



(Continued from last Gazette.)

XVII. And be it enacted, That no plea in abatement for a misnomer shall be allowed in any personal action, but that in all cases in which a misnomer would but for this Act have been by law pleadable in abatement in such actions, the defendant shall be at liberty to cause the declaration to be amended, at the costs of the plaintiff, by inserting the right name upon a Judge's summons founded on an affidavit of the right name; and in case such summons shall be discharged the costs of such application shall be paid by the party applying, if the Judge shall think fit.

XVIII. And be it enacted, That in all actions upon bills of exchange or promissory notes or other written instruments, any of the parties to which are designated by the initial letter or letters or some contraction of the christian or first name or names, it shall be sufficient in every affidavit to hold to bail, and in the process or declaration to designate such persons by the same initial letter or letters or contraction of the christian or first name or names, instead of stating the christian or first name or names in full.

XIX. And whereas it is expedient to lessen the expense of the proof of written or printed documents or copies thereof, on the trial of causes; Be it enacted, That it shall and may be lawful for the Judges of the Supreme Court or any three of them, at any time within three years after the passing of this Act, to make regulations by general rules or orders from time to time, touching the voluntary admission, upon an application for the purpose of a reasonable time before the trial of one party to the other, of all such written or printed documents or copies of documents as are intended to be offered in evidence on the said trial by the party requiring such admission, and touching the inspection thereof before such admission is made, and touching the costs which may be incurred by the proof of such documents or copies on the trial of the cause, in case of the omitting to apply for such admission or the not producing of such documents or copies for the purpose of obtaining admission thereof, or of the refusal to make such admission as the case may be and as to the said Judges shall seem meet; and all such rules and orders shall be binding and obligatory in the said Court, and of the like force as if the provisions therein contained had been expressly enacted by the General Assembly.

XX. And be it enacted, That it shall be lawful for the parties in any action or information depending in the Supreme Court after issue joined, by consent, and by order of any Judge of the said Court, to state the facts of the case in the form of a special case for the opinion of the Court, and to agree that a judgment shall be entered for the plaintiff or defendant by confession or of *nolle prosequi*, immediately after the decision of the case, or otherwise as the Court may think fit, and judgment shall be entered accordingly.

XXI. And be it enacted, That upon all debts or sums certain payable at a certain time or otherwise, the Jury on the trial of any issue, or on any inquisition of damages, or the Court or Judge upon any assessment of damages, may if they shall think fit allow interest to the creditor at a rate not exceeding the current rate of 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, so as such demand shall give notice to the debtor that interest will be claimed from the date of such demand until the time of payment; provided that interest shall be payable in all cases in which it is now payable by Law.

XXII. And be it enacted, That 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 over and above the value of the goods at the time of the conversion or seizure, in all actions of *trove* or *trespass de bonis asportatis*, and over and above the money recoverable in all actions on policies of assurance made after the passing of this Act.

XXIII. And be it enacted, That in every action brought by any executor or administrator in right of the testator or intestate, such executor or administrator shall unless the Court in which such action is brought shall otherwise order, be liable to pay costs to the defendant in case of being nonsuited or a verdict passing against the plaintiff, and in all other cases in which he would be liable if such plaintiff were suing in his own right upon a cause of action accruing to himself, and the defendant shall have judgment for such costs, and they shall be recovered in like manner.

XXIV. And be it enacted, That where several persons shall be made defendants in any personal action and any one or more of them shall have a *nolle prosequi* entered as to him or them, or upon the trial of such action, shall have a verdict pass for him or them, every such person shall have judgment for and recover his reasonable costs, unless in the case of a trial the Judge before whom such cause shall be tried shall certify upon the record, under his hand, that there was a reasonable cause for making such person a defendant in such action.

XXV. And be it enacted, That where any *nolle prosequi* shall have been entered upon any count or as to part of any declaration, the defendant shall be entitled to and have judgment for and recover his reasonable costs in that behalf.

XXVI. And be it enacted, That in all writs of *scire facias* the plaintiff obtaining judgment on an award of execution shall recover his costs of suit upon a judgment by default as well as upon a judgment after plea pleaded or demurrer joined, and that where judgment shall be given either for or against a plaintiff or for or against a defendant upon any demurrer joined in any action whatsoever, the party in whose favor such judgment shall be given shall also have judgment to recover his costs in that behalf.

XXVII. And whereas it is expedient to render reference to arbitration in action depending in the Supreme Court more effectual; Be it enacted, That the power and authority of any arbitrator or arbitrators appointed by or in pursuance of any rule of Court, or order of nisi prius, in any action now brought or which shall be hereafter brought in the said Supreme Court shall not be revocable by any party to such reference without the leave of the Court or by leave of the Judge upon good cause shewn therefor; and the arbitrator or arbitrators shall and may and are hereby required to proceed with the reference notwithstanding any such revocation, and make such award although the person making such revocation shall not afterwards attend the reference.

XXVIII. And be it enacted, That when any reference shall have been made by any such rule or order as aforesaid, it shall be lawful for the Court or for any Judge thereof by rule or order to be made for that purpose, to command the attendance and examination of any person to be named or the production of any documents to be mentioned in such rule or order; and the disobedience to any such rule or order shall be deemed a contempt of Court, if in addition to the service of such rule or order an appointment of the time and place of attendance in obedience thereto, signed by one at least of the arbitrators before whom the attendance is required, shall also be served either together with or after the service of such rule or order: Provided, always that every person whose attendance shall be so required shall be entitled to the like conduct money and payment of expenses as for

and upon attendance at any trial: Provided also, that no person shall be compelled to produce, under any such rule or order, any writing or other document that he would not be compelled to produce at a trial, or to attend at more than two consecutive days to be named in such order.

XXIX. And be it enacted, That when in any rule or order of reference it shall be ordered or agreed that the witnesses upon such reference shall be examined upon oath, it shall be lawful for the arbitrators or any one of them, and he or they are hereby authorized and required to administer an oath to such witnesses, or to take their affirmation in cases where affirmation is allowed by law instead of oath; and if upon such oath or affirmation any person making the same shall wilfully and corruptly give any false evidence, every person so offending shall be deemed and taken to be guilty of perjury, and shall be prosecuted and punished accordingly.

XXX. And whereas it is expedient to declare the law with respect to witnesses refusing to answer questions which may tend to subject them to civil suits; Be it therefore declared that, witness cannot by law refuse to answer a question relevant to the matter in issue, the answering of which has no tendency to accuse himself or to expose him to penalty or forfeiture of any nature whatsoever, by reason only or on the sole ground that the answering of such question may establish or tend to establish that he owes a debt or is otherwise subject to a civil suit, either at the instance of His Majesty or of any other person or persons.

XXXI. And whereas it is provided in and by an Act passed in the twenty sixth year of the reign of His late Majesty King George the Third, intitled "An Act for regulating Juries and declaring the qualifications of Jurors," that the party who shall apply for a special Jury shall pay the fees for striking such Jury, and all the expenses occasioned by the trial of the cause by the same, and shall not have any further or other allowance for the same upon taxation of costs, than such party would be entitled unto in case the cause had been tried by a common Jury, unless the Judge before whom the cause is tried shall, immediately after the trial, certify under his hand, upon the back of the record, that the same was a cause proper to be tried by a special Jury; and whereas the said provision does not apply to cases in which the plaintiff has been nonsuited, and it is expedient that the Judge should have such power of certifying as well when a plaintiff is nonsuited as when he has a verdict against him; Be it therefore enacted, That the said provision of the said last mentioned Act, and every thing therein contained, shall apply to cases in which the plaintiff shall be nonsuited as well as to cases in which a verdict shall pass against him.

XXXII. And be it enacted, That in any summary action in the Supreme Court, wherein the plaintiff may be entitled to judgment by default, such judgment may be entered in vacation as an interlocutory judgment, and the damages or sum due may be assessed, and proceedings may be had to final judgment and execution as in other cases; and the Clerk of the Pleas shall keep a book in which shall be set down such judgments by default so entered in vacation, and the time of such entry; and such Clerk for every such entry and certificate thereof shall be entitled to demand and receive a fee of two shillings.

#### CAP. XV.

An Act in addition to the Acts relating to the public Registry of Deeds in this Province.

Passed 1st March 1837.

WHEREAS it is expedient to provide under certain regulations and restrictions for the admission in evidence of copies of deeds which may have been duly registered in this Province;

I. Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That in any suit in any Court of law or equity in this Province where any party may be desirous of giving in evidence any deed or instrument which may have been duly registered pursuant to the Act or Acts of Assembly in such case made and provided, and which may be relevant to the matter in question, such party may produce in evidence a copy of the registry of such deed or instrument certified under the hand of the Register of the County where the same may be registered, which copy shall in the absence of the original deed or instrument be received and allowed as good and sufficient evidence of the contents of such original deed or instrument: Provided always, that before any such copy shall so be received in evidence, it shall be made to appear to the satisfaction of the Court by affidavit that such original deed or instrument is not in the possession or under the control of the party so offering such copy in evidence, and that such party doth not know where the same may be found: Provided also, that at least fourteen days notice in writing be given to the adverse party by his attorney or agent of the intention to offer such certified copy in evidence; which notice shall be accompanied by a copy of such certified copy, and of the affidavit herein before required; and the due service of such notice with the requisite accompaniments shall also be proved either *viva voce* or by affidavit to the satisfaction of the Court.

II. And be it enacted, That no certified copy of the registry of any deed shall be received in evidence otherwise than is herein before provided, unless by consent of parties, or unless it shall be made to appear to the satisfaction of the Court at which the trial may be had, that the original deed is in the possession of the adverse party, and that due notice has been given to such party to produce the same at the trial, any thing contained in an Act passed in the twenty sixth year of the reign of King George the third, intitled "An Act for the public registering of all deeds, conveyances and wills and other incumbrances which shall be made of, or that may affect any lands, tenements or hereditaments within this Province," or any other Act or Acts of Assembly to the contrary thereof in any wise notwithstanding.

III. And whereas it is expedient to declare the law respecting the registry of Letters or Powers of Attorney relating to lands, tenements or hereditaments; Be it declared and enacted, That every letter or power of attorney or other deed or instrument whereby power or authority is given to convey, transfer or affect any lands, tenements and hereditaments in this Province may be registered in the same manner as any deed or conveyance; provided the same shall have been duly acknowledged or duly proved in the same manner as is required by the Act or Acts of Assembly for the acknowledging or proving of any deed or conveyance before registry; and that the registry of any deed or conveyance made and executed by virtue of any such power or authority shall not be valid and effectual unless the deed or instrument granting such power or authority, or some deed or instrument subsequently confirming the same shall be duly registered in the office of register of deeds for the County or City and County in which the lands, tenements or hereditaments to which the same may relate are situate.

IV. And whereas doubts have arisen whether the provisions relating to giving deeds and copies of deeds in evidence, contained in the eleventh section of the said Act passed in the twenty sixth year of the reign of King George the third, extends to deeds which have been duly registered on the proof of a subscribing witness, and have not been acknowledged by the grantor or bargainors; Be it declared and enacted, That the several provisions of the said section shall extend to and embrace as well all such deeds and conveyances as have been or may hereafter be duly executed, proved and registered, as those which have been duly executed, acknowledged and registered by virtue of the said Act or any Act passed in addition thereto or in amendment thereof.

#### CAP. XVI.

An Act to repeal an Act made and passed in the third year of His Majesty's reign in amendment of an Act for the better securing the Navigation of the inner Bay of Passamaquoddy.

Passed 1st March 1837.

BE it enacted by the Lieutenant Governor, Legislative Council and Assembly, That an Act made and passed in the third year of the reign of King William the fourth, intitled "An Act to alter and amend an Act passed in the third year of His late Majesty's reign, intitled 'An Act for the better securing the Navigation of the inner Bay of Passamaquoddy, and to indemnify the Deputy Treasurer at Saint Andrews against any demands for monies collected for tonnage duties, since the former Acts for this purpose expired,'" be and the same is hereby repealed.

#### CAP. XVII.

An Act to amend an Act, intitled "An Act to authorize the Grand Jurors in the several Counties within this Province to inspect the Public Accounts,"

Passed 1st March 1837.

WHEREAS in and by an Act made and passed in the fifth year of the reign of His present Majesty, intitled "An Act to authorize the Grand Jurors of the several Counties within this Province to inspect the Public Accounts," it is *inter alia* enacted, that once in each year at the General Sessions of the Peace in each County at which Parish officers are appointed, it shall be the duty of the Justices at such General Sessions to cause a full, detailed and particular account of all the receipts and expenditure of public monies within such County for the past year, to be laid before the Grand Jury for their inspection and examination, and such

Grand Jury may make such representation and presentment to the Court thereupon as to them shall seem meet; and whereas the period at which such accounts are so directed to be laid before the said Grand Juries is found to be inconvenient; in remedy thereof;

I. Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That the said recited section of the said Act, be and the same is hereby repealed.

II. And be it further enacted, That once in each year at the General Sessions of the Peace in each County in this Province, next succeeding the General Session at which Parish officers are appointed, it shall be the duty of the Justice to cause a full, detailed and particular account of all the receipts and expenditures of public monies within such County for the past year, to be laid before the Grand Jury for their inspection and examination, and such Grand Jury may make such representation and presentment to the Court thereupon, as to them shall seem meet.

III. And be it enacted, That this Act shall continue and be in force, during the continuation of the Act, to which this is an amendment, and no longer.

#### CAP. XVIII.

An Act to continue several Acts for the establishment and regulation of Boards of Health in the several Counties of this Province.

Passed 1st March 1837.

BE it enacted by the Lieutenant Governor, Legislative Council and Assembly, That an Act passed in the third year of His present Majesty's reign, intitled "An Act for the establishment and regulation of Boards of Health in the several Counties of this Province," and also an Act passed in the fifth year of His present Majesty's reign, intitled "An Act to continue and amend the Act for the establishment and regulation of Boards of Health in the several Counties of this Province," be and the same are hereby respectively continued and declared to be in force until the first day of April one thousand eight hundred and forty.

#### CAP. XIX.

An Act in amendment of an Act, intitled "An Act to authorize the Justices of the Peace in and for the City and County of Saint John to erect a building in the said City for a Common Gaol and House of Correction, and to raise a sum of money for erecting and completing the same."

Passed 1st March 1837.

WHEREAS it is expedient to authorize the Justices of the Peace for the City and County of Saint John, to agree and contract for the building of a Gaol and House of Correction for the said City and County, and to borrow money to greater amounts than are therein by the said recited Act authorized;

Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That the amount authorized to be agreed for in the said recited Act mentioned for the erection of a common Gaol and House of Correction for the City and County of Saint John, is hereby extended to, but not to exceed the sum of ten thousand pounds, which shall be in lieu of the said sum of four thousand pounds in the said recited Act specified; and that the amount authorized to be borrowed in and by the said recited Act for the purposes aforesaid, shall extend to but not exceed the sum of eight thousand pounds, which said sum of eight thousand pounds shall be in lieu of the said sum of three thousand therein authorized to be borrowed.

#### CAP. XX.

An Act further to continue an Act, intitled "An Act for the better and more effectually securing the Navigation of the River Saint Croix, in the County of Charlotte," and also further to continue an Act, intitled "An Act to empower the Justices of the County of Charlotte to make regulations for driving timber and logs down the Rivers Saint Croix, Magaguadavic, Digdegush and their branches."

Passed 1st March, 1837.

I. BE it enacted by the Lieutenant Governor, Legislative Council and Assembly, That an Act made and passed in the tenth and eleventh years of the reign of his late Majesty George the fourth, intitled "An Act for the better and more effectually securing the Navigation of the River Saint Croix, in the County of Charlotte," and also an Act made and passed in the eighth year of the reign of his late Majesty King George the fourth, intitled "An Act to empower the Justices of the County of Charlotte to make regulations for driving timber and logs down the Rivers Saint Croix, Magaguadavic, Digdegush and their branches," be and the same are hereby severally continued until the first day of May one thousand eight hundred and forty five.

#### CAP. XXI.

An Act in amendment of an Act, intitled "An Act to prevent Nuisances within the City of Saint John, and Parish of Portland in the County of Saint John."

Passed 1st March 1837.

WHEREAS the Act now in force to prevent nuisances within the City of Saint John and Parish of Portland, in the County of Saint John, has been found ineffectual for that purpose;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That the first section of the Act passed in the third year of his present Majesty's reign, intitled "An Act to prevent nuisances within the City of Saint John and Parish of Portland," be and the same is hereby repealed.

II. And be it further enacted, That from and after the passing of this Act if any hog or hogs, swine, horse or horses, ox or oxen, cow or cows, sheep, goat or goats, dog or dogs shall be found, going at large within the City of Saint John, on any of the roads, highways, streets, squares or alleys thereof, or within the populous parts of the Parish of Portland, lying to the westward of the mill bridge, including the road to Indian Town and the Short Ferry, or on the public road leading from the said City, through the great marsh in the vicinity thereof, the owner or owners thereof shall forfeit and pay the sum of ten shillings for each and every hog or animal as aforesaid so found going at large, one half to the overseers of the poor for the said City, in case the offence shall happen there, or to the overseers of the poor for the Parish of Portland, in case the offence shall happen there, and one half to the informer, to be recovered with costs of prosecution upon conviction before any one of His Majesty's Justices of the Peace for the said City and County of Saint John, and to be levied on the goods and chattels of the owner of such hog or hogs or other animal or animals as aforesaid; and in case the owner or owners of such hog or hogs or other animal or animals as aforesaid shall not be known, then it shall be the duty of any hogreever or hogreevers of the said City or Parish to impound such hog or hogs or other animals as shall be found so going at large, and it shall be the duty of the pound keeper or pound keepers of the said City and Parish respectively upon any hog or hogs or other animals as aforesaid being so impounded, to advertise the same in three public places in the said City and Parish respectively, and in case the owner or owners of such hog or hogs or other animal or animals shall not within six days after such advertisement being put up as aforesaid, pay the said fine for each animal so impounded, together with the accustomed fees and charges for keeping the same, it shall and may be lawful for the said pound keeper to sell such hog or hogs or other animal or animals as aforesaid at public auction, and apply the money arising therefrom towards payment of the said fine and charges, and all other expenses, and to pay the overplus, if any, to the owner or owners thereof, whenever such owner or owners shall appear and demand the same, and in case such owner or owners shall not appear and demand the same within six months after such hog or hogs or other animal or animals shall have been so impounded, then the said overplus shall be paid to the said overseers of the poor for the use of the poor of the said City or Parish, according to the place where the offence shall be committed.

#### CAP. XXII.

An Act to authorize the Justices of the Peace in General Sessions in certain Counties in this Province to exempt the Acadian French from the assessment of Poor Rates.

Passed 1st March 1837.

WHEREAS the Acadian French in this Province are in the habit of supporting their own poor;

I. Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That it shall and may be lawful for the Justices of the Peace in the several Counties of Westmorland, Kent, Northumberland and Gloucester, at their General Sessions of the Peace, who may allow and order any assessment of the accounts of any overseers of the poor, pursuant to the direction of the Act of the General Assembly of this Province for regulating and providing for the support of the poor in this Province, at the same time, if they in their discretion shall think proper, to exempt the Acadian French Inhabitants who may be resident in the Parish in which such assessment is to be made, from the whole or any part of such assessment.

II. And be it enacted, That when any such exemption shall be so made the same shall be expressed in the warrant of assessment which may there-