indictment or information to have had jurisdiction over the offence.

Same subject.

39. No judgment after verdict upon any indictment or information for any felony or misdemeanor shall be stayed or reversed for want of a similiter, nor by reason that the jury process has been awarded to a wrong officer upon an insufficient suggestion, nor for any misnomer or misdescription of the officer returning such process or of any of the jurors, nor because any person has served upon the jury who has not been returned as a juror by the sheriff or other officer, and that where the offence charged has been created by any statute or subjected to a greater degree of punishment by any statute, the indictment or information shall, after verdict, be held sufficient to warrant the punishment prescribed by the statute, if it describe the offence in the words of the statute.

Sentence for felony where party

40. Wherever sentence shall be passed for felony on a person

already imprisoned under sentence for another crime, it shall be 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 punishments could be otherwise awarded.

Imprisoned or already sentenced for another offence.

41. Judgment or sentence shall not be given and awarded against any person convicted of any offence, that such person do suffer the punishment of being set in the pillory or of having his ears nailed thereto or cut of, or do suffer the punishment of being whipped.

Punishment of the pillory and whipping abolished.

42. Every person convicted of murder shall, after judgment, be confined in some 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 jailer or 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: provided always, that in case the court or judge shall think fit to respite the execution of such convict, such court or judge may, by a license in writing, relax during the period of the respite, all or any of the restraints or regulations hereinbefore directed to be observed.

Persons convicted of murder, how to be kept and fed after judgment.

43. Where the queen's majesty shall be pleased to extend her royal mercy to any offender convicted of any felony punishable with death or otherwise, and by warrant under her royal sign manual countersigned by one of her principal secretaries of state, shall grant to such offender either a free or a conditional pardon, the discharge of such offender out of custody in the 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 be so granted: provided always, that no free pardon, nor 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 such pardon.

Pardons to felons and their effect as to subsequent convictions.

44. Where any offender hath 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

Punishment endured for felonies not punishable with death to have the effect of pardons.

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.

Competency of witnesses on trial for forgery, &c.

45. On any prosecution by indictment or information against any person for forging any deed, writing, instrument or other matter, or for uttering or disposing of any deed, writing, instrument or other matter knowing the same to be forged, or for being accessory to any such offence if the same be a felony, or for aiding, abetting or counselling the commission of any such offence if the same be a misdemeanor, no person shall be deemed to be an incompetent witness in support of any such prosecution by reason of any interest which such person may have or be supposed to have in respect of such deed, writing, instrument, or other matter.

Amendment of indictments, informations, &c.

46. It shall be lawful for the court, if it shall see fit, to cause the indictment or information for any offence when any variance shall appear between any matter in writing or in print produced in evidence, and the recital or setting forth thereof in the indictment or information whereon the trial is pending, to be forthwith amended in such particular or particulars by some officer of the court, and after such amendment the trial shall proceed in the same manner in all respects both with regard to the liability of witnesses to be indicted for perjury and otherwise, as if no variance had appeared.

On an indictment for child-murder the jury may find the mother guilty of endeavoring to conceal the birth.

47. If on the trial of any woman for murder of her child she 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.

Proceedings where sentence of death is commuted by exercise of the prerogative.

48. Whenever the governor shall exercise the prerogative of the crown, by extending mercy to any offender convicted of any crime punishable with death, upon condition of imprisonment with hard labor in the provincial penitentiary either for the term of life or for any number of years, and shall make the same known to the court before which such offender hath been or shall be convicted, such court shall allow to such offender the benefit of a conditional pardon, and make an order for the immediate imprisonment of such offender under and upon the terms and conditions therein expressed; and in case such intention of mercy shall be made known to any judge of the supreme court, such judge shall allow to such offender the benefit of a conditional pardon, and make an order for the immediate imprisonment, with hard labor, of such offender in the provincial penitentiary, in the same manner as if such intention of mercy had been signified to any such court as aforesaid; and such allowance and order shall be considered an allowance and

order made by the court before which such offender was convicted, and shall be entered on the records of the same court by the proper officer thereof, and shall be as effectual to all intents and purposes and have the same consequences as if such allowance and order had been made by the same court during the continuance thereof; and every such order, whether made by the court or any judge of the supreme court as aforesaid, shall subject the offender to be conveyed to the provincial penitentiary and there kept to hard labor during the term of imprisonment mentioned therein, in like manner as if such imprisonment had been imposed as a punishment by the sentence of any court by authority of law.

Charges of conveying prisoners to jail to be defrayed by themselves when of ability; proceedings to recover the same.

49. Any person that shall hereafter be committed to jail for any offence or misdemeanor, having means or ability thereunto, shall bear his own reasonable charges for conveying or sending him to jail, and the charges also of such as shall be appointed to guard him and shall so guard him thither; and if any person shall refuse to defray such charges, then a justice of the peace, by writing under his hand and seal, shall give warrant to any constable to sell so much of the goods and chattels of the said person so to be committed as by the discretion of the said justice shall satisfy and pay the charge of his conveying and sending to the jail, the appraisement to be made by two inhabitants of the town or place where such goods or chattels shall be, and the overplus of the money which shall be made thereof to be delivered to the party to whom such goods shall belong.

Constable's expenses, how allowed and paid.

50. If the person so to be committed shall not have or be known to have any goods or chattels which may be sold for such purpose, then the said justice, on application by any constable or other officer who so conveyed such person to jail, shall upon oath examine into and ascertain the reasonable expenses to be allowed such constable or other officer, and shall forthwith, without fee, by warrant under his hand and seal, order the treasurer of the county to pay the same, which the treasurer is hereby required to do as soon as he receives such warrant, and any sum so paid shall be allowed in his accounts.

Poor witnesses, how may be paid their expenses.

51. When any poor person shall appear on recognizance in any court, to give evidence against another accused of any felony or misdemeanor, it shall be in the power of the court, if it shall think fit, at the prayer and on the oath of such person, and on consideration of his circumstances, in open court to order the treasurer of the county in which the offence shall have been committed, to pay unto such person such sum of money as to the court shall seem reasonable for his time, trouble and expense; which order the proper officer shall make out and deliver unto such person upon being paid for the same the sum of six-pence and no more; and such treasurer is hereby required, upon delivery of such order, forthwith to pay to such person or other person authorized to receive the same, such sum of money as aforesaid, and shall be allowed the same in his accounts.

Where county treasurers have no funds the expenses mentioned in the two last sections to be paid out of the public treasury.

52. In case such treasurer shall not have any money in his hands to pay the sum so ordered for conveying poor prisoners to jail, or for the attendance of witnesses, the same shall be paid out of the public treasury of the province.

In the absence of the attorney and solicitor general the court shall appoint officers to prosecute on behalf of the crown; costs, how taxed.

53. Whenever, in the absence of the attorney general and solicitor general, it shall appear to the court expedient and necessary to appoint any one counsel, to conduct and manage on behalf of her majesty, the proceedings and trial of any criminal prosecutions depending before the court, it shall be lawful for the court to direct any queen's counsel present therein, or, in his absence, to appoint from among the barristers attending thereat, some one competent person to conduct and manage such proceedings, and to tax and allow to him for his services such reasonable fees as he would have been entitled to for the like services as the attorney of any party in a civil action, together with such reasonable counsel fees, not exceeding for any one prosecution the sum of five pounds, as the court shall deem adequate to the services performed on such prosecution. But the costs to be taxed shall in no case exceed seven pounds and ten shillings for all writings and papers and for all counsel fees therein: and on the allowance and taxation the court shall not allow for any but necessary services and expenses, and notice of the time of taxation shall be given to the clerk of the crown or his deputy.

Costs taxed, how paid.

54. Upon the production of a certificate under the seal of the court of the amount so taxed and allowed, it shall be lawful for the governor to grant his warrant therefor upon the receiver general who shall pay the amount.

Party convicted, if of ability, may be adjudged to pay the expense of prosecution.

55. In all cases where the party prosecuted shall be convicted and be found by the court of ability to pay the expenses of prosecution, to be taxed under this chapter, the court shall adjudge such defendant to pay the expenses of prosecution, and shall issue execution accordingly, and the amount shall be paid to the receiver general.

CHAPTER 169.

OF THE DUTIES OF JUSTICES OF THE PEACE IN CRIMINAL MATTERS.

SECTION

1. Persons guilty or suspected of an indictable offence, how apprehended.
2. When the offence is committed on the high seas or on lands beyond the seas.
3. When an indictment is found and the party hath not appeared, manner of proceeding.
4. Warrants may issue on a Sunday.
5. When a warrant shall issue for an indictable offence information must be in writing under oath; otherwise when a summons shall issue; variances unobjectionable.

SECTION
6. Proceedings by summons and warrant; variances may be cause for adjournment.
7. Warrant need not be returnable at any particular time; how and where executed on fresh pursuit; of variances.
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Persons guilty or suspected of an indictable offence, how apprehended.

1. In all cases where a charge or complaint (A.) shall be made before a justice that a person has committed or is suspected of having committed any indictable offence within the limits of the jurisdiction of such justice, or that a person has committed or is suspected to have committed an indictable offence out of the jurisdiction of such justice and is residing or is suspected to be within the limits of the jurisdiction of such justice, if the person so charged or complained against shall not then be in custody, such justice shall issue his warrant (B.) to apprehend such person, to be dealt with as therein and thereby directed; but instead of a warrant in the first instance, the justice, if he think fit, may issue his summons (C.) requiring such person to appear at a certain time and place therein mentioned to answer to the charge preferred. If after being served with such summons in manner hereinafter prescribed, such person shall fail to appear in obedience thereto, such justice, or any other justice of the county, may issue his warrant (D.) to apprehend such person to be dealt with as in such last mentioned warrant directed. But nothing in this section contained shall prevent a justice from issuing the warrant hereinbefore first mentioned at any time before or after the time mentioned in the summons for the appearance of the accused party.

When the offence is committed on the high seas or on land beyond the seas.

2. In all cases of indictable offences committed on the high seas, or in any creek, harbor, haven or other place in which the admiralty of England have or claim to have jurisdiction, and in all cases of offences committed on land beyond the seas for which an indictment may be preferred within this province, a justice for

any county in which any person charged with having committed or being suspected to have committed any such offence shall be or be suspected to be, may issue his warrant (E.) to apprehend such person, to be dealt with as therein and thereby directed.

When an indictment is found and the party hath not appeared, manner of proceeding.

3. Where an indictment shall be found by the grand jury against a person then at large, whether such person shall have been bound by recognizance to appear to answer the same or not, the person acting as clerk of the court where the indictment shall be found shall at any time afterwards after the end of the same term or sittings, upon application of the prosecutor or any person on his behalf, and on payment of one shilling, if such person shall not have already appeared and pleaded to such indictment, grant unto such prosecutor or person a certificate (F.), which being produced to a justice of the county where the offence shall in such indictment be alleged to have been committed or in which the person indicted shall be suspected to be, such justice shall issue his warrant (G.) to apprehend the party so indicted; upon the party being apprehended and being proved to be on oath the same person charged in the indictment, the justice before whom he is brought shall without further inquiry or examination, by warrant (H.) commit him for trial or admit him to bail as hereinafter mentioned. If the person indicted shall then be confined in jail for any other offence, then the justice, upon it being proved before him upon oath that the person indicted and the person so confined are the same person, shall issue his warrant (I.) directed to the keeper of such jail, commanding him to detain such person in custody until discharged therefrom by due course of law.

Warrants may issue on a Sunday.

4. A justice of the peace may grant or issue any such warrant or any search warrant on a Sunday as well as on any other day.

When a warrant shall issue for an indictable offence information must be in writing under oath; otherwise when a summons shall issue; Variances unobjectionable.

5. Whenever a charge or complaint for any indictable offence shall be made before a justice, if it be intended to issue a warrant in the first instance against the party charged, an information and complaint thereof (A.) in writing on the oath of the informant or of some witness in that behalf shall be laid before the justice; but where it is intended to issue a summons in the first instance, the information and complaint need not be in writing, nor upon oath, but may be by parol, and no objection shall be taken or allowed to any such information or complaint for any alleged defect therein in substance or in form, or for any variance between it and the evidence adduced on the part of the prosecution before the justice who shall take the examination of the witnesses in that behalf.

Proceedings by summons and warrant; variances may be cause for adjournment.

6. Upon such information and complaint being so laid, the justice receiving the same may, if he shall think fit, issue his summons or warrant respectively, as hereinbefore directed, to cause the party charged to appear as therein and thereby directed; and every such summons (C.) shall be directed to the party so charged in and by such information, and shall shortly state the matter of such information and shall require the party to whom directed, to appear at a certain time and place therein mentioned, to an-

swer to such charge; and such summons shall be served by a constable or other peace officer upon the person to whom directed by delivering the same to the party personally, or if he cannot conveniently be met with, then by leaving the same with some person for him at his last or usual place of abode; and the person who shall have served the same, shall attend at the time and place and before the justice in the summons mentioned, if necessary, to verify such service upon oath; and if the party summoned shall not appear as required, the justice shall issue his warrant (D.) to compel his attendance as therein and thereby prescribed. If any variance or alleged defect in substance or in form betweeen the summons or warrant, and the evidence adduced in support thereof shall appear to the justice to be such that the party charged has been deceived or misled thereby, such justice, at the request of the party charged, may adjourn the hearing of the case to a future day, and remand such party or admit him to bail as hereinafter mentioned.

Warrant need not be returnable at any particular time, how and where executed on fresh pursuit; of variances.

7. It shall not be necessary to make a warrant (B.) returnable at any particular time, but it may remain in force until it shall be executed. It may be executed by apprehending the offender at any place within which the justice issuing it hath jurisdiction, or in case of fresh pursuit at any place in the next adjoining county or place and within seven miles of the border of such first mentioned county, without having such warrant backed as hereinafter mentioned. No objection shall be taken or allowed to any such warrant for any defect therein in substance or in form, or for any variance between it and the evidence adduced on the part of the prosecution before the justice who shall take the examination of the witnesses in that behalf as hereinafter mentioned; but if it appear to the justice that the party charged has been deceived or misled by any such variance, at his request the justice may adjourn the hearing of the case to a future day, and in the meantime remand the party charged or admit him to bail as hereinafter mentioned.

Warrants how endorsed; proceedings thereon when the prosecutor or any of the witnesses shall reside in the county where the prisoner is apprehended.

8. If the person against whom any such warrant shall be issued shall not be found within the jurisdiction of the justice issuing the same, or if he shall be or be suspected to be in any place within this province, a justice of the county or place where such person shall be or be suspected to be, upon proof made upon oath of the handwriting of the justice issuing the warrant, may make an endorsement (K.) upon such warrant, signed with his name, authorizing the execution thereof as thereon endorsed, and the carrying of the person therein named, when apprehended, before the justice who first issued the warrant or some other justice of that county or place where the offence mentioned in the warrant appears therein to have been committed; but if the prosecutor or any of the witnesses for the prosecution shall then be in the county or place where the person shall have been so apprehended, the party apprehending him, if so directed by the justice backing the war-

rant, shall convey him before such last mentioned justice or some other justice of the same county or place, and thereupon such justice may take the examination of such prosecutor or witnesses, and proceed in every respect in manner hereinafter directed with respect to persons charged before a justice with an offence alleged to have been committed in another county or place than that in which such person has been apprehended.

Evidence for the prosecution, how secured

9. If it shall be made to appear to any justice by oath that any person within his jurisdiction is likely to give material evidence for the prosecution and will not voluntarily appear for the purpose of being examined, such justice shall issue his summons (L. 1) to such person, requiring him to appear at the time and place therein mentioned to testify as therein directed. If without sufficient excuse he neglect to appear at such time and place after proof upon oath of such summons having been served upon such person either personally or by leaving the same with some person for him at his last or usual place of abode, the justice before whom such person should have appeared may issue a warrant, (L. 2,) which warrant, if necessary, may be backed as other warrants. If such justice shall be satisfied by evidence upon oath that it is probable that such person will not attend to give evidence unless compelled, then, instead of a summons, he may issue a warrant (L. 3,) in the first instance which, if necessary, may be backed as above. If on the appearance of such person, either in obedience to the summons or under the warrant, he shall refuse to be examined upon oath concerning the premises, or shall refuse to take such oath, or having taken such oath shall refuse to answer questions concerning the premises without just excuse for such refusal, the justice by warrant (L. 4) may commit such party so refusing to jail, for any time not exceeding seven days, unless he shall in the meantime consent to be examined and to answer.

Proceedings before a justice where a party is charged with an indictable offence, depositions how taken and when to be used on trial.

10. Whenever any person shall appear or be brought before a justice charged with an indictable offence, whether committed within the province or upon the high seas, or on land beyond the sea, whether such person appear voluntarily or be in custody for the same or another offence, the justice, before he commit the accused person for trial or admit him to bail, shall in the presence of the accused person, who shall be at liberty to put questions to any witness produced against him, take the statement (M.) on oath of those who shall know the facts and circumstances of the case, and shall put the same into writing, and such depositions shall be read over to and signed respectively by the witnesses so examined, and shall also be signed by the justices taking the same. Before any such witness shall be examined the justice shall administer the usual oath, and if upon the trial of the person accused it shall be proved upon oath that any person whose deposition shall have been so taken is dead, or so ill as to be unable to travel, and also that such deposition was taken in the presence of the person accused, and that he, or his counsel or attorney, had full opportunity of

cross examining the witness, then if such deposition purport to be signed by the justice by or before whom the same purports to have been taken, it may be read in evidence on such prosecution without further proof, unless it shall be proved that such deposition was not in fact signed by the justice purporting to sign the same.

Depositions to be read; party to be cautioned and questioned; his answers, if any to be reduced to writing, and may be used on trial

11. After the examination of all the witnesses on the part of the prosecution shall have been completed, the justice shall, without requiring the attendance of the witnesses, read or cause to be read to the accused the depositions taken against him, and shall say to him these words, or to the like effect:

"Having heard the evidence, do you wish to say anything in answer to the charge? You are not obliged to say anything unless you desire to do so, but whatever you say will be taken down in writing and may be given in evidence against you upon your trial."

And whatever the prisoner shall then say in answer thereto shall be taken down in writing (N.) and read over to him, and shall be signed by the justice and kept with the depositions of the witnesses, and shall be transmitted with them as hereinafter mentioned, and upon the trial of the accused party the same may if necessary be given in evidence against him without further proof thereof, unless it shall be proved that the justice purporting to sign the same did not in fact sign the same; but before such accused person shall make any statement the justice shall state to him and give him clearly to understand that he has nothing to hope from any promise of favor and nothing to fear from any threat which may have been holden out to him to induce him to make any admission or confession of his guilt, but that whatever he shall then say may be given in evidence against him upon his trial. The prosecutor may, however, give in evidence any admission or confession or other statement of the person accused or charged, made at any time which by law would be admissable evidence against such person.

Room where examinations are taken not necessarily an open court.

12. The room or building in which the justice shall take such examinations or statements as above shall not be deemed an open court for that purpose, and the justice at his discretion may order that no person shall have access to, or be or remain in such room or building without the consent of such justice, if it appear to him that the ends of justice will be best answered by so doing.

Recognizance of prosecutor and witness how taken; papers how and where returned.

13. The justice before whom any witness shall be examined may bind by recognizance (O. 1) the prosecutor and every such witness to appear at the next term or sitting of the court in which the accused is to be tried, then and there to prosecute, or to prosecute and give evidence, or to give evidence as the case may be against the party accused, which recognizance shall specify the profession, mystery, art, or trade of every such person recognized, together with his christian and surname and the place of his residence, and being duly acknowledged it shall be subscribed by the justice before whom taken, and a notice (O. 2) thereof shall at the same time be given to the person bound thereby; and the several recognizances so taken, together with the written information, if

any, the depositions, the statement of the accused, and the recognizance of bail, if any in such case, shall be delivered by the justice to the proper officer of the court in which the trial is to be had, before or at the opening of the court on the first day of term, or at such other time as the presiding judge thereof shall order. If such witness shall refuse to enter into such recognizance the justice by his warrant (P. 1) may commit him to jail in the county where the trial is to be had until after the trial of the accused party, unless in the meantime he shall enter into such recognizance before some justice of the county where such jail is situate. If afterwards for want of sufficient evidence in that behalf, or other cause, the justice before whom such accused party shall have been brought shall not commit him or hold him to bail for the offence with which he shall have been charged, the same or any other justice of the county by his order (P. 2) may direct the keeper of such jail to discharge him from further custody, and such keeper shall forthwith discharge him accordingly.

Party may be remanded for further examinations, orders therefor; recognizance for his appearance, and how forfeited.

14. If from the absence of witnesses, or for any other reasonable cause, it shall become necessary or advisable to defer the examination or further examination of any witnesses for any time, the justice before whom the accused party shall appear or be brought may by his warrant (Q. 1) from time to time remand the party accused for such time as to him shall seem reasonable, not to exceed eight clear days, to jail or other place of security in the county. If the remand be for a period not exceeding three clear days the order therefor may be made verbally to a constable or person to be named by the justice in that behalf, with directions to bring up the accused party again at a time and place appointed for continuing the examination. But any justice may order the accused party to be brought before him or any other justice for the same county or place before the expiration of the time for which the accused shall be so remanded, and the jailer or officer in charge shall obey such order, and any justice before whom the accused shall so appear or be brought may discharge him upon his entering into a recognizance (Q. 2, 3) with or without a security or securities, at the discretion of the justice, conditioned for his appearance at the time and place appointed for the continuance of such examination. If he shall not appear, then such justice or any other justice present, upon certifying (Q. 4) upon the back of the recognizance, may transmit such recognizance to the prothonotary of the court of the county within which such recognizance shall have been taken, to be proceeded upon as other recognizances, and such certificate shall be *prima facie* evidence of the non-appearance of such accused party.

Proceedings when the offence charged has been committed in a county where the justice has not jurisdiction.

15. Whenever a person shall appear or be brought before a justice charged with an offence alleged to have been committed within a county or place wherein such justice shall not have jurisdiction, he shall examine such witnesses and receive such proof of the charge as shall be brought before him, and if in the opinion of such justice the evidence adduced shall be sufficient proof of the

charge made against the accused party the justice shall thereupon commit him to jail, or shall admit him to bail as hereinafter mentioned, and shall bind over the prosecutor if he have appeared before him, and the witnesses by recognizance accordingly as hereinbefore mentioned. But if the evidence shall not in the opinion of such justice be sufficient to put the accused party upon his trial for the offence with which he is charged the justice shall bind over such witnesses as he shall have examined by recognizance to give evidence as hereinbefore mentioned, and he shall issue his warrant (R. 1) in that behalf, and at the same time deliver the information and complaint, and the depositions and recognizances so taken by him, to the constable having the execution of the last named warrant, to be by him delivered to the justice before whom he shall take the accused, and the depositions and recognizances shall have the same validity and effect as if taken before such last mentioned justice; and they, with such depositions and recognizances as the last mentioned justice shall take in the matter, shall be transmitted to the court where the accused party is to be tried, if he shall be committed for trial or admitted to bail.

Proceedings before the justice having jurisdiction in the place where the offence was committed; expenses of officer, how taxed and defrayed.

16. If the accused party shall be taken before the justice last mentioned by virtue of such last named warrant, the person so conveying him shall be entitled to be paid his costs and expenses for that service, and upon his producing the accused party before such justice, and delivering him into custody as such justice shall direct, and delivering his warrant, the information, if any, depositions and recognizances, and proving by oath the hand-writing of the justice subscribing the same, such justice to whom the accused party is produced shall forthwith ascertain the sum which ought to be paid for such service, and for his reasonable costs and expenses of returning, and shall thereupon make an order (R. 2) in favor of such person upon the county treasurer for payment thereof, and the treasurer upon production of the order shall pay the same in the usual course. If the justice last named shall not think the evidence against such accused party sufficient to put him upon trial he shall discharge him without bail, and the recognizances taken by such first named justice shall be void.

Justices may take bail for all offences, treason and felony punishable with death excepted.

17. Where a person shall appear or be brought before a justice charged with any offence other than treason, or a felony punishable with death, he may in his discretion admit such person to bail upon such surety or sureties as he shall think sufficient to ensure the appearance of the person accused at the time and place for the trial of such offence, and he shall take the recognizance (S. 1), and notice thereof (S. 2) shall be given.

Parties, how admitted to bail after commitment.

18. In all cases where a person charged with an indictable offence shall be committed for trial the justice who shall have signed the warrant for his commitment may at any time before trial, at his discretion, admit such accused party to bail as above if he shall be of opinion that such accused party ought to be admitted to bail, he shall in such case certify (S. 3) on the back of

the warrant of commitment his consent to such party being bailed, stating the amount of bail which ought to be required, and thereupon any justice attending, or being at the jail where such accused party shall be in custody, on production of such certificate shall admit him to bail in manner above mentioned, or if it shall be inconvenient for the surety or sureties in such case to attend at such jail to join with the accused person in the recognizance the committing justice may make a duplicate of such certificate (S. 4), and upon the same being produced to any justice for the same county or place he may take the recognizance of the surety or sureties in conformity therewith.

Same subject.

19. Upon such recognizance being transmitted to the keeper of such jail, and produced, together with the certificate on the warrant of commitment, to a justice attending or being at the jail, he may thereupon take the recognizance of the accused party and order him to be discharged out of custody as to that commitment as hereinafter mentioned.

Recognizance how transmitted to the proper officer; treason and felonies punishable with death bailable only by the supreme court or a judge.

20. In all cases where an accused party in custody shall be admitted to bail by a justice other than the committing justice, such justice so admitting him to bail shall forthwith transmit the recognizance of bail to the proper officer or to the committing justice, to be transmitted by him, with the examinations, to such officer. But no justice of the peace shall admit any person to bail for treason, or a felony punishable with death, nor shall such person be admitted to bail except by the supreme court or by one of the justices thereof.

Warrants of deliverance to issue where a party bailed from prison.

21. In all cases where a justice shall admit to bail a person who shall then be in prison charged with the offence for which he shall be so admitted to bail, such justice shall send to or cause to be lodged with the jailer a warrant of deliverance (S. 5), and thereupon such jailer shall obey the same.

If the evidence is insufficient the party shall be discharged, otherwise he shall be committed or admitted to bail.

22. When all the evidence offered upon the part of the prosecution shall have been heard, if the justice shall be of opinion that it is insufficient to put the accused party upon his trial for any indictable offence, he shall forthwith order such accused party, if in custody, to be discharged as to the information then under inquiry; but if he shall think the evidence sufficient to put the accused party upon his trial for an indictable offence, or if the evidence given raise a strong or probable presumption of the guilt of the accused party then the justice shall by his warrant (T. 1) commit him to jail until he shall be delivered by due course of law, or admit him to bail as hereinbefore mentioned.

Jailer to give the constable a receipt for the prisoner, setting forth his state and condition.

23. The constable or person to whom the warrant of commitment shall be directed shall convey the person accused to jail as therein directed, and there deliver him together with such warrant to the jailer, who shall thereupon give a receipt (T. 2) for such prisoner, setting forth the state and condition in which such prisoner was when he was so delivered into custody.

Forms in schedule may be used.

24. The several forms in the schedule to this chapter contained, or forms to the same effect, shall be valid.

SCHEDULE.

(A.)

Information and complaint for an indictable offence.

County of ———, }
to wit: }

The information and complaint of C. D., of ———, [*yeoman,*] taken this —— day of ———, A. D. 18—, before the undersigned, who saith that [*&c., stating the offence.*]

Sworn before me, the day and year first above mentioned, at ———.

J. S., J. P.

(B.)

Warrant to apprehend a person charged with an indictable offence.

To any constable or peace officer of the county of ———:

Whereas A. B., of ———, [*laborer,*] hath this day been charged upon oath before the undersigned, for that he on the —— day of ———, at ———, did [*&c., stating shortly the offence:*] These are therefore to command you forthwith to apprehend the said A. B., and to bring him before me or some other of her majesty's justices of the peace in and for the said county, to answer such charge, and to be further dealt with according to law.

Given under my hand and seal, at ———, this —— day of ———, A. D. 18—.

J. S., J. P. (seal.)

(C.)

Summons to a person charged with an indictable offence.

To A. B., of ———, [*laborer:*]

Whereas you have this day been charged before the undersigned for that you on the —— day of ———, [*&c., stating the nature of the offence:*] These are therefore to command you to appear before me on the —— day of ———, at —— o'clock in the —— noon, at ———, or before some other justice or justices of the peace as may then be there, to answer such charge, and to be further dealt with according to law. Herein fail not.

Given under my hand and seal, at ———, this —— day of ———, A. D. 18—.

J. S., J. P. (seal.)

(D.)

Warrant where the summons is disobeyed.

To any constable or other peace officer of the county of ———:

Whereas on the —— day of ———, last past, A. B., of ——,

[*laborer*,] was charged before the undersigned for that [*&c., as in summons:*] and whereas I then issued my summons to the said A. B., commanding him to appear before me on the —— day of ———, at —— o'clock in the —— noon, at ———, or before such other justice or justices of the peace as might then be there, to answer such charge, and to be further dealt with according to law; and whereas the said A. B. hath neglected to appear at the time and place appointed by such summons, although it hath now been proved to me upon oath that such summons has been duly served upon the said A. B.: These are therefore to command you forthwith to apprehend the said A. B. and bring him before me or some other justice of the peace, to answer such charge, and to be further dealt with according to law. Herein fail not.

Given under my hand and seal, at ———, this —— day of ———, A. D. 18—.

J. S., J. P. (seal.)

(E.)

Warrant to apprehend a person charged with an indictable offence committed on the high seas or abroad.

For offences committed on the high seas the warrant may be the same as in ordinary cases, but describing the offence to have been committed "on the high seas, out of the body of any county of this province, and within the jurisdiction of the admiralty of England."

For offences committed abroad for which the parties may be indicted in this province, the warrant also may be the same as in ordinary cases, but describing the offence to have been committed "on land out of the province, to wit: at ———, in the kingdom of ———," *or* "at ———, in the Island of ———, in the West Indies," *or* "at ———, in the East Indies," *or as the case may be.*

(F.)

Certificate of indictment being found.

I hereby certify that at a court of oyer and terminer and general jail delivery, [*or a court of general sessions of the peace,*] holden in and for the county of ———, at ———, in ———, a bill of indictment was found by the grand jury against A. B. therein described as A. B. late of ———, [*laborer,*] for that he [*&c., stating shortly the offence,*] and that the said A. B. hath not appeared and pleaded to the said indictment.

Dated this —— day of ———, 18—.

J. D.,
Clerk [*or deputy clerk*] of the crown, [*or clerk of the peace.*]

(G.)

Warrant to apprehend a person indicted.

To any constable or peace officer of the county of ———:

Whereas it hath been duly certified by J. D., clerk [*or deputy clerk*] of the crown [*or clerk of the peace*] that [*&c., stating the certificate:*] These are therefore to command you forthwith to apprehend the said A. B. and to bring him before me or some other justice or justices of the peace, to be dealt with according to law.

Given under my hand and seal, at ———, this —— day of ———, A. D. 18—.

J. P., J. S. (seal.)

(H.)

Warrant of commitment of a person indicted.

To any constable of ———, and to the keeper of the jail of the county of ———:

Whereas, by warrant under my hand and seal, dated the —— day of ———, after reciting that it had been certified by J. D. [*&c. as in the certificate,*] I commanded the constables and all other peace officers of the said county, forthwith to apprehend the said A. B. and bring him before me the undersigned, or before some other justice or justices of the peace, to be dealt with according to law: and whereas the said A. B. has been apprehended under such warrant, and being now brought before me, it is proved upon oath that the said A. B. is the same person who is named and charged in and by the said indictment, these are therefore to command you the said constable, forthwith to take and safely convey the said A. B. to the jail at ———, in the said county, and there to deliver him to the keeper thereof, together with this warrant; and I hereby command you the said keeper to receive the said A. B. into your custody in the said jail, and him there safely to keep until he shall be thence delivered by due course of law.

Given under my hand and seal, at ———, this —— day of ———, A. D. 18—.

J. S., J. P. (seal.)

(I.)

Warrant to detain a person indicted who is already in custody for another offence.

To the keeper of the jail at ———, in the county of ———:

Whereas it hath been duly certified by J. D., clerk [*or deputy clerk*] of the crown [*or clerk of the peace*] for the county of ———, [*&c. stating the certificate*]: and whereas I am informed that the said A. B. is in your custody in the said jail at ——— aforesaid, charged with some offence or other matter; and it beng now proved

upon oath before me that the said A. B. so indicted, and the said A. B. so in your custody, are one and the same person: these are therefore to command you to detain the said A. B. in your custody in the jail aforesaid, until by writ of habeas corpus he shall be removed therefrom for the purpose of being tried upon the said indictment, or until he shall be otherwise removed or discharged out of your custody by due course of law.

Given under my hand and seal, at ———, this —— day of ———, A. D. 18—.

J. S., J. P. (seal.)

(K.)

Endorsement in backing a warrant.

County of ———, }
to wit: }

Whereas proof upon oath hath this day been made before me, a justice of the peace for the said county of ———, that the name of J. S. to the within warrant subscribed, is the hand writing of the justice of the peace within mentioned, I do therefore hereby authorize W. T., who bringeth to me this warrant, and all other persons to whom the same was originally directed, or by whom it may be lawfully executed, and also all constables and other peace officers of the said county to execute the same within the last mentioned county,* and to bring the said A. B., if apprehended within the same county, before me, or before some other justice or justices of the peace of the same county, to be dealt with according to law.

Given under my hand this —— day of ———, 18—.

J. L., J. P.

* The words following the asterisk are to be used only where the justice backing the warrant shall think fit.

(L. 1.)

Summons to a witness.

To E. F. of ———, [*laborer*]:

Whereas information hath been laid before the undersigned that A. B. [*&c. as in the summons or warrant against the accused*] and it hath been made to appear to me upon oath that you are likely to give material evidence for the prosecution, these are therefore to require you to appear before me on the —— day of ——— next at —— o'clock in the —— noon, at ———, or before such other justice or justices of the peace as may then be there, to testify what you shall know concerning the said charge so made against the said A. B. as aforesaid. Herein fail not.

Given under my hand and seal at ——— this —— day of ———, A. D. 18—.

J. S., J. P. (seal.)

(L. 2.)

Warrant where a witness has not obeyed a summons.

To any constable or other peace officer of the county of ———:

Whereas information having been laid before the undersigned that A. B. [*&c. as in summons*] and it having been made to appear to me upon oath that E. F. of ——— [*laborer*] was likely to give material evidence for the prosecution, I did issue my summons to the said E. F. requiring him to appear before me at —— on the —— day of ———, or before such other justice or justices of the peace as might then be there, to testify what he should know respecting the said charge against the said A. B.; and whereas proof hath this day been made before me, upon oath, of such summons having been served upon the said E. F., and whereas the said E. F. hath neglected to appear at the time and place appointed by the said summons, and no just excuse has been offered for such neglect: these are therefore to command you to bring the said E. F. before me at ——— on the —— day of ——— at —— o'clock in the —— noon, or before such other justice or justices of the peace as may then be there to testify what he shall know concerning the said charge so made against the said A. B. as aforesaid.

Given under my hand and seal at ——— this —— day of ———, A. D. 18—.

J. S., J. P. (seal.)

(L. 3.)

Warrant for a witness in the first instance.

To any constable or other peace officer of the county of ———:

Whereas information hath been laid before the undersigned that [*&c. as in summons*], and it having been made to appear to me upon oath that E. F. of ——— [*laborer*] is likely to give material evidence for the prosecution, and that it is probable that the said E. F. will not attend to give evidence without being compelled so to do: these are therefore to command you to bring the said E. F. before me at ———, on the —— day of ———, at —— o'clock in the —— noon, or before such other justice or justices of the peace as may then be there, to testify what he shall know concerning the said charge so made against the said A. B. as aforesaid.

Given under my hand and seal at ———, this —— day of ———, A. D. 18—.

J. S., J. P. (seal.)

(L. 4.)

Warrant of commitment of a witness for refusing to be sworn or to give evidence.

To any constable of ———, and to the keeper of the jail at ——, in the county of ———:

Whereas A. B. was lately charged before the undersigned for that [*&c. as in the summons*] and it having been made to appear to me upon oath that E. F. of ——— was likely to give material evidence for the prosecution, I duly issued my summons to the said E. F. requiring him to appear before me at ——— on the —— day of ———, or before such other justice or justices of the peace as should then be there, to testify what he should know concerning the said charge; and the said E. F. now appearing before me [*or being brought before me by virtue of a warrant in that behalf to testify as aforesaid*] and being required to make oath or affirmation as a witness in that behalf hath now refused so to do [*or being duly sworn as a witness doth now refuse to answer certain questions concerning the premises which are here put to him*] without offering any just excuse for such his refusal: these are therefore to command you the said constable to take the said E. F. and him safely convey to the jail at ———, in the county aforesaid, and there deliver him to the keeper thereof, together with this warrant; and I do hereby command you the said keeper of the said jail to receive the said E. F. into your custody in the said jail, and him there safely keep for the space of —— days, for his said contempt, unless he shall in the mean time consent to be examined and to answer concerning the premises, and for so doing this shall be your sufficient warrant.

Given under my hand and seal, at ———, this —— day of ———, A. D. 18—.

J. S., J. P. (seal.)

(M.)

Depositions of witnesses.

County of ———, }
to wit: }

The examination of C. D. of —— [*farmer,*] and E. F. of ——, [*laborer,*] taken on oath this —— day of ———, A. D. 18—, at ———, in the county aforesaid, before the undersigned, in the presence and hearing of A. B., who is charged this day before me, for that he the said A. B., at ———, on the —— day of ———, [*&c. describing the offence as in a warrant of commitment.*]

This deponent, C. D. on his oath saith as follows: [*&c. stating the deposition of the witness as nearly as possible in the words he uses. When his deposition is complete let him sign it.*]

And this deponent, E. F., upon his oath, saith as follows: [*&c.*]

The above depositions of C. D. and E. F. were taken and sworn before me at ———, on the day and year first above mentioned.

J. S., J. P.

(N.)

Statement of the accused.

A. B. stands charged before the undersigned, one of her majesty's justices of the peace for the county of ———, this —— day of ———, A. D. 18—, for that he the said A. B. at ———, on the —— day of ———, [*&c. as in the caption of the depositions;*] and the said charge being read to the said A. B., and the witnesses for the prosecution, C. D. and E. F. being severally examined in his presence, the said A. B. is now addressed by me as follows: "Having heard the evidence do you wish to say any thing in answer to the charge? You are not obliged to say any thing unless you desire to do so; but whatever you say will be taken down in writing, and may be given in evidence against you upon your trial," whereupon the said A. B. saith as follows:

[*Here state whatever the prisoner may say, and in his very words, as nearly as possible,—get him to sign it if he will.*]

A. B.

Taken before me at ———, on the day and year first above mentioned.

J. S., J. P.

(O. 1.)

Recognizance to prosecute or give evidence.

County of ———, }
to wit: }

Be it remembered that on the —— day of ——— A. D. 18—, C. D. of ———, in the said county, [*farmer*] personally came before me, a justice of the peace for the said county, and acknowledged himself to owe to our sovereign lady the queen the sum of ——— pounds, to be levied of his goods and lands, to the use of our said lady the queen, her heirs and successors, if he the said C. D. shall fail in the condition hereof.

Taken and acknowledged the day and year first above mentioned at ——— before me.

J. S. J. P.

Condition to prosecute.

The condition of this recognizance is such, that whereas one A. B. was this day charged before me J. S. a justice of the peace for that [*&c. as in the caption of the depositions*], if therefore he, the said C. D., shall appear at the next court of oyer and terminer or general jail delivery [*or at the next court of general sessions of the peace*] to be holden in and for the county of ———, * and there prefer or cause to be preferred, a bill of indictment for the offence aforesaid against the said A. B., and there also duly prosecute such indictment, then the said recognizance to be void.

Condition to prosecute and give evidence.

Same as in the last form to the asterisk (*), *and then thus:* "and there prefer, or cause to be preferred, a bill of indictment against the said A. B. for the offence aforesaid, and duly prosecute such indictment and give evidence thereon, as well to the jurors who shall then inquire of the said offence as also to these who shall pass upon the trial of the said A. B., then the said recognizance to be void."

Condition to give evidence.

Same as in the last form but one to the asterisk (*), *and then thus:* "and there give such evidence as he knoweth upon a bill of indictment to be then and there preferred against the said A. B. for the offence aforesaid, as well to the jurors who shall there inquire of the said offence as also to the jurors who shall pass upon the trial of the said A. B., then the said recognizance to be void.

(O. 2.)

Notice of the recognizance to be given to the prosecutor and his witnesses.

County of ——— }
to wit: }

Take notice that you, C. D. of ———, are bound to appear at the next court [*where the offence is to be tried*] to be holden at ———, in the said county, and then and there [*prosecute and*] give evidence against A. B.: and unless you then appear there and [*prosecute and*] give evidence accordingly, the recognizance entered into by you will be forthwith levied on you. Dated this —— day of ——— A. D. 18—.

J. S. J. P.

(P. 1.)

Commitment of a witness for refusing to enter into the recognizance.

To any constable of ———, and to the keeper of the jail at ———, in the county of ———:

Whereas A. B. was lately charged before the undersigned for that [*&c. as in the summons to the witness*], and it having been made to appear to me upon oath that E. F. of ——— was likely to give material evidence for the prosecution, I duly issued my summons to the said E. F. requiring him to appear before me at ——— on the —— day of ———, or before such other justice or justices of the peace as should then be there, to testify what he should know concerning the said charge made against the said A. B. and the said E. F. now appearing before me [*or being*

brought before me by virtue of a warrant in that behalf] to testify as aforesaid, hath been now examined by me touching the premises, but being required by me to enter into a recognizance conditioned to give evidence against the said A. B. hath now refused so to do: these are therefore to command you, the said constable, to take the said E. F. and him safely convey to the said jail at ———, in the county aforesaid, and there deliver him to the keeper thereof, together with this warrant; and I do hereby command you, the keeper of the said jail, to receive the said E. F. into your custody in the said jail, and safely keep him until after the trial of the said A. B. for the offence aforesaid, unless in the meantime he shall duly enter into such recognizance as aforesaid in the sum of ——— pounds, before some justice of the peace for the said county, conditioned in the usual form to appear at the next court of [*oyer and terminer or general jail delivery, or general sessions of the peace*] to be holden in and for the county of ———, and there to give evidence before the grand jury upon any bill of indictment which may then and there be preferred against the said A. B. for the offence aforesaid, and also to give evidence upon the trial of the said A. B. for the said offence if a true bill should be found against him for the same.

Given under my hand and seal at ——— this —— day of ———, A. D. 18—.

J. S., J. P. (seal.)

(P. 2.)

Subsequent order to discharge the witness.

To the keeper of the jail at ———, in the county of ———:

Whereas by my order dated the —— day of ———, A. D. 18—, reciting that A. B. was lately charged before me for a certain offence therein mentioned, and that E. F. having appeared before me and being examined as a witness for the prosecution in that behalf, refused to enter into a recognizance to give evidence against the said A. B., and I therefore committed the said E. F. to your custody, and required you to safely keep him until after the trial of the said A. B. for the offence aforesaid, unless in the meantime he should enter into such recognizance as aforesaid; and whereas for want of sufficient evidence against the said A. B. he has not been committed or holden to bail for the said offence, but on the contrary thereof has since been discharged, and it is therefore not necessary that the said E. F. should be detained longer in your custody: These are therefore to order and direct you the said keeper to discharge the said E. F. out of your custody as to the said commitment, and suffer him to go at large.

Given under my hand and seal, at ———, this —— day of ———, A. D. 18—.

J. S., J. P. (seal.)

(Q. 1.)

Warrant remanding a prisoner.

To any constable of ——— and to the keeper of the jail at ———, in the county of ——— :

Whereas A. B. was this day charged before the undersigned for that [*&c. as in the warrant to apprehend,*] and it appears to me to be necessary to remand the said A. B. : These are therefore to command you the said constable forthwith to convey the said A. B. to the jail at ———, in the said county, and there to deliver him to the keeper thereof, together with this warrant; and I hereby command you the said keeper to receive the said A. B. into your custody in the said jail, and there safely keep him until the —— day of ———, instant, when I hereby command you to have him at ———, at —— o'clock in the ——noon of the same day before me or before such other justice or justices of the peace as may then be there, to answer further to the said charge, and to be further dealt with according to law, unless you shall be otherwise ordered in the meantime.

Given under my hand and seal, at ———, this —— day of ———, A. D. 18—.

J. S., J. P. (seal.)

(Q. 2.)

Recognizance of bail instead of remand on an adjournment of examination.

County of ———, }
to wit: }

Be it remembered that on the —— day of ———, A. D. 18—, A. B. of ———, [*laborer,*] L. M. of ———, [*grocer,*] and N. O. of ———, [*butcher*], personally came before me and severally acknowledged themselves to owe to our lady the queen the several sums following, that is to say: the said A. B. the sum of ———, and the said L. M. and N. O. the sum of ——— each, to be levied of their several goods and lands respectively to the use of our said lady the queen, her heirs and successors, if he the said A. B. fail in the condition hereof.

Taken and acknowledged the day and year first above mentioned, at ———, before me.

J. S., J. P.

Condition.

The condition of this recognizance is such, that whereas the said A. B. was this day, [*or on the —— day of ——— last past,*] charged before me for that [*&c. as in the warrant*]; and whereas the examination of the witnesses for the prosecution in this behalf is adjourned until the —— day of ——— A. D. 18—, if therefore the said A. B. shall appear before me on the said ——day of ——,

at —— o'clock in the —— noon, or before such other justice or justices of the peace as may then be there, to answer further to the said charge, and to be further dealt with according to law, then the said recognizance to be void.

(Q. 3.)

Notice of recognizance to be given to the accused and his sureties.

Take notice that you A. B., of ———, are bound in the sum of —— , and your sureties L. M. and N. O., in the sum of —— each, that you A. B. appear before me J. S., at ———, on——— the——day of ———A. D., 18—, at—— o'clock in the —— noon, or before such other justice or justices of the peace as may then be there to answer further to the charge made against you by C. D., and to be further dealt with according to law; and unless you A. B. personally appear accordingly, the recognizances entered into by yourself and sureties, will be forthwith levied on you and them. Dated this —— day of ———, A. D. 18—.

J. S., J. P.

(Q. 4.)

Certificate of non-appearance to be endorsed on the recognizance.

I hereby certify that the said A. B. hath not appeared at the time and place in the above condition mentioned, but therein hath made default, by reason whereof the within written recognizance is forfeited.

J. S., J. P.

(R. 1.)

Warrant to convey the accused before a justice of the county, &c. in which the offence was committed.

To any constable or peace officer of the county of ———:

Whereas A. B. of ———, [*laborer,*] hath this day been charged before the undersigned, for that [*&c. as in the warrant to apprehend*]: and whereas I have taken the deposition of C. D., a witness examined by me in this behalf; but inasmuch as I am informed that the principal witnesses to prove the said offence against the said A. B. reside in the county of ———, where the said offence is alleged to have been committed: these are therefore to command you forthwith to take and convey the said A. B. to the said county of ———, and there carry him before some justice or justices of the peace in and for that county, and near where the offence is alleged to have been committed, to answer further to the said charge before him or them, and to be further dealt with ac-

cording to law; and I hereby further command you to deliver to the said justice or justices the information in this behalf, and also the said deposition of C. D. now given into your possession for that purpose, together with this warrant.

Given under my hand and seal, at ———, this —— day of ———, A. D. 18—.

J. S., J. P. (seal.)

(R. 2.)

Order for payment of the constable's expenses.

To R. W., esquire, treasurer of the county of ——— :

Whereas W. T., constable of ———, in the county of ———, hath, in obedience to a certain warrant of J. S., esquire, a justice of the peace for the county of ———, taken and conveyed one A. B., charged before the said J. S. with having [*&c., stating shortly the offence.*] from ———, in the said county of ———, to ———, in the said county of ———, a distance of —— miles, and produced the said A. B. before me, S. P., one of her majesty's justices of the peace in and for the county of ———, and delivered him into the custody of ——— by my direction, to answer to the said charge, and further to be dealt with according to law; and whereas the said W. T. hath also delivered to me the said warrant together with the information in that behalf, and also the deposition of C. D. in the said warrant mentioned, and hath proved to me upon oath the hand-writing of the said J. S. subscribed to the same; and whereas I have ascertained that the sum which ought to be paid to the said W. T. for conveying the said A. B. from the said county of ——— to the said county of ——— and taking him before me is the sum of ———, that the reasonable expenses of the said W. T. in returning will amount to the further sum of ——, making together the sum of ——— : These are therefore to order you, as such treasurer of the said county of ———, to pay unto the said W. T. the said sum of ———, for which payment this order shall be your sufficient voucher and authority.

Given under my hand, this —— day of ——, A. D., 18—.

S. P., J. P.

(S. 1.)

Recognizance of bail.

Be it remembered that on the —— day of ———, A. D. 18—, A. B. of ———, [*laborer,*] L. M. of ———, [*grocer,*] and N. O. of ———, [*butcher,*] personally came before me, the undersigned, a justice of the peace for the said county, and severally acknowledged themselves to owe to our lady the queen the several sums following, that is to say: the said A. B. the sum of ——, and the

said L. M. and N. O. the sum of —— each, to be levied of their several goods and lands respectively, to the use of our said lady the queen, her heirs and successors, if he the said A. B. fail in the condition hereof.

Taken and acknowledged the day and year first above mentioned, at ———, before me.

J. S., J. P.

Condition in ordinary cases.

The condition of this recognizance is such, that whereas the said A. B. was this day charged before me, the justice therein mentioned, for that [*&c. as in the warrant*]; if therefore the said A. B. will appear at the next session of oyer and terminer and general jail delivery, [*or court of general sessions of the peace,*] to be holden in and for the county of ———, and there surrender himself into the custody of the keeper of the jail there, and plead to such indictment as may be found against him by the grand jury, in respect of such charge, and take his trial upon the same, and not depart the court without leave, then the said recognizance to be void.

(S. 2.)

Notice of the said recognizance to be given to the accused and his bail.

Take notice that you A. B. of ———, are bound in the sum of ———, and your sureties L. M. and N. O. in the sum of ——— each, that you A. B. appear, [*&c. as in the condition of the recognizance,*] and not depart the said court without leave; and unless you the said A. B. personally appear and plead, and take your trial accordingly, the recognizance entered into by you and your sureties shall be forthwith levied on you and them.

Dated this —— day of ———, A. D. 18—.

J. S., J. P.

(S. 3.)

Certificate of consent to bail by the committing justice endorsed on the commitment.

I hereby certify that I consent to the within named A. B. being bailed by recognizance, himself in ——— and [*two*] sureties in ——— each.

J. S., J. P.

(S. 4.)

The like on a separate paper.

Whereas, A. B. was on the —— day of ———, A. D. 18—. committed by me to the jail at ———, charged with [*naming the*

offence shortly.] I hereby certify that I consent to the said A. B. being bailed by recognizance, himself in ——— and [*two*] sureties in ——— each. Dated this —— day of ———, A. D. 18—.

J. S., J. P.

(S. 5.)

Warrant of deliverance on bail being given for a prisoner already committed.

To the keeper of the jail at ———, in the county of ———:

Whereas A. B. late of ———, [*laborer,*] hath before me a justice of the peace for the said county, entered into his own recognizance, and found sufficient sureties for his appearance at the next court of oyer and terminer and general jail delivery, [*or court of general sessions of the peace,*] to be holden in and for the county of ———, to answer our sovereign lady the queen, for that [*&c., as in the commitment,*] for which he was taken and committed to your said jail: these are therefore to command you, that if the said A. B. do remain in your custody in such jail for the said cause, and for no other, you shall forthwith suffer him to go at large.

Given under my hand and seal at ———, this ——day of ———, A. D. 18—.

J. S., J. P. (seal.)

(T.)

Warrant of commitment.

To any constable of ———, and to the keeper of the jail at ——, in the county of ———:

Whereas A. B. was this day charged before me J. S., a justice of the peace in and for the said county, on the oath of C. D. of ——, [*farmer,*] and others, for that [*&c., stating shortly the offence:*] These are therefore to command you the said constable to take the said A. B. and him safely convey to the said jail, and there deliver him to the keeper thereof, together with this warrant; and I do hereby command you the keeper of the said jail to receive the said A. B. into your custody in the said jail, and there safely keep him until delivered by due course of law.

Given under my hand and seal, at ———, this —— day of ———, A. D. 18—.

J. S., J. P. (seal.)

(T. 2.)

Jailer's receipt to the constable for the prisoner, and justice's order thereon for payment of the constable's expenses in executing the commitment.

I hereby certify that I have received from W. T., constable of ———, the body of A. B., together with a warrant under the hand and seal of J. S., esquire, a justice of the peace for the county of ———, and that the said A. B. was [*sober, bruised, or as the case may be*] at the time he was so delivered into my custody.

P. K., jailer.

CHAPTER 170.

OF THE REPEAL OF STATUTES, REVISED AND CONSOLIDATED.

SECTION

1. Commencement of operation of preceding chapters.
2. Act how cited.
3. Repeal of acts not to affect existing rights.
4. Offences committed not to be affected by repealing chapter except where the punishment, &c. has been mitigated.
5. Suits and prosecutions pending not affected hereby except as to the proceedings thereon.
6. Office-holders not affected hereby, except when an office is abolished, &c.
7. Acts repealed not to be revived hereby.
8. Acts enumerated and specified which are repealed by this act coming into operation.
9. Acts specifically repealed.

Commencement of operation of preceding chapter.

1. The provisions of the preceding chapters, unless therein otherwise respectively expressed, shall come into operation on the first day of September one thousand eight hundred and fifty-one.

Act how cited.

2. This act may be cited as the revised statutes, adding, when necessary, the number of the chapter and section.

Repeal of acts not to affect existing rights.

3. The repeal of such acts shall not affect any act done, or any right accruing, accrued or established, or any suit or proceeding had or commenced in any civil case before the time when such repeal shall take effect, but the proceedings in such cases shall be conformed when necessary to the provisions of this act.

Offences committed not to be affected by repealing chapter except where the punishment, &c. has been mitigated.

4. No offence committed, and no penalty or forfeiture incurred under any of the acts hereby repealed, shall be affected by the repeal, except that where any punishment, penalty or forfeiture shall have been mitigated by the provisions of this act, such provisions may be extended and applied to any judgments to be pronounced after such repeal.

Suits and prosecutions pending not affected hereby except as to the proceedings thereon.

5. No suit or prosecution pending at the time of such repeal for any offence committed, or for the recovery of any penalty or forfeiture incurred, under any act repealed, shall be affected by the repeal, except that the proceedings in such suit or prosecution shall be conformed, when necessary, to the provisions of this act.

Office-holders not affected hereby except when an office is abolished, &c.

6. All persons who at the time when such repeal shall take effect shall hold office under any of the acts repealed, shall continue to hold the same according to the tenure thereof, except those offices which may have been abolished, and those as to which a different provision shall have been made by this act.

Acts repealed not to be revived hereby.

7. No act heretofore repealed shall be revived by the repeal contained in this chapter or in any of the acts hereinbefore mentioned.

Acts enumerated and specified which are repealed by this act coming into operation.

8. All acts extending the acts concerning fires and firewards, and respecting commissioners of streets, to different towns and places, and also acts making perpetual other acts, shall be repealed so soon as this act comes into operation.

Acts specifically repealed.

9. The following acts passed in the several years of the respective reigns hereinafter mentioned shall be repealed so soon as this act comes into operation, viz:

32, *George* 2.

1758.

Chap. 2. An act for confirming titles to lands, and quieting possessions.
Chap. 3. An act directing the proceedings against forcible entry or detainer.
Chap. 4. An act to prohibit the erecting of distilling houses, or setting up stills within the town of Halifax, or within one quarter of a mile of the present lines or pickets of the said town.
Chap. 5. An act for the establishment of religious public worship in this province, and for suppressing popery.
Chap. 10. An act to prevent forestalling the market.
Chap. 12. An act to prevent the sale of slop clothing, and for punishing the concealers or harborers of seamen or marines deserting from the royal navy.
Chap. 13. An act relating to treasons and felonies.
Chap. 17 An act concerning marriage and divorce, and for punishing incest and adultery, and declaring polygamy to be felony.
Chap. 18. An act for preventing frauds and perjuries.
Chap. 20. An act for punishing criminal offenders.
Chap. 21. An act relating to the assize of bread, and for ascertaining the standard of weights and measures.
Chap. 24. An act for limitation of actions, and for avoiding suits of law.
Chap. 25. An act to prevent unnecessary firing off guns and other fire arms, in the town and suburbs of Halifax.
Chap. 26. An act directing the guardianship of minors.

33, *George* 2.

1759.

SESSION 1.

Chap. 1. An act for regulating and maintaining an house of correction or work-house within the town of Halifax, and for binding out poor children.
Chap. 3. An act for the quieting of possessions to the protestant grantees of the lands formerly occupied by the French inhabitants, and for preventing vexatious actions relating to the same.

SESSION 2.

Chap. 1. An act to prevent gaming.
Chap. 2. An act for permitting persons of the profession of the people called "Quakers" to make an affirmation instead of taking an oath.
Chap. 3. An act in addition to an act entitled "an act for the establishment of religious public worship in this province, and for suppressing of popery."
Chap. 6. An act in addition to an act entitled "an act relating to the assize of bread, and for ascertaining the standard of weights and measures," made and passed in the thirty-second year of his majesty's reign.
Chap. 10. An act for the better and more effectual establishment of the church of England in this province.
Chap. 11. An act for regulating the rates and price of carriages.

34, *George* 2.

1760.

Chap. 1. An act making perpetual an act made and passed in the thirty-second year of his majesty's reign, entitled "an act to prevent the sale of slop clothing, and for punishing the concealers and harborers of seamen or marines deserting from the royal navy."
Chap. 2. An act for ascertaining damages on protested bills of exchange.
Chap. 4. An act in amendment of an act entitled "an act for confirming titles to lands and quieting possessions."
Chap. 8. An act for encouraging the improvement of lands in the peninsula of Halifax, and further quieting of possessions.
Chap. 9. An act in amendment of an act entitled "an act relating to treasons and felonies."
Chap. 10. An act in addition to and amendment of an act entitled "an act for the better and more effectual establishment of the church of England in this province."

1, *George* 3.

1761.

Chap. 1. An act for the better observation and keeping of the Lord's day.
Chap. 2. An act in amendment of an act entitled "an act directing the proceedings against forcible entry or detainer."
Chap. 3. An act in further amendment of an act entitled "an act for confirming titles to lands and quieting possessions."
Chap. 4. An act for the registering of marriages, births and deaths.
Chap. 5. An act for preventing damages by unseasonable burning or firing of the woods.
Chap. 7. An act for the amendment of an act entitled "an act concerning marriages and divorce, and for punishing incest and adultery, and declaring polygamy to be felony."
Chap. 8. An act to enable creditors to receive their just debts out of the effects of their absent or absconding debtors.
Chap. 9. An act for the appointment of sworn guagers, ascertaining their duty, granting them an allowance, and establishing their fees.
Chap. 12. An act for prohibiting the exportation of raw hides, sheep or calf skins, out of this province, other than for Great Britain, and to prevent the cutting, splitting or flawing of hides.

2, *George* 3.

1762.

Chap. 1. An act for regulating inn-holders, tavern-keepers, and retailers of spirituous liquors.
Chap. 3. An act for preventing fraudulent dealings in the trade with the Indians.

An act to prevent the firing of squibs, rockets, serpents, or other fire-works. Chap. 4.
An act for appointing firewards, ascertaining their duty, and for punishing thefts and disorders at the time of fire. Chap. 5.
An act for regulating the exportation of fish, and the assize of barrels, staves, hoops, boards and all other kinds of lumber, and for appointing officers to survey the same. Chap. 8.

3, *George* 3. 1763.
An act to prevent frauds in the selling of beef, pork, flour and biscuit, or ship bread in casks. Chap. 3

3 *and* 4, *George* 3.
An act to prevent nuisances by hedges, weirs, and other incumbrances obstructing the passage of fish in the rivers in this province. Chap. 2.
An act to enable the inhabitants of the several townships within this province to maintain their poor. Chap. 7.
An act in addition to an act entitled "an act for regulating and maintaining an house of correction or workhouse within the town of Halifax, and for binding out poor children," made and passed in the thirty-third year of his late majesty's reign. Chap. 9.

4, *George* 3. 1764.
An act for amending defects in pleas, processes and records. Chap. 1.
An act for preventing abatement and discontinuance of suits. Chap. 2.

4 *and* 5, *George* 3.
An act for reformation of jeofails and mispleadings, and to prevent arrests and reversals of judgments, and for the better advancement of justice. Chap. 1.

5, *George* 3. 1765.
An act for the choice of town officers, and regulating of townships. Chap. 1.
An act to enable the inhabitants in the several townships in this province, Halifax excepted, to cause any absent proprietor of lands within the same to pay a dividend or proportion of any county or town charge to be assessed according to law, and to bear their just proportion in repairing highways, roads and bridges within the said townships respectively. Chap. 5.
An act for regulating servants. Chap. 7.
An act in amendment of an act for confirming titles to lands, and quieting possessions. Chap. 8.
An act to establish the number of representatives to be elected in the several counties and townships which are now established in this province. Chap. 10.

6, *George* 3. 1766.
SESSION 1.
An act for the making perpetual an act made and passed in the fourth year of his majesty's reign, entitled "an act for preventing nuisances by hedges, weirs, and other incumbrances obstructing the passage of fish in the rivers of this province." Chap. 1.
An act against forestallers and regraters. Chap. 6.
An act concerning schools and schoolmasters. Chap. 7.

6 *and* 7, *George* 3.
An act to prevent the cutting or breaking down the bank of any river, sea bank or dikes. Chap. 1.

7, *George* 3. 1767.
An act to prevent trespasses on crown lands. Chap. 1.
An act to explain and amend the several acts of this province relating to the assize of bread, and for ascertaining the standard of weights and measures. Chap. 4.

7 *and* 8, *George* 3.
An act in addition to an act made in thirty-second year of his late majesty's reign, entitled, "an act for the establishment of religious public worship in this province, and for suppressing of popery." Chap. 1.
An act for partition of lands in coparcenary, joint tenancy and tenancy in common, and thereby for the more effectual collecting his majesty's quit rents in the colony of Nova-Scotia. Chap. 2.

8, *George* 3. 1768.
An act for determining differences by arbitration. Chap. 1.
An act for giving like remedy upon promissory notes as now used upon bills of exchange. Chap. 2.
An act enabling the sale of goods distrained for rent. Chap. 4.
An act for taking special bail in the country upon actions depending in his majesty's supreme court of this province. Chap. 7.
An act for the convenient and speedy assignment of dower. Chap. 8.
An act for discharging the penalties and forfeitures in bonds, contracts and agreements, on payment and satisfaction of the principal sum, and damages due upon the same. Chap. 10.

8 *and* 9, *George* 3.
An act for rating and levying of the charges for conveying malefactors and offenders to jail. Chap. 2.
An act relating to searchers and sealers of leather. Chap. 4.
An act in amendment of an act made and passed in the seventh year of his majesty's reign, entitled, "an act for partition of lands in coparcenary, joint tenancy and tenancy in common, and thereby for the more effectual collecting his majesty's quit rents in the colony of Nova-Scotia." Chap. 10.

9 *and* 10, *George* 3. 1769.
An act in addition to an act made in the thirty-second year of his late majesty's reign, entitled, Chap. 3.

"an act to prevent unnecessary firing off guns and other fire arms in the town and suburbs of Halifax."

10, *George* 3.

1770.

Chap. 1. An act for the settlement of the poor in the several townships within this province.

Chap. 2. An act in further amendment of, and in addition to, an act made in the third year of his present majesty's reign, entitled, "an act to enable the several townships within this province to maintain their poor."

Chap. 4. An act for regulating the commons belonging to the several townships in this province.

Chap. 5. An act for establishing the rate of interest.

Chap. 6. An act to alter the manner of proceeding against certain offenders mentioned in an act made in the thirty-second year of his late majesty's reign, entitled, "an act for punishing criminal offenders."

Chap. 9. An act for altering and amending an act made in the first year of his present majesty's reign, entitled, "an act for prohibiting the exportation of raw hides, sheep or calf skins, out of this province, other than for Great Britain, and to prevent the cutting, splitting or flawing of hides."

Chap. 10. An act for the benefit of the fishery on the coasts of this province.

11, *George* 3.

1771.

Chap. 2. An act in amendment to an act made in the thirty-second year of his late majesty's reign, entitled, "an act declaring what shall be deemed a publication of the province laws."

Chap. 3. An act in further addition to an act made in the thirty-second year of his late majesty's reign, entitled, "an act relating to treasons and felonies."

Chap. 6. An act for the more effectually securing the title of purchasers against claims for dower.

Chap. 10. An act to avoid the double payment of debts.

12, *George* 3.

1772.

Chap. 5. An act in further amendment of and in addition to an act made in the thirty-second year of his late majesty's reign, entitled, "an act for confirming titles to lands and quieting possessions."

Chap. 6. An act in further amendment of and in addition to an act made in the third year of his present majesty's reign, entitled, "an act to enable the several townships within this province to maintain their poor."

13 *and* 14, *George* 3.

1773.

Chap. 2. An act for rating and levying the expenses attending the executing writs of partition.

14 *and* 15, *George* 3.

1774.

Chap. 1. An act in amendment of and to explain an act made in the tenth year of his present majesty's reign, entitled, "an act for establishing the rate of interest."

Chap. 3. An act to prevent waste and destruction of pine or other timber trees on certain reserved and ungranted lands in this province.

Chap. 5. An act for punishing rogues, vagabonds, and other idle and disorderly persons.

Chap. 8. An act to empower the supreme court to issue writs of certiorari.

Chap. 10. An act in amendment of an act made in the thirty-second year of his late majesty's reign, entitled "an act for punishing criminal offenders."

15, *George* 3.

1775.

Chap. 1. An act in addition to an act made in the fifteenth year of his present majesty's reign, entitled, "an act to prevent waste and destruction of pine or other timber trees on certain reserved and ungranted lands in this province."

15 *and* 16, *George* 3.

Chap. 4. An act in amendment to the several laws of this province concerning bail.

Chap. 10. An act in addition to, and amendment of an act made in the third year of his present majesty's reign, entitled, "an act to prevent nuisances by hedges, weirs, and other incumbrances obstructing the passage of fish in the rivers in this province."

16, *George* 3.

1776.

Chap. 1. An act in addition to the several acts made by the general assembly of this province, to enable the several townships within the same to maintain their poor.

Chap. 3. An act for taking, examining, and stating the public accounts of this province.

17, *George* 3.

1777.

Chap. 1. An act in further addition to an act made in the fifth year of his present majesty's reign, entitled, "an act for the choice of town officers and regulating townships."

Chap. 3. An act in further addition to an act made in the third year of his present majesty's reign, entitled, "an act to enable the several townships in this province to maintain their poor."

18, *George* 3.

1778.

Chap. 1. An act for the more speedy settling the value of such lands as are or shall be wanting, to erect fortifications or other military uses.

Chap. 3. An act for the more speedy recovery of his majesty's debts within this province.

Chap. 6. An act to amend, render more effectual, and reduce into one act, the several acts made by the general assembly of this province concerning bail.

19, *George* 3.

1779.

Chap. 2. An act to prevent the spreading of distempers among horses and cattle in this province.

Chap. 3. An act to regulate abuses in the sale of hides or skins.

Chap. 7. An act to empower the justices of the peace in their sessions to make regulations for preventing the clandestine conveying away sheep and lambs from the townships in this province.

Chap. 10. An act in amendment of an act made in the thirty-second year of his late majesty's reign, entitled, "an act directing the proceedings against forcible entry and detainer."

20, *George* 3. 1780.

An act for the more speedy and effectual collecting such town rates and taxes as may be assessed on the inhabitants of the township of Halifax. Chap. 2.

21, *George* 3. 1781.

An act to establish authenticated copies of the records of council as legal evidence. Chap. 2.

22, *George* 3. 1782.

An act to restrain hawkers, pedlers, and petty chapmen, not duly licensed to trade, travelling to and fro through the country. Chap. 1.

An act in amendment of and addition to an act made in the first year of his present majesty's reign, entitled, "an act for the registering marriages, births and deaths." Chap. 3.

An act in addition to an act made in the second year of his present majesty's reign, entitled, "an act for appointing firewards, ascertaining their duty, and for punishing thefts and disorders at the time of fire." Chap. 4.

23, *George* 3. 1783.

An act for the better regulating the office of sheriffs, and the manner in which the sheriffs, clerks of the crown, and clerks of the peace, shall return and pass their accounts of all fines and forfeitures which shall be imposed by their respective courts, and which shall be levied by the sheriffs for the use of the crown. Chap. 1.

An act in addition to an act made in the second year of his present majesty's reign, entitled, "an act for appointing firewards, ascertaining their duty, and for punishing thefts and disorders at the time of fire." Chap. 6.

An act for relieving his majesty's subjects professing the popish religion from certain penalties and disabilities imposed upon them by two acts of the general assembly of this province, made in the thirty-second year of his late majesty's reign, entitled, "an act confirming titles to lands, and quieting possessions;" and "an act for the establishment of religious public worship in this province, and for suppressing of popery." Chap. 9.

25, *George* 3. 1784.

An act to empower the justices in the several counties within the province to issue summonses for the attendance of witnesses on trials. Chap. 2.

An act to ascertain the number of representatives to be elected to serve in general assembly for the several counties and townships therein mentioned. Chap. 5.

An act to prevent the destroying of buoys, beacons or sea-marks which shall be set or placed by authority in any harbor, river, creek or bay within this province. Chap. 6.

26, *George* 3. 1785.

SESSION 1.

An act to empower the justices of the peace to hold special courts of sessions for the purposes therein mentioned. Chap. 2.

SESSION 2. 1786.

An act for relieving his majesty's subjects professing the popish religion from certain penalties and disabilities imposed upon them by the act of the general assembly of this province made in the sixth year of his present majesty's reign, entitled, "an act concerning schools and schoolmasters." Chap. 1.

An act in addition to and amendment of an act made in the third year of the reign of his present majesty, entitled, "an act to prevent nuisances by hedges, weirs, and other incumbrances obstructing the passage of fish in the rivers in this province." Chap. 7.

28, *George* 3. 1787.

An act in addition to and amendment of an act made in the fifth year of his present majesty's reign, entitled, "an act for regulating servants." Chap. 6.

An act in further addition to an act passed in the second year of his majesty's reign, entitled, "an act for appointing firewards and punishing thefts and disorders at the time of fire." Chap. 8.

An act to prevent the circulation of base and counterfeit half-pence and other copper coin, and to establish the current value of English crowns, half crowns and shillings in this province. Chap. 9.

An act for the establishment of fees as regulated by the governor and council at the request of the house of assembly. Chap. 15.

29, *George* 3. 1789.

An act in amendment of an act made in the third year of his present majesty's reign, entitled, "an act to prevent frauds in the selling of flour and biscuit, or ship bread in casks." Chap. 10.

An act in amendment of an act made in the second year of his present majesty's reign, entitled, "an act for regulating the exportation of fish, and the assize of barrels, staves, hoops, boards, and all other kind of lumber, and for appointing officers to survey the same." Chap. 11.

An act to provide for the better support of the puisne judges of his majesty's supreme court. Chap. 12.

30, *George* 3. 1790.

An act to amend the act, entitled, "an act for appointing firewards and ascertaining their duty, and for punishing thefts and disorders at the time of fire;" and also in amendment of the several acts made in amendment or addition to the said recited act, and to extend the several provisions therein contained to the town of shelburne. Chap. 1.

An act to prevent the destroying or defacing mile-posts, mile-boards, or mile-stones erected, or to be erected, within this province. Chap. 3.

31, *George* 3. 1791.

An act in addition to, and amendment of, an act made in the thirteenth year of his present majesty's reign, entitled, "an act for rating and levying the expenses attending the executing writs of partition." Chap. 1.

An act in addition to an act passed in the first year of his present majesty's reign, entitled, "an act for the better observation and keeping of the lord's day." Chap. 3.

Chap. 4. An act to enable justices of the supreme court and justices of the courts of common pleas to issue commissions for the examining of witnesses out of the province, and for the regulation of prisons therein.

Chap. 6. An act to prevent the growth and increase of thistles on the lands of this province.

Chap. 8. An act in further addition to, and amendment of, an act made in the second year of his present majesty's reign, entitled, "an act for appointing firewards, ascertaining their duty, and for punishing thefts and disorders at the time of fire."

Chap. 9. An act to empower his majesty's justices of the supreme court to require and take bail from persons removing or bringing up causes from inferior courts to the supreme court.

Chap. 10. An Act in amendment of an act passed in the thirty-second year of the reign of his late majesty, entitled, "an act for confirming titles to lands and quieting possessions."

32, *George* 3.

1792.

Chap. 3. An act in addition to, and in amendment of, an act, entitled, "an act for the appointment of sworn gaugers, ascertaing their duty, granting them an allowance, and establishing their fees."

Chap. 4. An act to revive and amend an act for establishing the standard weight of grain, and for appointing proper officers for measuring grain, salt and coals, and ascertaining the standard size of bricks, and the quantity of lime to be contained in a hogshead.

Chap. 5. An act to alter and amend an act passed in the thirty-third year of his late majesty's reign, entitled, "an act for regulating and maintaining an house of correction or work house within the town of Halifax, and binding out poor children, and to extend certain provisions therein to the whole of the province."

33, *George* 3.

1793.

Chap. 1. An act for granting to his majesty certain duties on wine, rum and all other distilled spirituous liquors, and brown sugar, for the purpose of paying the interest and reducing the principal of the public debt of this province.

Chap. 3. An act to prevent obstructions of the navigation in the ports, harbors, rivers and creeks within this province.

Chap. 6. An act in addition to, and amendment of, an act made in the fifth year of the reign of his present majesty, entitled, "an act to enable the inhabitants in the several townships of this province, Halifax excepted, to cause any absent proprietor of lands within the same to pay a dividend or proportion of any county or town charge, to be assessed according to law, and to bear their just proportion in repairing highways, roads and bridges, within the said townships respectively."

Chap. 8. An act to enable the deputy surveyors of this province to administer an oath, or affirmation if quakers, to such persons as may be employed under them as chain-bearers in measuring lands.

Chap. 10. An act to enable the sheriffs of the several counties in this province to administer the oath or oaths, or if to a quaker affirmation, by law required to be administered to such person or persons, as the said sheriffs may respectively have occasion to employ as appraiser or appraisers of goods, chattels, lands, or other real estates by them attached on mesne process, or taken in execution.

Chap. 12. An act for extending an act passed in the thirty-second year of the reign of his late majesty, entitled, "an act to prevent unnecessary firing off guns, and other fire-arms in the town and suburbs of Halifax, to the town-plot of Dartmouth."

Chap. 17. An act to amend an act passed in the sixth year of his present majesty's reign, entitled, "an act for regulating the times and places for holding the several courts of justice therein named, and also to enable the supreme court to alter and fix the returns of writs."

34, *George* 3.

1794.

Chap. 2. An act for the preservation of sheep.

Chap. 3. An act to render valid conveyances of real estates of married women, by them made or to be made during their coverture.

Chap. 4. An act for the preservation of partridges and blue wing ducks.

Chap. 10. An Act for providing for the trial of issues, by justices of nisi prius, in the counties of Sydney, Lunenburg, Queen's County and Shelburne.

35, *George* 3.

1795.

Chap. 1. An act to amend and reduce into one act the several acts made by the general assembly, relating to the office of sheriffs, and also for altering the form of the summons heretofore used.

Chap. 2. An act to enable the governor, lieutenant-governor, or commander in chief for the time being, to appoint persons to solemnize marriages, in places wherein no established clergymen resides.

Chap. 4. An act for quartering and billetting his majesty's forces, when marching from one district to another within the province.

Chap. 5. An act to prevent the harboring deserters from his majesty's army, and the sale of arms, accoutrements and clothing belonging to his majesty.

36, *George* 3.

1796.

Chap. 4. An act in addition to, and in amendment of, an act, entitled, "an act for the limitation of actions, and for avoiding suits of law."

Chap. 8. An act for regulating the assize of bread.

Chap. 9. An act to enable the inhabitants of the several towns in this province to raise monies for the sinking of wells, supplying the same with pumps, and for keeping them in repair.

37, *George* 3.

1797.

Chap. 4. An act to explain and amend an act, passed in the seventh year of his present majesty's reign, entitled, "an act for the partition of lands in coparcenary, joint tenancy, and tenancy in common, and thereby for the more effectual collecting his majesty's quit rents in the colony of Nova-Scotia."

39, *George* 3.

1799.

Chap. 4. An act in addition to an act made in the third year of his present majesty's reign, entitled, "an act to enable the inhabitants of the several townships in this province to maintain their poor."

Chap. 5. An act for the better regulation of the circuit courts, and for granting new trials in causes brought up from the inferior courts.

Chap. 8. An act for establishing a public market in the town of Liverpool.

An act to compel the attendance of the justices of the peace at the several general and quarter sessions of the peace for the respective counties of this province. Chap. 10.

40, *George* 3. 1800.

An act to amend and render more effectual an act made and passed in the thirty-ninth year of his present majesty's reign, entitled, "an act for the sale of the glebe land in the township of Granville, and for purchasing another estate as a perpetual glebe, for the resident minister of the established church in such township." Chap. 6.

An act for providing pounds in the several townships in this province. Chap. 7.

41, *George* 3. 1801.

An act in addition to, and amendment of, the act passed in the second year of his majesty's reign, entitled, "an act for appointing firewards, ascertaining their duty, and for punishing thefts and disorders at the time of fire." Chap. 1.

An act in amendment of an act made in the thirty-fifth year of his majesty's reign, entitled, "an act to prevent the harboring of deserters from his majesty's army, and the sale of arms, accoutrements and clothing belonging to his majesty." Chap. 4.

An act for the better management and relief of the poor of Halifax. Chap. 6.

An act for the security of navigation, and for preserving all ships, vessels and goods, which may be found on shore, wrecked or stranded upon the coasts of this province, and for punishing persons who shall steal shipwrecked goods, and for the relief of persons suffering loss thereby. Chap. 14.

42, *George* 3. 1802.

An act for the appointment of inspectors of butter in the county of Cumberland. Chap. 2.

An act to enable the justices of the sessions and grand jury for the county of Halifax, to raise such sums of money, from time to time, as may be necessary to repair the poor house at Halifax, and also building additions to the same. Chap. 3.

An act to alter and amend an act passed in the thirty-second year of his present majesty's reign, entitled, "an act to alter and amend an act passed in the thirty-third year of his late majesty's reign, entitled, an act for regulating and maintaining an house of correction or work house within the town of Halifax, and binding out poor children, and to extend certain provisions therein to the whole of the province." Chap. 6.

43, *George* 3. 1803.

An act in amendment of an act passed in the thirty-fifth year of his majesty's reign, entitled, "an act to prevent the harboring deserters from his majesty's army, and the sale of arms, accoutrements and clothing belonging to his majesty." Chap. 1.

An act in amendment of an act made and passed in the tenth year of his majesty's reign, entitled, "an act for the settlement of the poor in the several townships in this province; and also in amendment of an act made in the forty-first year of his said majesty's reign, entitled, 'an act for the better management and relief of the poor at Halifax.'" Chap. 3.

47, *George* 3. 1806.

An act in further addition to, and amendment of, an act made in the second year of his present majesty's reign, entitled, "an act for the appointment of firewards, ascertaining their duty, and for punishing thefts and disorders at the time of fire." Chap. 15.

An act to regulate the appointment of collectors, and other officers of impost and excise. Chap. 16.

48, *George* 3. 1807.

SESSION 1.

An act to amend an act made and passed in the thirty-fourth year of his late majesty's reign, entitled, "an act for the ascertaining damages on protested bills of exchange." Chap. 20.

An act for extending throughout the province the provisions of an act made in the thirty-second year of the reign of his late majesty, entitled, "an act to prevent the unnecessary firing of guns and other fire-arms in the town and suburbs of Halifax." Chap. 21.

SESSION 2.

An act to provide for the accommodation and billetting of his majesty's troops, or of the militia, when on the march from one part of the province to another. Chap. 2.

50, *George* 3. 1809.

An act to alter and extend the times of holding the supreme court to several of the counties and districts in this province, and for declaring the qualifications of persons hereafter to be appointed justices of the said court, their numbers and salaries. Chap. 15.

51, *George* 3. 1811.

An act to enable the inhabitants of each township to raise money for defraying the expense attending the running or perambulating the lines and bounds of the respective townships in this province. Chap. 4.

An act in addition to, and amendment of, an act passed in the forty-eighth year of his majesty's reign, entitled, "an act to provide for the accommodation and billetting of his majesty's troops, or of the militia, when on the march from one part of the province to another." Chap. 5.

An act to regulate the proceedings of the court of escheats. Chap. 6.

An act in further addition to, and amendment of, the several acts for the choice of town officers and regulating of townships. Chap. 24.

52, *George* 3. 1812.

SESSION 1.

An act in addition to an act made in the second year of his present majesty's reign, entitled, "an act for appointing firewards, ascertaining their duty, and for punishing thefts and disorders at the time of fire." Chap. 13.

Chap. 15. An act to alter the meetings of parishioners for the choice of vestry-men and church-wardens for the several parishes in this province.

53, *George* 3.

1813.

Chap. 11. Act for repealing so much of an act made in the thirty-second year of the late king George the second, entitled, "an act relating to treasons and felonies" as respects the privately murdering or concealment of the death of bastard children, and for making other provisions in lieu thereof.

Chap. 16. An act in amendment of an act passed in the thirty-fourth year of his present majesty's reign, entitled, "an act for the preservation of partridges and blue-winged ducks."

Chap. 17. An act to continue and amend the act passed in the forty-eighth year of his present majesty's reign, entitled, "an act to provide for the accommodation and billetting of his majesty's troops, or of the militia, when on the march from one part of the province to another;" and the act passed in the fifty-first year of his said majesty's reign in amendment of the said act.

54, *George* 3.

1814.

Chap. 15. An act for protecting justices of the peace in the execution of their office, and for indemnifying constables and others acting in obedience to their warrants, and also for apprehending persons in any county or place upon warrants granted by justices of the peace in any other county or place.

Chap. 17. An act to give power to the firewards of the town of Halifax, to prevent dangerous quantities of gunpowder being kept within the said town and the harbor thereof.

55, *George* 3.

1815.

Chap. 8. An act in addition to, and amendment of, an act passed in the twenty-second year of his majesty's reign, entitled, "an act to restrain hawkers and pedlers and petty chapmen, not duly licensed to trade, travelling to and fro through the country."

Chap. 9. An act for establishing a bridewell or house of correction for the county of Halifax, and for the better and more effectual administration of the office of a justice of the peace in the township of Halifax, and for providing a police office in said town, with proper officers to attend the same.

Chap. 14. An act to provide an easier method than is now used for barring estates tail in lands.

Chap. 16. An act to regulate markets in the town of Halifax, and also to repeal an act passed in the thirty-ninth year of his present majesty's reign, entitled, "an act for repairing or re-building the market house and regulating the several markets in the town of Halifax; and also to revive, alter, amend, and bring into one act, the act for preventing fraud by butchers and fishmongers, and the act made in the thirty-fourth year of his late majesty's reign, for regulating and establishing a public market in the town of Halifax."

56, *George* 3.

1816.

Chap. 4. An act in addition to, and in amendment of, an act passed in the second year of his majesty's reign, entitled, "an act for regulating the exportation of fish and the assize of barrels, staves, hoops, boards, and all other kind of lumber, and for appointing officers to survey the same;" and also of an act passed in the thirty-second year of his majesty's reign, entitled, "an act to revive and amend an act for establishing the standard weight of grain, and for appointing proper officers for measuring grain, salt and coals, and ascertaining the standard size of bricks, and the quantity of lime to be contained in a hogshead."

Chap. 5. An act for the preservation of snipe and woodcock.

Chap. 6. An act in addition to an act for punishing criminal offenders.

Chap. 7. An act to explain the acts concerning marriage and divorce, passed in the thirty-second year of his late majesty's reign, and the first year of his present majesty's reign.

Chap. 21. An act in addition to, and amendment of, an act, entitled, "an act to revive and amend an act for establishing the standard weight of grain, and for appointing proper officers for measuring grain, salt and coals, and ascertaining the standard size of bricks, and the quantity of lime to be contained in a hogshead."

Chap. 26. An act to regulate the transportation of gunpowder from place to place within this province.

Chap. 27. An act to prevent unlawful combinations of master tradesmen, and also of their workmen and journeymen.

57, *George* 3.

1817.

Chap. 9. An act in amendment of an act passed in the tenth year of his majesty's reign, entitled, "an act for the settlement of the poor in the several townships within this province."

Chap. 15. An act for the better supplying the town of Halifax with fresh water.

Chap. 20. An act to regulate the manner of taking the bonds of sheriffs, collectors of impost and excise, and of the treasurer of the province.

Chap. 25. An act to alter and amend an act passed in the twenty-eighth year of his majesty's reign, entitled, "an act to amend, render more effectual, and reduce into one act, the several acts made by the general assembly of the province concerning bail."

58, *George* 3.

1818.

Chap. 11. An act for new execution to be sued against persons who shall hereafter be delivered out of execution by privilege of either house of the general assembly, and for the discharge of them out of whose custody such persons shall be delivered.

Chap. 13. An act for the improvement of the common of Halifax.

Chap. 22. An act to facilitate the opening and working of his majesty's coal mines with as little injury as possible to the proprietors of lands in this province.

Chap. 23. An act to extend the provisions of an act passed in the first year of his present majesty's reign, entitled, "an act in addition to, and amendment of, an act, entitled, an act for preventing trespasses" to the town of Pictou and the town plot of Dartmouth.

Chap. 27. An act to prevent the issue of notes or bills by any corporate body within this province for the payment of money.

Chap. 31. An act to encourage persons concerned in the lumber trade, and authorizing courts of sessions to make regulations for preventing obstructions in bringing the same with other articles down the several rivers in this province.

Chap. 33. An act in addition to, and amendment of, an act made in the second year of his present majesty's reign, entitled, "an act for the appointment of firewards, ascertaining their duty, and for punishing thefts and disorders at the time of fire."

59, *George* 3. 1819.

An act to continue and amend an act to encourage persons concerned in the lumber trade, and authorizing courts of sessions to make regulations for preventing obstructions in bringing the same with other articles down the several rivers in this province. Chap. 27.

An act to alter and amend an act made and passed in the third and fourth years of his present majesty's reign, entitled, "an act to enable the inhabitants of the several townships within this province to maintain their poor." Chap. 28.

60, *George* 3. 1820.

An act to establish a public market in the town of Lunenburg. Chap. 4.

An act in amendment of an act passed in the second year of his majesty's reign, entitled, "an act for appointing firewards, ascertaining their duty, and for punishing thefts and disorders at the time of fire." Chap. 7.

1 *and* 2, *George* 4. 1820—1.

An act to extend the laws and ordinances of the province of Nova Scotia to the island of Cape Breton. Chap. 5.

An act in amendment of an act passed in the first year of his late majesty's reign, entitled, "an act to enable creditors to receive their just debts out of the effects of their absent or absconding debtors." Chap. 18.

An act to regulate and establish fees in the court of chancery. Chap. 40.

3, *George* 4. 1822.

An act to amend the several acts passed in the thirty-second and thirty-fourth years of the reign of his late majesty king George the second, for confirming titles to land and quieting possessions; and an act passed in the twenty-ninth year of the reign of his majesty king George the third, entitled, "an act to amend the several acts passed in the thirty-second and thirty-fourth years of his late majesty George the second, and in the first, fifth and twelfth years of his present majesty's reign, relative to the registering of deeds and conveyances made of, or which may affect lands, tenements and hereditaments." Chap. 1.

An act for establishing a public market in each of the towns of Sydney and Arichat, in the county of Cape Breton. Chap. 12.

An act for consolidating and reducing into one act all the acts heretofore made relating to trespasses. Chap. 32.

An act in addition to, and in amendment of, an act passed in the fiftieth year of the reign of his late majesty king George the third, entitled, "an act to alter and extend the times of holding the supreme court in several of the counties and districts in this province, and for declaring the qualification of persons hereafter to be appointed justices of the said court, their number and salaries." Chap. 33.

4, *George* 4. 1823.

An act for the further preservation of buoys, beacons or sea-marks, set or placed by authority in any harbor, river, creek or bay within this province. Chap. 5.

An act for amending and reducing into one, the several acts now in force relating to the support and management of the poor throughout the province, excepting such parts thereof as relate to their support in the town of Halifax. Chap. 6.

An act in addition to, and amendment of, an act entitled, "an act to regulate the appointment of collectors and other officers of impost and excise." Chap. 9.

An act to enable the proprietors of land in the rear blocks or divisions of land in the township of Guysborough to open roads through the same. Chap. 22.

An act to prevent disorderly riding, and to regulate the driving of carriages on the streets of Halifax or other towns, or on the public roads of this province, and for repealing certain acts therein mentioned. Chap. 23.

An act for the preservation of his majesty's rights in coal mines. Chap. 25.

An act to amend and continue the several acts now in force for regulating the expenditure of monies for the service of roads and bridges. Chap. 30.

4 *and* 5, *George* 4. 1824.

An act to punish persons guilty of maliciously killing or maiming cattle. Chap. 4.

An act to restrain the issuing of writs of attachment in certain cases. Chap. 7.

An act to alter, amend, and continue, an act for consolidating and reducing into one act all the acts heretofore made relating to trespasses. Chap. 8.

An act for the preservation of trout. Chap. 26.

An act in amendment of an act passed in the thirty-fifth year of his late majesty's reign, entitled, "an act to prevent the harboring of deserters from his majesty's army, and the sale of arms, accoutrements and clothing belonging to his majesty." Chap. 34.

An act relating to the court of commissioners at Halifax. Chap. 36.

6, *George* 4. 1825.

An act to prevent the cruel treatment of horses, sheep, or other cattle by persons owning or having the charge of the same. Chap. 22.

An act relating to the terms of the supreme court at Halifax. Chap. 23.

7, *George* 4. 1826.

An act relating to highways, roads, and bridges. Chap. 2.

An act relating to commissioners of highways in Halifax and certain other places. Chap. 3.

An act to authorize the incorporation of a company for working certain mines of iron in the county of Annapolis. Chap. 6.

An act for the more easy recovery of debts against co-partners and joint debtors. Chap. 7.

An act in addition to, and in amendment of, an act made and passed in the thirty-second year of the reign of his late majesty king George the second, entitled, "an act directing the guardianship of minors." Chap. 8.

An act to allow of the bridge at Bridgetown, in the county of Annapolis, being made a drawbridge. Chap. 9.

Chap. 11. An act to provide for the master of the rolls in the court of chancery.
Chap. 18. An act for the relief of Roman catholics.

8, *George* 4.

1827.
Chap. 23. An act in addition to, and amendment of, the act relating to highways, roads, and bridges.
Chap. 26. An act relating to common fields.
Chap. 27. An act to authorize the justices of the peace in the town of Halifax to borrow money on the credit of the town for erecting a suitable stone building as a magazine for the reception of all gunpowder imported and brought into Halifax, and to compel the importers thereof to deposit the same in the magazine.
Chap. 32. An act in amendment of, and in addition to, an act passed in the thirty-sixth year of his late majesty's reign, entitled, "an act to regulate juries."
Chap. 33. An act in addition to, and amendment of, an act passed in the thirty-second year of the reign of his late majesty king George the second, entitled, "an act for the establishment of religious public worship in this province and for suppressing popery," and to repeal the third section of an act entitled, an act for relieving his majesty's subjects professing the popish religion from certain penalties and disabilities imposed on them by the act of the general assembly of this province made in the sixth year of his present majesty's reign, entitled, "an act concerning schools and schoolmasters."

9, *George* 4.

1828.
Chap. 4. An act for establishing the lines and boundaries of several counties and districts in this province.
Chap. 6. An act concerning religious congregations and societies.
Chap. 8. An act for the establishment of a public market in the town of Pictou.
Chap. 11. An act to provide for the regulation and management of the grammar school or academy at Annapolis.
Chap. 12. An act to alter and continue the acts now in force relating to trespasses.
Chap. 13. An act to provide for the payment of certain expenses attending criminal prosecutions.
Chap. 16. An act relating to coroners and their fees.
Chap. 20. An act for the more effectually enforcing the inspection and encouraging the exportation of pickled fish.
Chap. 34. An act to authorize the court of sessions for the county of Shelburne to appoint annually a town officer for the protection of the fish and timber gates on the Barrington river.

10, *George* 4.

1829.
Chap. 26. An act for ascertaining the commencement of the acts of the general assembly.
Chap. 27. An act in further addition to, and in amendment of, the act for the choice of town officers and the regulating of townships.
Chap. 28. An act for affording relief to co-partners in certain cases.
Chap. 29. An act to prevent the sale of spirituous liquors to indians, and to provide for their instruction.
Chap. 30. An act in amendment of the act, entitled, "an act for the more effectually enforcing the inspection and encouraging the exportation of pickled fish."
Chap. 31. An act to provide for the custom house establishment in Nova Scotia.
Chap. 32. An act concerning the common of Halifax.
Chap. 33. An act in addition to, and amendment of, the several acts of this province relating to the office of sheriffs.
Chap. 40. An act in addition to, and amendment of, an act passed in the third year of the reign of his late majesty George the third, entitled, "an act to prevent nuisances by hedges, weirs, and other incumbrances obstructing the passage of fish in the rivers in this province."
Chap. 44. An act for reducing the difficulties and expenses attending suits at law by avoiding the necessity of pleading specially in certain cases.
Chap. 45. An act in further addition to the act relating to highways, roads and bridges.

11, *George* 4.

1830.
Chap. 1. An act for the relief of his majesty's roman catholic subjects in this province.
Chap. 3. An act in amendment of the several acts of this province respecting the surveying of merchantable cod fish.
Chap. 5. An act in addition to, and amendment of, the act to authorize the incorporation of a company for working mines of iron in the county of Annapolis.
Chap. 6. An act to regulate the packing and inspecting of salted beef and pork for exportation.
Chap. 7. An act to regulate the pilotage of vessels at the port of Halifax.
Chap. 8. An act to authorize the congregation of the presbyterian meeting house at Cornwallis to raise money from the pews of the said meeting house, for the repairing and ornamenting thereof.
Chap. 10. An act in further addition to, and in amendment of, the several acts for appointing firewards, ascertaining their duty, and for punishing thefts and disorders at the time of fire.
Chap. 11. An act to amend and continue the acts concerning the bridewell and police in Halifax.

1, *William* 4.

1830–1.
Chap. 4. An act in addition to, and amendment of, the act concerning the common of Halifax.
Chap. 6. An act to regulate the pilotage of vessels at the port of Sydney, in the island of Cape-Breton.
Chap. 12. An act in amendment of the act to regulate the pilotage of vessels at the port of Halifax.
Chap. 18. An act to repeal an act passed in the third year of the reign of his late majesty king George the fourth, entitled, "an act for the greater security of the town of Halifax against fire, and the preventing the erection of wooden buildings beyond a certain height within the same."
Chap. 24. An act concerning the poor house in Halifax.
Chap. 25. An act in amendment of an act made and passed in the first and second years of his late majesty's reign, entitled, "an act to extend the laws and ordinances of the province of Nova-Scotia to the island of Cape-Breton."

2, *William* 4.

1832.
Chap. 3. An act concerning persons licensed to keep public houses or shops, and the duties thereon.
Chap. 7. An act for confirming certain grants of certain dyked marsh lands in Cornwallis.

An act to authorize the commissioners of streets at Halifax to borrow money for certain purposes. Chap. 9.
An act to prevent the spreading of contagious diseases, and for the peformance of quarantine. Chap. 13.
An act more effectually to provide against the introduction of infectious or contagious diseases, and the spreading thereof in this province. Chap. 14.
An act to authorize the erection of a public slaughter house for the use of the town of Halifax. Chap 19.
An act to amend and continue the acts now in force relating to trespasses. Chap. 30.
An act relating to marriage licences. Chap. 31.
An act to regulate certain landings in the county of Annapolis. Chap. 32.
An act additional to the act to regulate the pilotage of vessels at the port of Halifax, and to the act in amendment thereof. Chap. 34.
An act relating to the Lawrencetown river. Chap. 38.
An act to continue the several acts concerning the bridewell and police in Halifax, and to alter and amend the same. Chap. 45.
An act concerning malicious injuries to property. Chap. 48.
An act for the registry of judgments and attachments and confirming titles to lands. Chap. 51.
An act to authorize the congregation of the meeting house at Onslow to raise monies from the pews of the said meeting house for the repairing and ornamenting thereof. Chap. 52.
An act to enable the inhabitants of Windsor to provide monies for procuring a fire engine for the said town. Chap. 54.
An act to continue and amend the acts to authorize the congregation of the presbyterian meeting house at Cornwallis to raise money from the pews of the said meeting house for the repairing and ornamenting thereof. Chap. 55.
An act to establish the limits of the town and peninsula of Halifax. Chap. 56.
An act to alter and amend the act in further addition to and in amendment of the act for the choice of town officers and regulating of townships. Chap. 62.

3, *William* 4. 1833.

An act in further amendment of the acts relating to trespasses. Chap. 3.
An act for continuing the general assembly in case of the death or demise of his majesty, his heirs and successors. Chap. 4.
An act to lessen the expense of the proof of written documents in actions depending in any of the courts within this province. Chap. 13.
An act for the more easy redemption and foreclosure of mortgages. Chap. 19.
An act concerning cemeteries or burial grounds for the town of Halifax. Chap. 32.
An act to establish the boundary lines of the township of Barrington. Chap. 33.
An act to alter and continue the act more effectually to provide against the introduction of infectious or contagious diseases, and the spreading thereof in this province. Chap. 37.
An act to continue, alter, and amend the several acts now in force relative to the inspection of pickled fish. Chap. 39.
An act concerning nuisances. Chap. 40.
An act in amendment of the act for the settlement of the poor in the several townships within this province. Chap. 42.
An act for granting patents for useful inventions. Chap. 45.
An act to authorize the sessions of the peace for the county of Queen's county to make regulations for the gathering of sea manure in the said county. Chap. 46.
An act to establish the township of Argyle and define the limits thereof. Chap. 47.
An act for the appointment of trustees for the public property of the town of Halifax, and for other purposes. Chap. 48.
An act concerning county treasurers. Chap. 49.
An act for amending the practice of the court of chancery, and diminishing the expenses thereof. Chap. 52.
An act for regulating the exportation of red or smoked herrings. Chap. 53.
An act for preventing the multiplicity of law suits. Chap. 58.
An act in addition to, and in explanation of, the acts now in force relative to the extension of the terms of the supreme court at Halifax. Chap. 59.
An act relative to the allowance to collectors of town, county and poor rates at Halifax. Chap. 61.
An act relating to compensation to collectors of poor rates. Chap. 63.
An act to continue and amend the act to prevent the spreading of infectious or contagious diseases and for the performance of quarantine. Chap. 67.
An act respecting stray horses and cattle in the county of King's county, and for enabling the owners thereof to discover the same. Chap. 68.
An act to encourage the killing of bears, loup-cerviers and wild cats. Chap. 70.
An act to prevent the occurrence of diseases from the bite of animals. Chap. 71.

4, *William* 4. 1834.

An act concerning duties on liquors distilled within this province. Chap. 2.
An act respecting actions for the escape of prisoners in certain cases. Chap. 5.
An act to increase the number of fire-men in the town of Halifax. Chap. 6.
An act for applying certain monies therein mentioned for the service of the year of our lord one thousand eight hundred and thirty-four, and for appropriating such part of the supplies granted in this session of the general assembly as are not already appropriated by the laws or acts of this province. Chap. 11.
An act for appointing supervisors to take charge of public grounds, and for other purposes. Chap. 12.
An act in amendment of the several acts relating to the registry of deeds and the conveyances of real estates. Chap. 14.
An act in addition to, and in amendment of, an act made and passed in the thirty-second year of the reign of his late majesty king George the second, entitled, "an act for limitation of actions, and for avoiding suits at law." Chap. 16.
An act to repeal certain acts relating to the meeting house and burying place at Truro, and for substituting other provisions in lieu thereof. Chap. 17.
An act concerning certain notes purporting to be bank notes, for restraining the circulation thereof, and for other purposes. Chap. 21.
An act for the support and regulation of light houses. Chap. 23.
An act in amendment of the act for granting patents for useful inventions. Chap. 26.

Chap. 30. An act to amend the act for extending several acts relating to firewards to the town of Yarmouth.
Chap. 36. An act to prohibit the sale of spirituous liquors in jails, or jail yards and prisons, or within the limits thereof.
Chap. 46. An act for warehousing goods.
Chap. 47. An act for regulating the importation of goods.
Chap. 48. An act concerning goods exported, and for granting drawbacks.
Chap. 49. An act for the general regulation of colonial duties.
Chap. 50. An act for the prevention of smuggling.
Chap. 56. An act for regulating the fishery in the river Shubenacadie.
Chap. 57. An act to limit the income of the collector of impost and excise for the district of Halifax.
Chap. 62. An act for borrowing money for the use of the province.
Chap. 65. An act concerning the real estate of lunatics and idiots.
Chap. 67. An act to authorize the congregation of the presbyterian meeting house at Douglas to raise money from the pews of the said meeting house, for the repairing and ornamenting thereof.
Chap. 68. An act to prevent the clandestine landing of liberated slaves, and other persons therein mentioned, from vessels arriving in this province.
Chap. 69. An act in amendment of the act relating to highways, roads and bridges.
Chap. 71. An act in further amendment of the act concerning the common of Halifax.
Chap. 73. An act for protecting the eastern side of the road leading round the western bank of Bedford Basin.

1834-5. 5, *William* 4.

Chap. 2. An act to facilitate summary proceedings before justices of the peace and others.
Chap. 3. An act for the commutation of the royal quit rents in this province.
Chap. 6. An act to amend the act to regulate the assize of bread.
Chap. 8. An act to incorporate a company for insurance against fire and on lives.
Chap. 11. An act to regulate the survey of timber and lumber, and to repeal certain acts now in force.
Chap. 13. An act to direct and ascertain the mode of assessing county and district rates, and for other purposes.
Chap. 17. An act additional concerning nuisances.
Chap. 18. An act to amend and continue the act more effectually to provide against the introduction of infectious or contagious diseases, and the spreading thereof in this province.
Chap. 23. An act for securing to John Story and his assigns, the exclusive right in a certain slip or railway for the use of vessels.
Chap. 26. An act respecting the offices of master of the rolls and judge of the court of vice admiralty.
Chap. 27. An act concerning suits against foreign bodies politic or corporate, and to repeal the acts now in force.
Chap. 37. An act to divide the county of Halifax, and to regulate the representation thereof.
Chap. 38. An act to continue and amend an act for the prevention of smuggling.
Chap. 40. An act to prevent damage to the nets of fishermen by coasting vessels.
Chap. 42. An act to amend the act for appointing supervisors to take charge of public grounds and for other purposes.
Chap. 44. An act to regulate certain landings in the county of King's county.
Chap. 46. An act to divide the county of Cape-Breton, and to regulate the representation thereof.
Chap. 48. An act relating to certain roads in the upper district of the county of Sydney.
Chap. 55. An act to explain and amend the act concerning rates and assessments on certain diked marsh lands in Cornwallis

1836. 6, *William* 4.

Chap. 2. An act to incorporate the Noel associated plaister and mills company.
Chap. 5. An act to authorize certain persons therein named to erect dams, abutments and piers, across the mouth of moose river, and to grant the right of tide-way thereto and therein.
Chap. 7. An act to amend the act to direct and ascertain the mode of assessing county and district rates, and for other purposes, so far as respects the district of Halifax.
Chap. 8. An act relating to the fisheries, and for the preventon of illicit trade in the province of Nova-Scotia, and the coasts and harbors thereof.
Chap. 11. An act to authorise the congregation of the meeting house at Chester to raise money from the pews of the said meeting house, for the repairing and ornamenting thereof.
Chap. 14. An act to authorize the congregation of a certain meeting house at Shubenacadie to raise money from the pews of the said meeting house, for the repairing and ornamenting thereof.
Chap. 15. An act to enable the congregation of the meeting house at Masstown in Londonderry to raise money from the pews of the said meeting house, for the repairing and ornamenting thereof.
Chap. 21. An act to incorporate the Petite plaister and mills company.
Chap. 22. An act to amend the act to direct and ascertain the mode of assessing county and district rates, and for other purposes.
Chap. 30. An act concerning private acts.
Chap. 39. An act respecting the collection of poors' rates of Pictou.
Chap. 40. An act further to amend the act relating to trespasses.
Chap. 45. An act to authorize the grand jury and the court of sessions in the county of Cumberland, to present and assess money for the erection of a lock-up house in Pugwash, in the said county.
Chap. 48. An act relating to the merchant seament of this province.
Chap. 53. An act to incorporate the King's county woollen cloth and mills company.
Chap. 57. An act to increase the number of commissioners of highways in Pictou.
Chap. 68. An act to amend the act to extend to the town of New Glasgow, in the district of Pictou, the provisions of the act relating to commissioners of highways in Halifax, and certain other places.
Chap. 76. An act to provide for the regulation and management of the grammar school or academy at Sydney, in Cape-Breton.
Chap. 77. An act to amend the act for securing to John Story and his assigns, the exclusive right in a certain slip or railway, for the use of vessels.
Chap. 79. An act to divide the county of Sydney, and to regulate the representation thereof.
Chap. 82. An act to incorporate the Kennetcook mills company.
Chap. 85. An act to amend and repeal certain provisions in the act concerning cemeteries or burial grounds in the town of Halifax.
Chap. 86. An act relative to executions issuing from the supreme court of this province.

An act to erect the county of Shelburne into two separate and distinct counties, and to regulate the representation thereof. Chap. 88.
An act for the better regulation of barristers, advocates, attornies, solicitors and proctors practising in the courts of this province. Chap. 89.
An act to incorporate the Annapolis steamboat company. Chap. 90.
An act for the better protection of the property of merchants and others who may hereafter enter into contracts or agreements in relation to goods, wares, or merchandize entrusted to factors or agents. Chap. 94.

7, *William* 4. 1837.

An act for establishing and regulating ferries, and to repeal the act now in force. Chap. 11.
An act in amendment of the act to incorporate the Petite plaister and mills company. Chap. 12.
An act to authorize the grand jury and court of sessions in the county of Pictou to present and assess monies for the erection of a lock-up-house in New Glasgow, in the said county. Chap. 13.
An act in addition to, and amendment of, an act made and passed in the fifth year of his majesty's reign, entitled, "an act to incorporate a company for insurance against fire and on lives." Chap. 14.
An act for granting duties on licenses for the sale of spirituous liquors. Chap. 15.
An act for granting duties on licenses for the sale of spirituous liquors and for sales by auction to persons resident in the town of Halifax. Chap. 28.
An act to amend the act for recovering debts from absent or absconding debtors. Chap. 29.
An act to continue, alter and amend the several acts now in force relative to the inspection of pickled fish. Chap. 44.
An act to amend the act concerning persons licensed to keep public houses or shops, and the duties thereon. Chap. 48.
An act to regulate the fishery of Saint Mary's Bay, in the county of Annapolis. Chap. 49.
An act to revive, as to the town of Halifax, the act to regulate the assize of bread. Chap. 50.
An act for placing the bridge at Bridgetown under the direction of the commissioners of highways for Bridgetown. Chap. 51.
An act to incorporate the Halifax whaling company. Chap. 52.
An act in amendment of the act for the more easy redemption and foreclosure of mortgages. Chap. 53.
An act for providing fire engines for the town of Yarmouth, and for other purposes. Chap. 57.
An act to repeal an act in addition to and amendment of an act for the choice of town officers and regulating of townships, and to revive an act in further addition to and amendment of the several acts for the choice of town officers and the regulating of townships. Chap. 61.
An act to render less dangerous the navigation of the Gulf of Saint Lawrence by erecting light houses on the islands of Saint Paul and Scatarie, and for the support and maintenance thereof. Chap. 63.
An act to enable members of the house of assembly about to leave the province, or unable from indisposition to attend their duty, to resign their seats therein. Chap. 64.
An act to extend to the counties of Sydney and Guysborough the act respecting stray horses and cattle in the county of King's county, and for enabling the owners thereof to discover the same. Chap. 75.
An act to amend the act concerning cemeteries or burial grounds in the town of Halifax. Chap. 76.
An act to divide the county of Annapolis and to regulate the representation thereof. Chap. 89.
An act for the quiet of the subjects in their possession of lands, tenements and hereditaments within this province. Chap. 95.

1, *Victoria.* 1838.

SESSION 1.

An act to incorporate the Halifax marine insurance company. Chap. 2.
An act further to amend the act concerning cemeteries or burial grounds in the town of Halifax. Chap. 17.
An act to prevent injury to the fisheries in the county of Lunenburg by mill dams or any other obstruction. Chap. 18.
An act to enable a company called the Bank of British North America to sue and be sued in the name of any one of the local directors, or of the manager for the time being, of the said company in this province. Chap. 24.
An act to enable the proprietors of a certain island at Pubnico, called John's island, to divide the same. Chap. 36.
An act to establish that part of the township of Clements lying in the county of Digby into a separate township. Chap. 38.
An act respecting the firemen of the town of Halifax. Chap. 43.
An act to repeal the act to regulate the public landing at Windsor, and to substitute other provisions in lieu thereof. Chap. 49.
An act respecting the travelling fees of constables, in certain cases Chap. 61.
An act to establish the county or shire town in the county of Digby. Chap. 62.

SESSION 2.

An act respecting the culling of dry fish. Chap. 2.
An act to establish the standard weight of grain, and to repeal the enactments now in force. Chap. 4.
An act in further amendment of the act to regulate the expenditure of monies hereafter to be appropriated for the service of roads and bridges. Chap. 7.
An act for altering the representation in general assembly, as respects the county of Inverness. Chap. 8.
An act to enable the inhabitants of the town of Lunenburg to procure a fire engine, with other utensils and materials necessary for extinguishing fires. Chap. 10.
An act for the better regulation of Sable Island, in this province. Chap. 12.
An act to increase the number of engine-men in the town of Halifax. Chap. 27.
An act to continue the act to direct and ascertain the mode of assessing county and district rates, and for other purposes, and the acts in amendment thereof. Chap. 35.

2, *Victoria.* 1839.

An act to establish the rate of tare upon sugar. Chap. 6.
An act to continue and alter the act for granting duties on licenses for the sale of spirituous liquors. Chap. 7.
An act to continue and alter the act for granting duties on licenses for the sale of spirituous liquors, and for sales by auction in Halifax. Chap. 8.

Chap. 10. An act in amendment of the act to regulate the packing of salted beef and pork for exportation.
Chap. 14. An act in further addition to the several acts now in force respecting poors' rates.
Chap. 16. An act to enable the inhabitants of Cornwallis to provide a public town house for that township.
Chap. 17. An act to provide a lock-up house at River John, in the county of Pictou.
Chap. 18. An act to authorize the grand jury and court of sessions in the county of Colchester, to present and assess monies for the erection of a lock-up house in Tatamagouche, in the said county.
Chap. 22. An act to alter the limits of the jurisdiction of the commissioners of highways in Lunenburg.
Chap. 23. An act for setting off part of the township of Saint Mary's into a separate township.
Chap. 24. An act for improving the administration of criminal justice.
Chap. 25. An act additional to, and in further amendment of, the act concerning cemeteries or burial grounds in the town of Halifax.
Chap. 27. An act to incorporate the moose river mills company.
Chap. 28. An act to change the name of the Petite plaister and mills company.
Chap. 31. An act for regulating the trial of controverted elections or returns of members to serve in general assembly.
Chap. 35. An act for regulating returns of members to serve in general assembly.
Chap. 36. An act for securing copy-rights.
Chap. 38. An act for establishing a harbor master at Bridgeport, in the island of Cape-Breton.
Chap. 39. An act to make the stealing of dogs, beasts and birds, larceny.
Chap. 41. An act in further amendment of, and additional to, the acts relating to trespasses.
Chap. 42. An act respecting inspectors of pickled fish and guagers of fish oil.
Chap. 43. An act to continue and amend the act in further addition to, and in amendment of, the act for the choice of town officers, and regulating of townships, and the act to alter and amend the same.
Chap. 63. An act to continue and further to amend the act to direct and ascertain the mode of assessing county and district rates and for other purposes, and the act in amendment thereof.

1840. 3, *Victoria.*

Chap. 4. An act for limiting the duration or continuance of the general assembly.
Chap. 9. An act for enabling persons indicted for felony to make their defence by counsel.
Chap. 11. An act to continue and amend the act for appointing supervisors to take charge of public grounds, and for other purposes.
Chap. 12. An act to establish sundry regulations for the future disposal of crown lands in the province of Nova Scotia.
Chap. 14. An act in further amendment of the act to regulate the packing and re-packing of salted beef and pork for exportation.
Chap. 15. An act to divide the township of Parrsborough, and to annex parts thereof to the counties of Colchester and Cumberland respectively.
Chap. 18. An act to regulate and prevent injury to rail roads.
Chap. 19. An act to regulate the shad fishery in the county of Cumberland.
Chap. 20. An act for providing fire engines for the town of Bridgetown, and for other purposes.
Chap. 21. An act to amend the act to extend to the town of Dartmouth the act relating to the commissioners of highways in Halifax and certain other places.
Chap. 23. An act to regulate the Gaspereau and salmon fishery in Horton.
Chap. 25. An act concerning wills.
Chap. 26. An act to regulate certain landings in the county of Digby.
Chap. 29. An act to divide and set off the township of Saint Mary's, in the county of Guysborough, as a separate and distinct district.
Chap. 32. An act to incorporate an hotel company in Halifax.
Chap. 33. An act to authorize the sale of the real estate lying on the peninsula of Halifax, commonly called the "Old Blue Bell Farm."
Chap. 34. An act to authorize the congregation of the meeting house at Tusket Village to raise monies from the pews of the said meeting house for the repairing and ornamenting thereof.
Chap. 37. An act to authorize the congregation of the meeting house in the town of Yarmouth, near the parade, to raise monies from the pews of such meeting house for the repairing and ornamenting thereof.
Chap. 39. An act to regulate the fencing of the marsh at Pubnico.
Chap. 40. An act to preserve the harbor of Cape Forchu, in Yarmouth.
Chap. 41. An act to provide for building a bridewell.
Chap. 42. An act to vacate the seats of members on the acceptance of certain offices of place or emolument under the crown.
Chap. 43. An act to incorporate the Bay of Fundy steam navigation company.
Chap. 44. An act to continue and amend the act in further addition to and in amendment of the act for the choice of town officers and regulating of townships, and the acts to alter and amend the same.
Chap. 47. An act in addition to an act, entitled, "an act additional to and in further amendment of the act concerning cemeteries or burial grounds in the town of Halifax."
Chap. 54. An act to amend the act to establish the county or shire town in the county of Digby.
Chap. 55. An act in addition to the act to divide the county of Annapolis, and to regulate the representation thereof.

1841. 4, *Victoria.*

Chap. 2. An act for the encouragement of agriculture and rural economy in this province.
Chap. 3. An act to improve the administration of the law and to reduce the number of courts of justice within this province, and to diminish the expense of the judiciary therein.
Chap. 4. An act for improving the administration of justice in criminal cases in this province.
Chap. 5. An act to amend the law relating to burning or destroying buildings and ships.
Chap. 6. An act for amending the law relative to offences against the person.
Chap. 7. An act to amend the laws relating to robbery, burglary and larceny.
Chap. 8. An act to abolish the punishment of pillory, cutting the ears of offenders, and whipping, and to substitute imprisonment in lieu thereof.
Chap. 9. An act to prevent a failure of justice by reason of variances between records and writings produced in evidence in support thereof.
Chap. 10. An act in addition to, and amendment of, an act passed during the present session of the general

assembly, entitled, "an act to improve the administration of the law, and to reduce the number of courts of justice within the province, and to diminish the expense of the judiciary therein.

An act further to amend the act to improve the administration of the law, and to reduce the number of courts of justice within this province, and to diminish the expense of the judiciary therein. Chap. 11.

An act to set off north Sydney as a separate township. Chap. 12.

An act concerning the court of marriage and divorce. Chap. 13.

An act for making regulations to prevent dogs going at large in certain cases. Chap. 15.

An act for the protection of lake porter bridge. Chap. 16.

An act in addition to, and in amendment of, an act entitled, "an act to incorporate the Petite plaister and mills company," and the acts passed in amendment thereof. Chap. 21.

An act further to amend the acts respecting registry of deeds. Chap. 23.

An act for the suppression of lotteries. Chap. 25.

An act respecting the number of assessors of poors' rates for Pictou. Chap. 27.

An act to authorize the congregation of the baptist meeting house at Pleasant Valley, in Cornwallis, to raise monies from the pews of the said meeting house, for the repairing and ornamenting thereof. Chap. 28.

An act to enable grand juries and courts of session to make compensation to sheriffs in certain cases. Chap. 31.

An act to amend the act to divide the township of Parrsborough, and to annex parts thereof to the counties of Colchester and Cumberland respectively. Chap. 41.

An act to extend to the township of Egerton the act respecting poors' rates of Pictou, and to amend the said act. Chap. 42.

An act to set off Weymouth into a separate township. Chap. 44.

An act to amend the act to regulate certain landings in the county of Digby. Chap. 46.

An act to alter the laws for making lands liable for the payment of debts. Chap. 49.

An act to provide a lock-up house and a town house at Barrington, in the county of Shelburne. Chap. 53.

An act to amend the act for providing fire engines for the town of Yarmouth, and for other purposes. Chap. 54.

An act to provide hay scales, and weights and measures, for the township of Lunenburg. Chap. 59.

An act to amend the act to enable the inhabitants of Cornwallis to provide a public town house for that township. Chap. 61.

An act for regulating the militia. Chap. 108.

5, *Victoria.* 1842.

An act for regulating the currency of this province. Chap. 8.

An act to alter the sittings of the general sessions of the peace for the several counties therein mentioned. Chap. 10.

An act to revive the act to amend the act to regulate the assize of bread. Chap. 11.

An act to continue and amend the act to regulate the pilotage of vessels at the port of Sydney, in the island of Cape-Breton, and to repeal certain acts relative thereto. Chap. 15.

An act to provide for the instruction and permanent settlement of the Indians. Chap. 16.

An act for the more effectually preventing embezzlements by persons employed in the public service of her majesty. Chap. 17.

An act to prevent delay in the administration of justice in cases of misdemeanor. Chap. 18.

An act additional to the act for amending the law relative to offences against the person. Chap. 19.

An act to amend the law relating to forgery. Chap. 20.

An act to amend the law against offences relating to the coin. Chap. 21.

An act relating to the courts of probate, and to the settlement and distribution of the estates of deceased persons. Chap. 22.

An act to authorize the congregation of the baptist meeting house at Argyle, to raise monies from the pews of the said meeting house, for the repairing and ornamenting thereof. Chap. 23.

An act to amend the acts for the encouragement of schools. Chap. 24.

An act respecting teachers of schools. Chap. 26.

An act to extend to the meeting house at Folly Village the provisions of an act relating to the meeting house at Mass Town, and to amend the said act. Chap. 27.

An act to provide a lock-up house and town house at Chester. Chap. 29.

An act in addition to, and amendment of, the act relating to highways, roads and bridges. Chap. 30.

An act to authorize the congregation of the presbyterian meeting house at Cheboque to raise monies from the pews of the said meeting house, for the repairing and upholding thereof. Chap. 32.

An act for the summary trial of actions before justices of the peace. Chap. 33.

An act to amend the acts respecting the collection of poors' rates of Pictou and Egerton. Chap. 34.

An act to continue and amend the act to prevent disorderly riding, and to regulate the driving of carriages on the streets of Halifax, or other towns, or on the public roads of this province, and for repealing certain acts therein mentioned. Chap. 35.

An act to establish a session house and lock-up house at Bridgetown, and to repeal a certain act therein mentioned. Chap. 36.

An act to revive and continue the acts for the support and regulation of light houses. Chap. 39.

An act relative to public exhibitions. Chap. 40.

6, *Victoria.* 1843.

An act to continue and amend the acts for granting duties on licenses for the sale of spirituous liquors, and sales by auction in Halifax. Chap. 8.

An act to alter an act, entitled, "an act to improve the administration of the law, and to reduce the number of courts of justice within this province, and to diminish the expense of the judiciary therein. Chap. 9.

An act to amend the act for regulating election of members to serve in general assembly. Chap. 11.

An act to provide for an additional sitting of the general sessions of the peace in King's county. Chap. 14.

An act to authorize the proprietors of meeting houses or churches to raise monies from the pews of the same, for the repairing and upholding thereof. Chap. 15.

An act to authorize the grand jury and court of general sessions of the peace for the county of Lunenburg, to make regulations for the gathering of sea manure, in the township of Chester. Chap. 16.

An act to extend the privileges of the fire-engine men of Halifax. Chap. 18.

An act for making regulations relative to the setting of snares for catching moose. Chap. 19.

Chap. 20. An act to amend the act to provide a lock-up house and town house at Barrington, in the county of Shelburne.
Chap. 22. An act respecting the measuring of grind-stones in the county of Cumberland.
Chap. 24. An act for disposing of old roads.
Chap. 25. An act in addition to, and in amendment of, the act relating to the courts of probate, and to the settlement and distribution of the estates of deceased persons.
Chap. 26. An act for dividing the township of Digby into separate districts for the support of the poor.
Chap. 27. An act for dividing the township of Digby into separate districts for the support of the poor.
Chap. 32. An act to incorporate the Halifax mechanics' whaling association.
Chap. 33. An act relative to the appropriation of the license duties in the town of Sydney.
Chap. 36. An act to regulate the practice of the courts of probate within this province.
An act in further addition to, and amendment of, the several acts now in force concerning cemeteries or burial grounds in the town of Halifax.
Chap. 37. An act for setting off a part of the township of Egerton, as a separate district for the support of the poor.
Chap. 40. An act to enable the trustees of the Sydney academy, in the county of Cape-Breton, to raise money for the completion of the same.
Chap. 45. An act to continue and amend the act to establish sundry regulations for the future disposal of crown lands in the province of Nova Scotia.
Chap. 46. An act continuing and amending the acts granting duties on licensed houses.
Chap. 48. An act to extend to the town of Dartmouth the act to amend the act to regulate the assize of bread.
Chap. 51. An act further concerning firewards and fires in Halifax.

1844. 7, *Victoria.*

SESSION 1.

Chap. 3. An act for the government and regulation of the provincial penitentiary.
Chap. 7. An act for the regulation of the salmon fishery in the River Saint Mary's, in the county of Guysborough.
Chap. 9. An act to enable the inhabitants of Liverpool, in Queen's county, to provide monies for procuring a fire engine for said town.
Chap. 10. An act to amend the act to provide for the regulation and management of the grammar school or academy at Sydney, in Cape Breton.
Chap. 11. An act to exempt certain officers and persons employed in her majesty's ordnance department, dockyard, victualling and naval hospital establishments at Halifax, from working on highways and discharging other civil duties.
Chap. 42. An act relative to the performance of statute labor on highways.
Chap. 47. An act in addition to the law concerning courts of probate.
Chap. 48. An act to provide for an additional sitting of the court of general sessions of the peace at Guysborough, and for other purposes.
Chap. 52. An act to alter the sittings of the general sessions of the peace for the county of Annapolis.
Chap. 56. An act to amend the act for the instruction and permanent settlement of the indians.
Chap. 57. An act to provide two lock-up-houses and two town houses for the county of Inverness.
Chap. 58. An act further to amend the act for regulating elections of members to serve in general assembly.
Chap. 59. An act to provide for erecting a new bridge across the Liverpool River at Milton, and for the repair of the road leading from thence to Middlefield.
Chap. 60. An act to prevent damage to the nets of fishermen in Chedabucto bay.
Chap. 64. An act to repeal certain clauses of the act relating to commissioners of highways in Halifax and certain other places, and also to amend the said act.
Chap. 68. An act relative to certain streets in the town of Guysborough.
Chap. 69. An act for dividing the township of Pictou into separate districts for the support of the poor.
Chap. 70. An act further to amend an act to preserve and regulate the navigation of the harbor of Pictou.
Chap. 71. An act to amend the act for amending the law relative to offences against the person.
Chap. 73. An act for the preservation of moose.
Chap. 74. An act to authorize the sale of the old court house and jail at Arichat and the lot of land on which it stands, and the purchase of a new site therefor, and for other purposes.
Chap. 75. An act to authorize the sessions of the peace for the county of Halifax to make regulations for the gathering of sea manure in the said county.
Chap. 76. An act to provide an additional sittings of the general sessions of the peace in the county of Inverness.

SESSION 2.

Chap. 2. An act to amend the act to provide for an additional sittings of the general sessions of the peace at Guysborough, and for other purposes.

1845. 8, *Victoria.*

Chap. 2. An act to regulate the issuing of commissions and the taking of depositions in the supreme court.
Chap. 4. An act to divide the township of Douglas into separate districts for the support of the poor.
Chap. 5. An act to amend the act respecting stray horses and cattle in Kings county.
Chap. 6. An act to amend the act for determining differences by arbitration, and to render references to arbitration more effectual.
Chap. 7. An act to amend the act for dividing the township of Pictou into separate districts for the support of the poor.
Chap. 9. An act to authorize the sessions of the peace for the county of Digby to make regulations for the gathering of sea manure in the township of Digby.
Chap. 10. An act in relation to trials of summary causes in the supreme court.
Chap. 11. An act to make regulations to prevent geese going at large.
Chap. 12. An act further in relation to the acts for affording relief to poor settlers.
Chap. 15. An act to continue and amend the act for regulating the importation of goods.
Chap. 16. An act to continue and amend the act for the prevention of smuggling.
Chap. 17. An act to continue and amend the act for the general regulation of colonial duties.
Chap. 18. An act to continue and amend the act for the warehousing of goods.
Chap. 19. An act to amend the act concerning duties on liquors distilled within this province.

An act to continue and amend the act concerning goods exported, and for granting drawbacks. Chap. 21.
An act concerning the support and regulation of light houses. Chap. 22.
An act to continue and amend the acts to regulate the pilotage of vessels at the port of Halifax. Chap. 28.
An act to revive, continue and alter the act in amendment of the acts relating to highways, roads and bridges. Chap. 29.
An act for supplying the city of Halifax with water. Chap. 31.
An act to incorporate the atlantic marine insurance company. Chap. 32.
An act to incorporate the Cole Harbor dike company. Chap. 33.
An act for taxing dogs in certain parts of the city of Halifax. Chap. 35.
An act for the encouragement of agriculture and rural economy in this province. Chap. 37.
An act to divide the township of Maxwelton into separate districts for the support of the poor. Chap. 39.
An act to preserve and regulate the navigation of the harbor of Antigonishe. Chap. 40.
An act for setting off a part of the township of Sherbrooke, in the district of Saint Mary's, as a separate district for the support of the poor. Chap. 41.
An act in amendment of the act for the regulation of the provincial penitentiary. Chap. 42.
An act for the regulation of prisons. Chap. 43.
An act to make provision for a harbor-master at Spanish River, in the county of Cape Breton. Chap. 45.
An act to amend the act concerning the performance of statute labor on the highways. Chap. 46.
An act to encourage the killing of wolves. Chap. 47.
An act to incorporate agricultural societies. Chap. 49.
An act to continue and amend the act for the summary trial of actions before justices of the peace. Chap. 51.
An act to continue and amend the acts in amendment of the acts for the choice of town officers and the regulating of townships. Chap. 53.

9, *Victoria.* 1846.

An act in relation to the expenditure of the public monies on the highways. Chap. 1.
An act to amend the act to establish the boundary lines of the township of Barrington. Chap. 4.
An act in amendment of the act for providing fire engines for the town of Yarmouth, and for other purposes. Chap. 5.
An act to continue and amend the acts to establish sundry regulations for the future disposal of crown lands within the province of Nova Scotia. Chap. 6.
An act further to amend the act to regulate certain landings in the county of Digby. Chap. 7.
An act in relation to loans out of the road monies for the present year. Chap. 10.
An act for the appointment of commissioners of sewers. Chap. 11.
An act for relieving insolvent debtors from imprisonment. Chap. 12.
An act in relation to bastard children. Chap. 13.
An act in relation to the treasury notes, the funded debt, and the Halifax savings bank. Chap. 14.
An act to alter the terms or sittings of the supreme court on the western circuit. Chap. 15.
An act for the regulation of sheriff's fees. Chap. 16.
An act to amend the act to encourage the killing of wolves. Chap. 17.
An act to amend the act relating to commissioners of sewers, so far as respects the Wickwire dike at Horton. Chap. 19.
An act relative to the boundary line between the counties of Shelburne and Yarmouth. Chap. 20.
An act to amend the act to divide the township of Maxwelton into separate districts for the support of the poor. Chap. 21.
An act relating to the appraisement and sale of property taken under attachment. Chap. 22.
An act to disable certain persons from holding seats in the executive or legislative council or house of assembly within this province. Chap. 23.
An act in relation to the conveyance of lands by married women. Chap. 24.
An act to continue and amend the act in relation to trials of summary causes in the supreme court. Chap. 25.
An act relating to the general sesions of the peace in the county of Inverness. Chap. 27.
An act to prevent coasting on the highways. Chap. 28.
An act to authorize the conveyance of lands for the benefit of schools. Chap. 29.
An act in relation to roads over the ice. Chap. 30.
An act to alter the act for the encouragement of schools. Chap. 31.
An act in addition to the act to improve the administration of the law. Chap. 33.
An act to provide for the running of division lines between different counties. Chap. 34.
An act to incorporate the Liverpool marine insurance company. Chap 35.
An act to regulate the weighing and selling of beef. Chap. 38.
An act in relation to the carting of deals and timber on certain roads in the county of Cumberland. Chap. 39.
An act to continue and amend the act concerning duties on liquors distilled within this province, and also further to amend the same. Chap. 40.
An act to continue and amend the act in relation to barristers and attornies. Chap. 42.
An act further to amend the act concerning the performance of statute labor on the highways. Chap. 45.
An act to amend and explain the act to alter the laws for making lands liable for the payment of debts. Chap. 46.
An act to continue and amend the act for regulating the fishery in the river Shubenacadie. Chap. 47.
An act to define and establish the lines of the township of Dartmouth. Chap. 49.
An act further to amend the criminal law. Chap. 50.
An act in relation to promissory notes or undertakings payable in produce or otherwise than in money. Chap. 52.
An act further to amend the act for the encouragement of schools. Chap. 53.
An act to continue and amend the act for appointing supervisors to take charge of public grounds, and for other purposes. Chap. 54.
An act to incorporate the commissioners of the poor for the town and peninsula of Halifax. Chap. 55.
An act to incorporate the Nova-Scotia western steam navigation company. Chap. 56.

10, *Victoria.* 1847.

An act to improve the law relating to the election of representatives to serve in the general assembly. Chap. 1
An act to prevent the fraudulent making of false and pretended conveyances of lands or interests therein. Chap. 4.

Chap. 6. An act relative to the sittings of the supreme court and general sessions of the peace in the county of Shelburne.
Chap. 7. An act relating to the laws of the province.
Chap. 9. An act to amend the act for the summary trial of actions before justices of the peace.
Chap. 10. An act to prevent obstructions to the ferry across the harbor of Halifax.
Chap. 11. An act to amend the act relating to marriage licences.
Chap. 19. An act to continue and amend the acts for granting duties on licences for the sale of spirituous liquors.
Chap. 21. An act to exclude incompetent persons from the practice of physic and surgery.
Chap. 25. An act relative to the general sessions of the peace in the county of Cape-Breton.
Chap. 26. An act to alter the sittings of the general sessions of the peace for Queen's County.
Chap. 28. An act to regulate the harbor of Saint Mary's.
Chap. 32. An act in further addition to the act relating to highways, roads and bridges.
Chap. 33. An act for appointing trustees for public property in the county of Colchester.
Chap. 35. An act to prevent coasting on the highways.
Chap. 36. An act to amend the acts to regulate the pilotage of vessels, at Sydney, Cape-Breton.
Chap. 38. An act to provide for the opening of a new line of road from Dartmouth to the settlements on the eastern shore.
Chap. 40. An act further to alter the acts respecting the collection of poors' rates in the township of Pictou.
Chap. 41. An act respecting the collection of poors' rates in the third section of the township of Piciou.
Chap. 42. An act to establish the tolls to be taken at grist mills.
Chap. 43. An act in relation to the support of the poor in certain parts of the township of Egerton.
Chap. 46. An act relating to streets and highways in certain towns and places therein named.
Chap. 48. An act relating to the crown land department of this province.
Chap. 50. An act to provide for the partition of certain lands in the township of Barrington
Chap. 51. An act to incorporate the Londonderry mining association of Nova-Scotia.
Chap. 52. An act to incorporate the Nova-Scotia fire insurance company.
Chap. 59. An act relative to the sittings of the general sessions of the peace in the county of Digby.
Chap. 61. An act in addition to, and alteration of, the acts for establishing regulations for the disposal of crown lands within this province.
Chap. 64. An act to establish the boundary line between the counties of Cape-Breton and Richmond.
Chap. 94. An act to continue the act to enable the proprietors of lands in the rear blocks or divisions of lands in the township of Guysborough to open roads through the same.
Chap. 96. An act to continue the act to provide against the occurrence of diseases from the bite of animals.
Chap. 98. An act to continue the act to encourage the killing of bears, loup-cerviers and wild cats.

1848. 11, *Victoria.*

Chap. 7. An act to continue and amend the act to prevent obstructions to the ferry across the harbor of Halifax.
Chap. 9. An act to regulate the importation of books and to protect the British author.
Chap. 12. An act in further amendment of the act concerning the performance of statute labor on the highways.
Chap. 13. An act further to amend the act for the summary trial of actions before justices of the peace.
Chap 14. An act in further amendment of the act for the encouragement of schools.
Chap. 15. An act to set off a part of the township of Shelburne as a separate district for the support of the poor.
Chap. 16. An act concerning the act relating to highways, roads and bridges.
Chap. 21. An act to render the judges of the supreme court and the master of the rolls independent of the crown, and to provide for their removal.
Chap. 22. An act to provide for the more accurate audit and inspection of public accounts in this province, and for the appointment of certain public officers therein.
Chap. 23. An act relating to the crown land department of this province.
Chap. 24. An act to commute the crown revenues of Nova Scotia, and to provide for the civil list thereof.
Chap. 25. An act to authorize assessments for the relief of distressed settlers in certain cases.
Chap. 27. An act relating to the naturalization of aliens in this province.
Chap. 29. An act to continue and alter the acts for granting duties on licenses for the sale of spirituous liquors.
Chap. 30. An act in amendment of the act to establish the toll to be taken at grist mills.
Chap. 31. An act to amend the act to make provision for a harbor master at Spanish River, Cape Breton.
Chap. 32. An act to continue and alter the act to regulate the harbor of Saint Mary's.
Chap. 33. An act for the regulation of the salmon fishery in the rivers of this province.
Chap. 34. An act for the regulation of juries.
Chap. 36. An act to limit the responsibility of copartners in certain cases.
Chap. 37. An act to amend the act to facilitate proceedings before justices of the peace and others.
Chap. 38. An act to continue the act additional concerning nuisances.
Chap. 41. An act for altering and improving the practice of the supreme court.
Chap. 42. An act to regulate immigrant vessels and passengers.
Chap. 44. An act for regulating the court house ground at Amherst, in the county of Cumberland.
Chap. 45. An act for the regulation of the county jail at Halifax.
Chap. 47. An act to provide for the building of Wallace bridge.
Chap. 48. An act relating to Grenough's ferry, in the county of Richmond.
Chap. 50. An act to authorize the grand juries in the counties of Halifax and Pictou to assess said counties for the erection of hospitals therein.
Chap. 51. An act additional to the act to regulate certain fisheries in the county of King's county.
Chap. 53. An act to continue the act to extend to the town of Dartmouth the act to amend the act to regulate the assize of bread.
Chap. 55. An act to continue the acts to regulate the pilotage of vessels at the port of Halifax.
Chap. 56. An act to continue the act to direct and ascertain the mode of assessing county and district rates and for other purposes, and the acts in amendment thereof.
Chap. 57. An act to continue the act relative to the courts of probate, and to the settlement and distribution of the estates of deceased persons.
Chap. 58. An act to continue the act to make regulations to prevent geese going at large.
Chap. 59. An act to continue the act for dividing the township of Digby into separate districts for the support of the poor.

An act to continue the act in relation to the expenditure of public monies on the highways. Chap. 60.
An act to continue the act to incorporate agricultural societies. Chap. 61.
An act to continue the acts now in force relating to trespasses. Chap. 62.
An act to continue the acts in force relative to the inspection of pickled fish. Chap. 63.
An act to continue the act relating to marriage licenses. Chap. 64.
An act to continue the act in relation to the gathering of sea manure in the township of Digby. Chap. 66.

12, *Victoria.* 1849.

An act for transfering the crown revenues of Nova Scotia, and providing for the civil list thereof. Chap. 1.
An act for the amendment of the law, and the better advancement of justice. Chap. 2.
An act to amend the law relating to the appointment of sheriffs. Chap. 3.
An act in further amendment of the acts respecting county rates. Chap. 6.
An act for enabling the commissioners for erecting and building the trunk line of railway from Halifax to Quebec, to construct the same within the limits of this province. Chap. 9.
An act in further amendment of the acts for the more easy redemption and foreclosure of mortgages. Chap. 13.
An act to consolidate the acts respecting the incorporation of the city of Halifax. Chap. 14.
An act to regulate the inspection of pickled fish. Chap. 15.
An act for the division of districts for the support of the poor. Chap. 16.
An act to amend the acts concerning the performance of statute labor on the highways. Chap. 17.
An act further in addition to the acts relating to highways, roads and bridges. Chap. 18.
An act to continue and amend the law regulating the survey of timber, lumber and shingles. Chap. 20.
An act for improving the law of evidence. Chap. 21.
An act further to improve the administration of the law. Chap. 22.
An act relative to the rendering by bail of their principal. Chap. 23.
An act concerning the act for the regulation of juries. Chap. 24.
An act to enable the inhabitants of the county of King's County to re-build their court house and jail, lately destroyed by fire. Chap. 25.
An act relating to certain harbors and pilotage thereat. Chap. 26.
An act respecting suits against collectors of poor rates. Chap. 27.
An act to abolish fees of the clerks of the peace. Chap. 28.
An act further to amend the act for the appointment of commissioners of sewers. Chap. 29.
An act relating to the roman catholic cemetery in Halifax. Chap. 30.
An act to authorize the sale of the court house and jail grounds at Shelburne, and the purchase of a new site therefor. Chap. 32.
An act to alter the representation of the county of Colchester. Chap. 33.
An act additional to the act for providing fire engines for the town of Yarmouth. Chap. 34.
An act to authorize assessments for the support of ferries. Chap. 35.
An act to authorize a loan for the use of the province. Chap. 37.
An act to incorporate the Chebucto marine insurance company. Chap. 38.
An act to incorporate the British North American electric telegraph association in the province of Nova-Scotia. Chap. 39.
An act to regulate the pier or wharf at Everett's landing in the township of Weymouth. Chap. 46.
An act to continue the act for the encouragement of agriculture and rural economy in this province. Chap. 65.

13, *Victoria.* 1850.

An act to alter the Halifax corporation act. Chap. 4.
An act to divide the county of Halifax into townships, and to confer certain municipal privileges upon the inhabitants thereof. Chap. 5.
An act to amend the act to regulate the inspection of pickled fish. Chap. 6.
An act for the weighing of flour. Chap. 7.
An act for taking the census of the province, and obtaining statistical information. Chap. 8.
An act to facilitate legal proceedings against companies doing business by agents in this province. Chap. 10.
An act relating to the court house and jail at Kentville. Chap. 12.
An act to authorize her majesty's subjects to plead and reason for themselves or others, in all her majesty's courts within this province. Chap. 13.
An act for the laying out of certain great roads. Chap. 14.
An act to provide for expenses of boards of health and of vaccination. Chap. 15.
An act to enable the governor in council to make orders for establishing an uniform rate of postage in Nova Scotia and regulating a postal arrangement with other countries. Chap. 16.
An act further to amend the law relating to courts of probate. Chap. 17.
An act concerning the registrars of deeds. Chap. 18.
An act concerning school lands and the appointment of trustees therefor. Chap. 19.
An act relative to the support of the poor. Chap. 20.
An act to prevent the introduction of convicted felons into this province. Chap. 22.
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[PASSED 31ST MARCH, A. D. 1851.

SUPPLEMENT

TO

THE REVISED STATUTES,

CONTAINING:

THE PUBLIC GENERAL ACTS PASSED SUBSEQUENTLY DURING THE SAME SESSION.

AN ACT TO EXTEND THE ELECTIVE FRANCHISE.

Passed 7th April, 1851.

Qualification of electors.

Be it enacted, &c.—1. Every elector in any election of members to serve in general assembly hereafter to be held in this province, shall be a male, twenty-one years of age, and be qualified as is by law now required, or shall have been assessed for and paid in the year next preceding such election poor or county rates in the county for which he shall vote; and every such person shall be entitled to vote for the county and the township within the county in which his assessment shall have been enrolled.

Penalty for illegal assessment.

2. If any assessor of poor or of county rates shall knowingly assess any person not legally liable for such rates, or knowingly omit to assess any person who is legally liable therefor, he shall be guilty of a misdemeanor, and be punished by fine not less than ten pounds, or imprisonment at the discretion of the court.

Collector to return assessment roll to clerk of peace.

3. It shall be the duty of every collector of county rates to return to the clerk of the peace the assessment roll furnished him, and to certify thereon the names of all such persons as have paid their rates, whether voluntarily or under warrant of distress. The return of the assessment for the year one thousand eight hundred and fifty shall be made within sixty days from the passing of this act, and of the assessments for the present and succeeding years, within thirty days after the time now allowed by law for making such returns, under a penalty of ten pounds.

Collector of poor rates to return list to overseers of poor.

4. It shall be the duty of every collector of poor rates to return to the overseers of the poor the list furnished to such collector, and to certify thereon the names of all such persons as shall have paid their rates, whether voluntarily or under warrant of distress.

The returns of such rates as have been paid during the year one thousand eight hundred and fifty, and for the same year, or for any part thereof, shall be made within sixty days from the passing of this act, and filed by the overseers with the clerk of the peace forthwith, under a penalty of ten pounds; and the returns for the present or any subsequent year or portion of a year, shall be made within thirty days after the time now allowed by law for making such returns, under a penalty of ten pounds; and the overseers shall file such returns with the clerk of the peace within thirty days thereafter, under a like penalty.

Clerk of the peace to deliver to sheriff copies of returns of poor and county rates when an election is to be held.

5. Whenever an election is to be held for a county or township, and the presiding officers are duly appointed for the several electoral districts therein, the clerk of the peace shall deliver to the sheriff, who shall distribute to each presiding officer, copies of such returns of the payment of county and poor rates within the year next preceding, by the parties assessed therefor, within the township or townships, place or places, wherein such electoral district is situate, which copies shall be sent by the presiding officer, along with his return, to the sheriff; and every presiding officer and clerk of the peace shall forfeit ten pounds for every neglect of such duty.

Persons certified on such return to have paid their poor and county rates, or producing receipts therefor, qualified to vote, &c.

6. Any person tendering his vote at such election shall be held qualified to vote in the electoral district in which he resides, who shall be certified on such returns to have paid his county rates for the year next preceding, or the poor rates for any part of such year, on making oath, if required by a candidate or his agent, that he is twenty-one years of age or upwards, and is the same person rated, and that he resides in such district; or who, not being so certified, shall produce a receipt for such poor or county rates, signed by the collector thereof, and shall deliver such receipt to the presiding officer, and further shall make oath, if required by a candidate or his agent, that he is twenty-one years of age, and is the same person rated, and that he resides in such district; and such persons shall be marked in the poll book as having claimed a right to vote as rate-payers, and if such oath shall be administered, as having been sworn.

AN ACT TO DIVIDE THE COUNTY OF CAPE-BRETON, AND TO REGULATE THE REPRESENTATION THEREOF.

Passed 7th April, 1851.

Cape-Breton to be divided into two counties.

Be it enacted, &c.—1. The present county of Cape-Breton shall be divided into two counties, to be called the county of Cape-Breton, and the county of Victoria.

Division of counties of Cape-Breton and Victoria.

2. The county of Cape-Breton shall comprise all that part of the present county of Cape-Breton to the southward of a line com-

mencing at the entrance of a large stream that falls into the sea, about three miles to the westward of point Anconi, at the eastern extremity of the island of Boulardrie, and following the middle of the stream upwards until it intersects the present highway between the great and little Bras d'Or; thence running parallel to the rear line of the front lot on the north side of Boulardrie to the eastern extremity of island point, on the south side of Boulardrie, in a direction by the magnet due south; thence due south by the magnet to the middle of little Bras d'Or channel; thence up the middle thereof westerly to the middle of the strait of Barra; thence following the mid channel thereof to the western end of the strait; thence in a direct line to the line at or near point Malagawatchkt, that now separates the county of Cape-Breton from the county of Inverness; and the county of Victoria shall comprise the remainder of the present county of Cape-Breton, that is to say, all that part thereof to the northward of the line above described.

After dissolution of present general assembly governor to issue writs for election of members.

3. After the dissolution of the present general assembly, and at the calling of any new general assembly, the governor shall issue writs for the election of members to serve in such new general assembly for the counties of Cape-Breton and Victoria respectively, viz: for the county of Cape-Breton one member, for the township of Sydney one member, and for the county of Victoria two members.

Electoral district of Cape Breton and Victoria.

4. Such of the electoral districts of the present county of Cape-Breton as shall be wholly within the county of Cape-Breton, as hereby established, shall be the electoral districts of the county of Cape-Breton; and such of the electoral districts as are wholly within the county of Victoria shall be the electoral districts of the county of Victoria. Such part of the island of Boulardrie as is within the county of Cape-Breton, as hereby established, shall constitute an electoral district in such county, and the polling place shall be at or near Patrick Howley's, at Alice bridge; and such part of the island as is within the county of Victoria shall constitute an electoral district in that county, the polling place whereof shall be at or near Alexander Munro's school house, Boulardrie.

Judges, justices, &c. at present appointed shall continue in office for the two counties until a new commission issue.

5. When this act shall come into operation, and until new commissions or appointments shall be issued or made, all such judges, justices, or other officers as are or may be appointed for the present county of Cape-Breton, and be in office and be resident in the new county of Cape-Breton as hereby created, shall be judges, justices, and officers of such new county. All such justices and other officers as are or may be appointed for the present county of Cape-Breton, and be then in office and resident in the new county of Victoria, shall, until a new commission or appointment as aforesaid, be justices and and officers for the new county of Victoria, in the same manner to all intents and purposes as if they had been respectively commissioned and appointed for the new county in which they shall be so resident when this act shall come

Jail in Cape-Breton to be used for Victoria.

into operation. Until the new county of Victoria shall have been provided with a jail, the jail of the present county of Cape-Breton shall be the jail of the new county of Victoria; and until a new sheriff for the county of Victoria shall be appointed, the sheriff for the county of Cape-Breton shall continue to act as the sheriff of the county of Victoria, in the same manner as if this act had not passed.

Sheriff to be appointed at Trinity term at Halifax.

6. A sheriff for the county of Victoria shall be appointed in manner by law provided during the trinity term of the supreme court at Halifax, or at any other time during the present year, who shall continue in office until the annual appointment of sheriffs in the year one thousand eight hundred and fifty-two.

Baddeck to be shire town of Victoria, and supreme court to sit there.

7. The town of little Baddeck shall be the shire or county town of the new county of Victoria for all purposes whatsoever, and shall be hereafter called Baddeck, and there shall be held thereat, in every year after the present year, two terms of the supreme court, on the third Tuesday of June and the third Tuesday of October, and one term of the general sessions of the peace on the third Tuesday of November.

Custos, &c. to be appointed and special sessions to be summoned when this act shall go into operation.

8. So soon as this act shall come into operation there shall be appointed a custos rotulorum, who shall appoint a clerk of the peace for the county. The clerk shall forthwith upon his appointment summon a special sessions of the peace to be held at Baddeck, and such sessions shall appoint five of their number to

Grand jurors to be appointed, &c.

prepare lists of persons qualified to serve as grand and petit jurors, which committee shall return the lists when completed to the special sessions, which shall be adjourned for the purpose, and out of the lists so returned the clerk shall forthwith draw twenty-four names of persons to serve as grand jurors, and also a list of petit jurors, which shall be the jury for the trial of actions at the first term of the supreme court to be held at Baddeck as hereinbefore mentioned, which lists when drawn shall be signed by the president of the sessions instead of a judge of the supreme court, as in ordinary cases; and it shall be the duty of the clerk of the peace to summon the persons so drawn as grand jurors, to attend at the special general sessions hereinafter mentioned, and such grand jurors shall constitute the grand jury of the county until the general sessions to be held on the third Tuesday of November, one thousand eight hundred and fifty-two.

All other county and town officers to be appointed as in other counties.

9. All other county and town officers within the county shall be appointed in manner now by law prescribed in other counties in the province, and in all future cases the grand and petit jurors for the county shall be drawn in the manner prescribed by law in other counties.

Special sessions to be held at Baddeck, and grand jury to present for building court house and jail.

10. So soon after the grand jury list shall be drawn, as the special sessions mentioned in the eighth section shall direct, there shall be held at Baddeck a special general sessions, and at such sessions the grand jury shall present and the sessions confirm such sums as may be necessary for providing a convenient court house

and jail for the county, and make arrangements for the erection thereof, with all convenient speed, and may also assess such further sums and perform such other acts as may be necessary for effecting the purposes of this act, and within the authority of a court of general sessions.

9. This act shall not go into operation until her majesty's assent shall be signified thereto.

Her majesty's assent signified hereto 26th July, 1851.

AN ACT TO ALTER CERTAIN ELECTORAL DISTRICTS IN THE COUNTY OF COLCHESTER.

Passed 7th April, 1851.

Be it enacted, &c.—1. All that part of the electoral district, number seven, in the county of Colchester, west of the following line, viz: Beginning at DesBarres line on the mill brook above Thomas Henderson's mill pond, thence up such brook to Hector McKay's branch, thence along such branch up stream to John McCarty's south line, thence south to the Onslow township line, is hereby separated from such electoral district number seven, and annexed to and made a part of the electoral district number eight, in the same county.

Part of electoral district No. 7 annexed to district No. 8.

AN ACT TO AMEND THE ACT FOR THE ENCOURAGEMENT OF EDUCATION.

Passed 7th April, 1851.

Be it enacted, &c.—1. The governor in council may, whenever it shall appear expedient, set off the county of Pictou into two school districts, the township of Pictou shall be called the northern district, and the townships of Egerton and Maxwelton the southern district, and the monies granted for common school education in the county of Pictou shall be divided into two equal portions, for the benefit of such districts respectively, but each of the townships above named shall receive an equal third part of the sum granted for grammar school education in the county. The governor in council shall appoint, during pleasure, for each of the districts, five or more commissioners of schools.

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