

CAP. LXXVII.

An Act to provide for the more effectual prevention of Trespasses and protection of Timber growing on the Crown Lands within this Province.

Passed 31st March 1840.

I. BE it enacted by the Lieutenant Governor, Legislative Council and Assembly, That no person or persons shall cut, fell, haul, remove or destroy any white, yellow or red Pine, Spruce, Hemlock, Hackmatack, Beech, Birch Trees, Timber or Wood of any other description, standing or being on any part of the ungranted Crown Lands within this Province, without Licence first had and obtained from His Excellency the Lieutenant Governor or Commander in Chief of the Province for the time being or without right derived from the Crown so to do, under the penalty of not less than two pounds nor more than twenty pounds for each and every offence.

II. And be it further enacted, That all Timber, Logs, Trees or any description of Wood which shall be cut on or hauled from any part of the ungranted Crown Lands within this Province, without such Licence or right as aforesaid, and also all Deals, Plank, Boards or Scantling, Shingles, Clapboards, Staves or Lathwood which shall or may be made therefrom, or from Timber, Logs, Trees or any description of Wood on or hauled from any part of such Crown Lands, without such Licence or right as aforesaid, shall be and the same are hereby declared to be forfeited to the use of Her Majesty, Her Heirs and Successors, and shall be subject to seizure, prosecution and condemnation in manner hereinafter mentioned.

III. And be it further enacted, That all such Timber, Logs or any other description of Wood which shall be cut on or hauled from any part of the ungranted Crown Lands within this Province, contrary to the Provisions of this Act, and all Deals, Plank, Boards, Scantling, Clapboards, Staves or Lathwood which shall or may be made therefrom, or from any Timber or Logs found on any of such ungranted Crown Lands as aforesaid, contrary to the provisions of this Act shall and may be seized, arrested and prosecuted by such person or persons as shall or may from time to time by warrant under the hand and seal of His Excellency the Lieutenant Governor or Commander in Chief of the Province for the time being, be appointed to seize the same.

IV. And be it further enacted, That in all cases when any Timber or Logs, or Deals, Plank, Boards, Scantling, Shingles, Clapboards, Staves, Lathwood or any other description of Wood, shall be arrested, seized or taken, as liable to such seizure, forfeiture and condemnation under the provisions of this Act, the same shall in all cases be deemed and taken by the Court in which the same shall be prosecuted, to be forfeited as hereinbefore mentioned, unless it shall be made to appear to the satisfaction of such Court by some person owning or claiming the same, either that the same if Timber, Logs or Wood of any other description was cut on or hauled from granted lands within this Province, or by and under a Licence or right as aforesaid, to cut the same, or if Deals, Plank, Boards, Scantling, Shingles, Clapboards, Staves or Lathwood, that the same was made of Timber or Logs which were cut either on such granted lands or by and under a Licence or right to cut and haul the same as aforesaid.

V. And be further enacted, That all Timber or Logs, Deals, Plank, Boards, Scantling, Shingles, Clapboards, Staves, Lathwood or any other description of Wood which shall be arrested or seized as liable to forfeiture under this Act shall and may be deemed and taken to be condemned, unless the Owner or Owners thereof or some person duly authorized by him or them shall within fourteen days after the day of seizing the same, give notice to the seizing Officer that he claims the same, which notice shall be in writing specifying and particularizing to what the said claim applies, and delivered to the Officer or person by whom such seizure shall have been made, and the same being so deemed and taken to be condemned, shall and may be forthwith sold at Public Auction by the said Officer or person who shall have made such seizure after ten days notice of sale being given.

VI. And be it further enacted, That if any person shall by force or violence assault, resist, oppose, molest, hinder or obstruct any seizing Officer appointed under and by virtue of this Act, whilst in the exercise and discharge of his duty as such seizing Officer or any other person employed to aid and assist him in the exercise and discharge thereof, or who shall wilfully remove or cut loose any Timber, Logs, Trees or any description of Wood which may have been seized by such seizing Officer, such person shall on conviction thereof before any Court of Record in this Province, pay a fine not exceeding one hundred pounds nor less than forty shillings at the discretion of the Court before which such offenders shall be tried, which fines shall be paid to Her Majesty, Her Heirs and Successors for the use of the Province, and in case such fine be not paid, such person shall be imprisoned not exceeding twelve months nor less than ten days at the discretion of the Court.

VII. And be it further enacted, That all fines, penalties and forfeitures incurred or to be incurred under the provisions of this Act, may be recovered and prosecuted to condemnation by action of debt, bill, plaint or information in any of Her Majesty's Courts of Record in this Province, in the name of Her Majesty's Attorney General or Solicitor General, and in every action or suit, the person against whom judgment shall be given for any fine, penalty or forfeiture under this Act, shall pay costs of suit, and every such action or suit shall and may be brought within one year after the offence committed and not afterwards: Provided always, That nothing in this section shall affect the case of any proceedings against Timber or Logs, Deals, Plank, Boards, Scantling, Shingles, Clapboards, Staves, Lathwood or any other description of Wood, not exceeding the value of one hundred pounds, before two Justices of the Peace, agreeably to the provisions of the following section of this Act.

VIII. And be it further enacted, That all white, yellow or red Pine, Spruce, Hemlock, Hackmatack, Beech, Birch, Trees, Timber or Wood of any other description, seized as forfeited by virtue of this Act, and claimed by any person or persons in manner hereinbefore directed, provided the value thereof does not exceed one hundred pounds, may be prosecuted to condemnation in the name of the Surveyor General or the seizing Officer who shall have seized the same, or by information of Her Majesty's Attorney General or Solicitor General, before any two of Her Majesty's Justices of the Peace residing near the place where such seizure shall have been made, who are hereby required and directed to keep a book of Record, in which they shall fairly enter all causes tried before them under this Act, together with the evidence taken before them upon such trial.

IX. And be it further enacted, That in case of the arrest, seizure and prosecution of any Timber or Logs, Deals, Plank, Boards, Scantling, Shingles, Clapboards, Staves, Lathwood or

any other description of Wood under this Act, if judgment of condemnation shall not pass, and the Court in which such prosecution shall be instituted shall certify that there was probable cause of seizure, such certificate shall be taken and received as a good and sufficient defence against any action to be prosecuted by any person or persons in any Court within this Province, against the Officer who made such seizure, and any Officer so prosecuted, shall in all cases be at liberty to plead the general issue, and give any special matter in evidence, the same as if such matter had been specially pleaded and set forth.

X. And be it further enacted, That this Act shall continue and be in force until the first day of April, which will be in the year of our Lord one thousand eight hundred and fifty.

CAP. LXXVIII.

An Act to amend an Act intituled "An Act to provide for the purchase of a place for the residence and accommodation of the Governor or Commander in Chief of this Province."

Passed 31st March 1840.

WHEREAS great inconvenience has arisen heretofore under the operation of the fifth Section of the Act to which this is an amendment;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That the fifth Section of an Act made and passed in the fifty sixth year of the Reign of His Majesty King George the third, intituled "An Act to provide for the purchase of a place for the residence and accommodation of the Governor or Commander in Chief of this Province," be and the same is hereby repealed; and in lieu thereof,

II. Be it enacted, That His Excellency the Lieutenant Governor or Commander in Chief for the time being, be and he is hereby authorised and empowered to appoint three or more Commissioners in each and every year to have the care and management of Government House, and the premises therewith connected, and to have the superintendence and control, of any reparations and improvements to be from time to time made, under and by the authority of the General Assembly of this Province.

CAP. LXXIX.

An Act to authorize the Justices of the Peace in and for the City and County of Saint John to make compensation to the Assessors of Taxes for the Parish of Portland for the year one thousand eight hundred and thirty nine.

Passed 31st March 1840.

WHEREAS by the fourth section of an Act made and passed in the first year of the Reign of Our Sovereign Lady the Queen, intituled "An Act to provide for the better Assessment of County and Parish Rates," it is among other things provided, that the Assessors of Rates for the several Towns and Parishes shall within sixty days after receiving the Warrant of Assessment, deliver to the Collectors of Rates within their respective Towns and Parishes a list containing the names of all the parties rated within their several Districts, with the several amounts to be collected from every such person; and by the fifth section of an Act made and passed in the seventh year of the Reign of His late Majesty, intituled "An Act to provide for the collection of County and Parish Rates," it is provided that no Assessors shall be allowed a per centage unless the provisions of the said Act shall have been fully complied with: And whereas during the past year the labours to be performed by the Assessors of Taxes in the Parish of Portland, in consequence of the division of the said Parish, were so great as to prevent a strict compliance with the requisites of the said Act, and the Assessors have thereby become deprived of any legal right to remuneration for the arduous duties performed by them; for remedy whereof,

Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That it shall and may be lawful to and for the Justices of the Peace in and for the City and County of Saint John, in General Sessions assembled, to make an order for the payment of due compensation to the Assessors of Taxes in the said Parish of Portland for the past year out of the monies levied, raised and collected for that purpose, in the same manner as if the said Assessors had in every respect strictly complied with the provisions of the said Acts; Provided that no greater rate per cent. on the amount ordered to be assessed shall be allowed them than is provided for in the said Acts.

CAP. LXXX.

An Act for the better extinguishing of Fires which may happen in the City of Saint John, and to continue a certain Act relating to the same matter therein mentioned.

Passed 31st March 1840.

I. BE it enacted by the Lieutenant Governor, Legislative Council and Assembly, That it shall and may be lawful to and for the Mayor, Aldermen and Commonalty of the City of Saint John, in Common Council convened, by ordinance or otherwise, to establish a Fire Department in and for the said City, which said Fire Department shall consist of one Chief Engineer, and as many other Engineers, Enginemen, Firemen, Hosemen, Axemen and Hook and Ladder men as shall and may from time to time be elected, nominated and appointed by the said Mayor, Aldermen and Commonalty, in Common Council convened; which persons so to be elected, nominated and appointed as aforesaid, are hereby required and enjoined always to be ready at a call by night as well as by day, to perform their several and respective duties, in the extinguishing of Fires that may happen or break out in the said City: Provided however, that the number of engineers so to be elected, nominated and appointed, shall not exceed ten for each and every Fire Engine, and belonging to the said City, and that the number of firemen, hosemen, axemen, and hook and ladder men, shall not in the whole exceed four hundred men; and provided further, that not more than ten engineers and fifty firemen shall be attached to each Engine.

II. And be it enacted, That the said Mayor, Aldermen and Commonalty, in Common Council convened, shall and may, if to them or the major part of them it shall seem meet, establish and organize one company of hosemen, and also one company of axemen, and also one company of hook and ladder men.

III. And be it enacted, That the said Mayor, Aldermen and Commonalty, in Common Council convened, are hereby authorized and empowered to remove or displace all or any of the members of the said Fire Department so to be elected, nominated and appointed as aforesaid, when and as often as they shall think fit, and others in the room and places of such as they shall re-

move or displace, to elect, nominate and appoint, and put in, and so from time to time as they, the said Mayor, Aldermen and Commonalty aforesaid, in Common Council convened, shall see convenient.

IV. And be it enacted, That the persons so to be elected, nominate or appointed chief engineer, engineers, and enginemen, and the persons named and appointed by the said Mayor, Aldermen and Commonalty, in Common Council convened, Captain or head of the respective companies of hosemen, axemen, and hook and ladder men, and each and every of them, from time to time during the continuance of being in either of the same offices of chief engineer, engineer, and enginemen, and captain or head of the respective companies of hosemen, axemen, and hook and ladder men, and no longer, shall be and are hereby declared to be freed, exempted and privileged from the several offices of Constable and Surveyor of the Highways, and from being compellable to serve in the Militia except in case of invasion or other imminent danger, and from serving upon any Jury in the Court of Quarter Sessions, or in the Inferior Court of Common Pleas, or in the Courts of Nisi Prius and Oyer and Terminer, to be holden in and for the City and County of Saint John, or in the City Court of the said City of Saint John, and also shall be exempted and free from all Statute Labour on the Highways and Streets in the said City; and that the other members of the said Fire Department so to be elected, nominated and appointed as aforesaid, and each and every of them, from time to time during the continuance as a member of the said Fire Department and no longer, shall be and are hereby declared to be freed, exempted and privileged from the several offices of Constable and Surveyor of Highways, and from being compellable to serve in the Militia, except in case of invasion or other imminent danger, and also shall be exempt and free from all Statute Labour on the Highways and Streets within the said City; and the names of such persons elected, nominated and appointed members of the said Fire Department, by virtue hereof, from time to time shall be registered and entered with the Clerk of the Peace for the said City; and if at any time, while this Act is in operation, any such person, being a member of the said Fire Department, shall be chosen, elected and appointed into any office or situation, or be required to perform any duties from which he, by virtue of this Act, is freed and exempted, that then such person producing his warrant of appointment and a certificate under the hand of the chief engineer, or under the hands of two of the engineers of his (at such time) being a member of and serving in the said Fire Department, and of the office or situation which he holds therein, to the person or persons by whom he shall be so elected and appointed, or by or before whom he shall be summoned, returned or required to serve, execute or hold any of the said offices or duties, shall be absolutely discharged from the same; and such election, nomination, return and appointment shall be utterly void and of none effect, unless such person shall voluntarily consent and agree to hold such office or perform such duties, from which he is hereby exempted, any order, custom, law or practice to the contrary hereof in anywise notwithstanding.

V. And be it enacted, That every person who shall have served, between the age of twenty one years and fifty years, a member of the said Fire Department for the continued space of fourteen years in succession, and every engineman who before the passing of this Act may have faithfully served as such for an uninterrupted period of not less than fourteen years, shall be relieved by a resolution of said Mayor, Aldermen and Commonalty, in Common Council convened, in which resolution, not less than two thirds of the members present shall agree, from further service in such Department, or as an engineman; such person so relieved, shall have, use and enjoy the same privileges and exemptions in every respect, as are allowed to the officers of such Fire Department and enginemen, by this Act.

VI. And be it enacted, That it shall and may be lawful to and for the said Mayor, Aldermen and Commonalty of the City of Saint John, in Common Council convened, from time to time to make, establish and ordain such rules, orders, ordinances and regulations in respect to the government, conduct, duty and behaviour of the several members of the said Fire Department, and to the working, managing and frequent exercising, trying and using the Fire Engines of the said City, and the tools and other instruments and implements for the extinguishing of Fires which may happen or break out in the said City, and to impose and establish such reasonable fines, penalties and forfeitures upon them or any of them, for default or neglect of the duties, business and services thereby to be enjoined or required of or from them, as may from time to time be thought meet and convenient, not exceeding for any one offence the sum of ten pounds.

VII. And be it enacted, That upon the breaking out of Fire within the City of Saint John aforesaid, the Sheriff and all under and Deputy Sheriffs, the high constable and all petty constables, and Marshals, upon notice thereof, shall immediately repair to the place where the fire shall happen, with their rods, staves and other badges of their authority, and shall be aiding and assisting, as well in extinguishing the said fires and causing the people to work, as also in preventing goods from being stolen, and shall seize and apprehend all ill disposed persons that may be found stealing or pilfering thereabouts, and all other suspicious, idle or disorderly persons, and that the said officers shall give their utmost assistance to help the Inhabitants to remove and secure their goods.

VIII. And be it enacted, That it shall and may be lawful for the Mayor, Aldermen and Commonalty of the City of Saint John, in Common Council convened, by ordinance or otherwise, to establish and organize a Fire Police in and for the said City, which said Fire Police shall consist of such and so many persons, being Freeman and Freeholders of the said City, as the said Common Council shall from time to time appoint, and to remove and reappoint as may be by them deemed expedient, who shall be sworn to the faithful discharge of their duty as any other officer of the said Corporation is sworn.

IX. And be it enacted, That the said Common Council shall organize the said Company in such manner and under such regulations as by any ordinance of the said City they from time to time may ordain and direct, and shall have power to enforce such regulations, either by removing any person so appointed, or by fine, or both, as the said Common Council, in and by the said ordinance may establish; provided that no fine on any person belonging to such Fire Police shall exceed for any one offence the sum of ten pounds.

(Continued in Supplement.)