



CAP. III.

An Act for the appointment of Commissioners to examine and report upon the Casual Revenue Accounts.

Passed 22d July 1837.

WHEREAS it is deemed expedient and necessary that Commissioners should be appointed to examine and report upon the several accounts relating to the King's Casual and Territorial Revenue, as connected with the Crown Land Department, for the purpose of being laid before the Legislature at their next Session: And whereas it is deemed expedient and necessary that the said Commissioners shall have full power and authority to call before them persons and papers, to enable them fully to investigate the said accounts;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That the Lieutenant Governor or Commander in Chief for the time being, shall be and he is hereby authorized and empowered by warrant, under his hand and seal, to appoint three or more fit persons to be Commissioners to examine and report upon the accounts and vouchers of the Commissioner of Crown Lands and Forests, in the year of our Lord one thousand eight hundred and thirty one, and the five following years.

II. And be it enacted, That it shall and may be lawful, for the said Commissioners or any two of them, for the purpose of procuring information, relative to the said accounts and vouchers, to call before them any person or persons, and to require the production from any public office or department of any books, documents or papers connected with the said accounts as may be necessary; and the said Commissioners or any two of them are hereby authorized and empowered to examine upon oath, (which oath the said Commissioners or any two of them are hereby authorized to administer,) any person or persons, relating to the said accounts and vouchers; and all such persons are hereby directed and required punctually to attend the said Commissioners at such time and place as they or any two of them shall appoint.

III. And be it enacted, That the said Commissioners or any two of them shall examine the said accounts, and make due report of their proceedings to the Lieutenant Governor for the purpose of being laid before the Legislature at their next Session.

CAP. IV.

An Act to establish Circuit Courts in this Province, and to provide for the travelling expenses of the Judges holding such Courts.

Passed 22d July 1837.

WHEREAS it is expedient that Circuit Courts be established in the several Counties in this Province;

I. Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That the Circuit Courts for the trial of all issues joined or to be joined in the Supreme Court of Judicature in this Province, triable at Nisi Prius, shall commence and be held upon the days and times in the several Counties hereinafter mentioned in each and every year, that is to say:

In the City and County of Saint John on the second Tuesday in January and first Tuesday in August;

In the County of Charlotte on the fourth Tuesday in April and Tuesday after the fourth Tuesday in October;

In the County of King's on the fourth Tuesday in January;

In the County of Kent on the last Tuesday in August;

In the County of Westmorland on the first Tuesday in September;

In the County of Northumberland on the second Tuesday in September;

In the County of Gloucester on the first Tuesday in September;

In the County of Carleton on the last Tuesday in September;

In the County of Sunbury on the last Tuesday in February;

In the County of Queen's on the second Tuesday in March;

II. And be it enacted, That it shall and may be lawful for any person or persons to take and sue forth writs or records of Nisi Prius for the trial of the said issues in such Counties respectively in which the venue or cause of action of such issues shall be respectively laid, and also writs of distringas, subpoenas, and all such other writs and precepts as are or may be by the practice and usage of the said Supreme Court be issued and sued forth.

III. And be it enacted, That such Circuit Courts respectively shall commence and be held on the said days, and continued so long as the Justice presiding in any such Circuit Court shall consider necessary and expedient, for the trial of issues then and there entered and triable: Provided always and be it enacted, that in case it should happen, either by the pressure of business at other places, or from other unforeseen circumstances, any of the said Circuit Courts shall not be opened at any place specified for holding the same on the very day appointed for such purpose, it shall and may be lawful to open the same on the following day, or if such following day shall be a Sunday or any other day of public rest, then on the succeeding day; and such opening shall be as effectual to all intents and purposes, as if the same had been opened on the very day appointed for that purpose, and shall be deemed and taken to be an opening thereof on the day for that purpose appointed; and all records and other proceedings under or relating to the said Courts which may be opened and read by virtue of this Act, shall and may be drawn up, entered and made out under the same date, and in the same form in all respects, as if such Circuit Courts had been opened on the day originally appointed for that purpose.

IV. And be it enacted, That the Chief Justice or some one of the Justices of the Supreme Court for the time being shall attend, be present and preside at such Circuit Court respectively, and the respective Sheriffs for the time being of the several Counties shall make return of all writs and precepts directed to them respectively, returnable at such Circuit Courts; and such Sheriffs and all Coroners, Bailiffs, Constables, and all officers and ministers of the Law in such Counties respectively, and also all Jurors to be summoned, and all parties and witnesses in the causes to be heard and tried at such respective Circuit Courts shall give their attendance at such respective Circuit Courts, and shall be charged and bound in the like manner and under the like pains and penalties for non-appearance and non-attendance, or for any misdemeanor or default at such Circuit Courts respectively, as if at the terms of the Supreme Court.

V. And be it enacted, That there be allowed and paid out of the Treasury of this Province, a sum not exceeding two hundred and fifty pounds annually, to defray the travelling charges and expenses of the Judges holding such Circuit Courts; the same to be paid by warrant of the Lieutenant Governor or Commander in Chief, by and with the advice and consent of His Majesty's Executive Council, on the Province Treasury, out of any monies which may be in the same.

VI. And be it enacted, That this Act shall continue and be in force for ten years from the thirty first day of December last.

CAP. V.

An Act relating to Landlord and Tenant.

Passed 22d July 1837.

WHEREAS the present mode of proceeding by action of ejectment in order to dispossess tenants wilfully holding

over premises after the expiration of their lease, is attended with great inconvenience, delay and expense, and it is considered expedient to give in certain cases a more summary and less expensive remedy;

I. Be it therefore enacted, by the Lieutenant Governor, Legislative Council and Assembly, That when any tenant of premises, under a lease for years or less period shall after the expiration of such tenancy and on due notice to quit having been given refuse to deliver up such possession to the lessor or person entitled thereto, it shall be lawful for such lessor or person to apply to two of the Justices of the Inferior Court of Common Pleas of the County or City and County within which such premises are situate, and having made oath before such Justices, that such tenant has held and occupied such premises (particularly designating in the affidavit whether a messuage or other premises, and where situate) for a certain period then last past, as tenant to such person, under a demise which had then expired, and that due notice to quit has been given, such Justices shall and may thereupon summon such tenant, giving at least six days notice to be served either personally on the tenant, or in case he cannot be found by leaving the same with his wife, servant or other adult member of the family on the premises, to shew cause at a time and place in such summons to be specified, before such Justices, why such tenant holds over such premises; and in case such tenant shall neglect or refuse to attend such summons, or attending shall not shew sufficient cause to the satisfaction of such Justices for so holding over, they shall issue their warrant in the nature of a writ of possession and execution, directed to the Sheriff of the County or City and County within which such premises may be situate, requiring him forthwith to put such person claiming such premises in possession, and to levy the costs of such proceedings, which execution as to costs shall be regulated and enforced by the provisions of the Act to regulate proceedings before Justices of the Peace in civil suits, and it shall be the duty of such Sheriff to execute such writ agreeably to the directions therein contained.

II. And be it enacted, That if such tenant or other person having an interest in such premises should consider himself aggrieved by the judgment of such Justices, it shall be lawful for the Supreme Court of Judicature in this Province, in term time on the application of such tenant or other person, and upon sufficient cause shewn therefor by affidavit, to award a *Certiorari* for the removal of such proceedings before such Court, and upon the return of such proceedings such Court shall examine into the matter, and may admit affidavits on either side, and may in cases that in the opinion of such Court may require it, direct an issue for trial of facts, and shall order and determine in the matter either by confirming or quashing the proceedings as to justice shall appertain; and such Court may make such orders and rules as may be necessary to carry their proceedings and determination into effect: Provided always, that no such *Certiorari* shall in the mean time stay or suspend the execution of the judgment of such Justices.

III. And be it enacted, That in all proceedings had under the provisions of this Act, the party prevailing shall recover his costs and have process therefor, that is to say, for proceedings had before such Justices, the like costs to be by them taxed and allowed as are recoverable for similar services by the Act to regulate proceedings before Justices of the Peace in civil suits, except the Sheriff's fees on the execution of such writ of possession which shall be the same as for executing a writ of *Haberi facias possessionem*, issuing out of the Supreme Court, and all proceedings upon *Certiorari* in the Supreme Court, costs to be levied and received in the usual manner.

IV. And be it enacted, That when such proceedings are quashed by the Supreme Court, the said Court may award a writ of restitution, and such tenant or other person may recover against the adverse party in such proceedings any damage which such person may have sustained by reason of such proceedings with costs in an action on the case.

V. And be it enacted, That in the construction of this Act, words importing the singular number or masculine gender only, shall be understood to include several matters as well as one matter, and several persons as well as one person, and female as well as male; and bodies corporate as well as individuals.

VI. And be it enacted, That the summons and writ of possession and execution shall be in the form given by the schedule to this Act annexed, or in words to the like effect.

VII. And be it enacted, That this Act shall continue and be in force until the first day of April one thousand eight hundred and forty, and no longer.

SCHEDULE. FORM OF SUMMONS.

ss. To
Whereas of bath this day on oath made it appear to us that you have as his tenant occupied [here describe premises] for last past under a demise which has expired, and that after being duly notified to quit, you hold over and refuse to give up the possession of said premises; We do therefore agreeably to the directions of the Act of Assembly in such case made and provided, summon you to appear before us [here describe day, hour and place], to shew cause if any you have, why you should not deliver up to said the possession of said premises. Given under our Hands this day of 1837.

L. M.

N. O.

FORM OF WRIT OF POSSESSION AND EXECUTION.

By A. B. and C. D. two of the Justices of the Inferior Court of Common Pleas in and for the County of

To the Sheriff of

Whereas G. H. claiming as Lessor of certain premises situate [here describe premises] now in the occupation of hath on oath made it appear to us, that the said holds over and refuses to give up the possession of said premises after his demise thereof has expired, and due notice to quit given, and the said having been duly summoned to appear before us agreeably to the direction of the Act of Assembly, in such case made and provided, to shew cause why &c., We have adjudged that the said shall be forthwith put in possession of said premises, and shall also recover his costs of proceeding being besides your fees on executing this writ; and we do hereby command you, that without delay you cause the said to have possession of said premises. We also command you that you levy of the goods and chattels of said the sum of adjudged to him for his costs, besides your fees, and for want of goods and chattels whereon to levy, you are required to take the body of said and deliver him to the keeper of the Gaol of said County, and the said keeper will take the said into his custody and him safely keep for days unless the said and your fees be sooner paid; and how you shall have executed this writ, return to us within days from the date hereof. Given under our hands this day of 1837.

A. B.

C. D.

CAP. VI.

An Act to prevent the issue of Private Bank Notes in this Province.

Passed 22d July 1837.

I. Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That from and after the passing of this Act, it shall not be lawful for any person or persons who-soever to make, issue, circulate, or pass in this Province, any bill, note, draft, check or undertaking for the payment of money, struck from a steel, copper, brass, zinc or other plate of metal, or lithographed, engraved or printed in any way or manner whatsoever at and for or to serve the purposes of Bank notes, or a circulating currency: Provided always, that nothing in this Act contained shall

extend or be construed to extend to prevent any person from making, endorsing, or transferring any foreign or inland bill of exchange, payable to a *bona fide* payee or order, or from passing or transferring any note or bill of the Bank of England, or of any incorporated Banking Company in this Province or in Great Britain or Ireland, the United States, or any of His Majesty's North American Colonies, or of any joint stock Banking Company sanctioned by any Act of the Imperial Parliament, or of the General Assembly of this Province although not incorporated, or from passing or transferring any draft, check or order on any Banking Company or banker, or on any other person or persons with the purpose and intent that such draft, check or order shall be paid by the person or persons on whom the same may be drawn, or to whom the same may be addressed, or to prevent any person or persons from making his, her or their promissory notes, payable *bona fide* to or to the order of the person or persons who shall be named in any such promissory notes, as the payee or payees thereof; provided the same be not expressed or intended to be transferred, passed or circulated merely by the delivery thereof as and for or to serve the purposes of Bank notes or a circulating currency.

II. And be it further enacted, That all and every person or persons who shall offend against any provision of this Act, shall for each and every offence forfeit and pay the sum of five pounds, to be recovered by any person or persons who shall or may sue for the same, and all and every person or persons are hereby authorized to sue for and recover such penalty in his, her or their own names by action of debt to and for his, her or their own use in any Court of this Province, having jurisdiction in actions of debt to the amount of such penalty: Provided always, that nothing in this Act contained shall extend or be construed to extend to affect any notes now actually in circulation until after the first day of July next, which will be in the year of our Lord one thousand eight hundred and thirty eight: Provided also, that nothing in this Act contained shall extend or be construed to extend to affect or interfere with the Bank of Fredericton so called.

CAP. VII.

An Act to provide for the greater safety of passengers on board Steam Boats.

Passed 22d July 1837.

WHEREAS in cases of fire or other disaster on board steam vessels, the lives of passengers are frequently endangered or sacrificed for the want of a sufficient number of boats, and it is expedient to remedy the mischiefs as far as may be by Law;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That from and after the first day of September next, no British boat or vessel propelled by steam, shall be permitted by the captain or owner to ply or navigate with passengers on board, in any of the bays, rivers, lakes, harbours or other waters of this Province, without having on board or attached in a convenient manner, good and sufficient boats of sufficient capacity to carry all the passengers and crew at one time from such vessel to land in ordinary weather: Provided always, that no such vessel shall be required to have more than three good and sufficient boats of sufficient capacity in all to carry sixty adult passengers exclusive of the crew.

II. And be it enacted, That if any master or owner shall permit any such vessel so to ply or navigate without having on board or attached such good and sufficient boats, they or either of them shall forfeit the sum of two hundred pounds for each trip such vessel may make to or from any place within this Province without being provided with such sufficient boats as aforesaid, to be recovered, levied and applied as hereinafter directed.

III. And be it enacted, That any such forfeiture may be sued for and prosecuted by action of debt, bill, plaint or information in the Supreme Court of Judicature for this Province, by any person who shall sue for and prosecute for the same, together with costs of suit, and on recovery, one moiety thereof to be applied to the person who may so sue and prosecute, the other moiety to be paid into the Treasury of the Province for the use of the Government thereof.

IV. And be it 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 forty three.

CAP. VIII.

An Act to remedy the failure of the annual Courts or Meetings of the Corporation of the Madras School in this Province.

Passed 22d July 1837.

WHEREAS the annual court or meeting of the Corporation of the Governor and Trustees of the Madras School in New Brunswick hath failed on the first Tuesday in July in the present year, by reason of a sufficient number of members not having been present;

I. Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That the Lieutenant Governor or Commander in Chief may appoint another day for the said annual court or meeting of the said Corporation for the present year, and upon ten days notice of such appointment being given in one or more of the public newspapers published in the City of Saint John, such annual court or meeting may be convened and held at the City Hall of the said City on the day so to be appointed therefor; and that the said Governor and Trustees or any five or more of them being then and there assembled shall form the legal annual court or meeting of the said Corporation for the present year, and shall have power to do, execute and perform all such matters and things as may or ought to be done at the annual court or meeting prescribed in the charter of the said Corporation, and also to adjourn from day to day as the business of the said Corporation may require.

II. And be it enacted, That in case of a like failure of the annual court or meeting of the said Corporation in any future year, the like proceedings in all respects may be had as are herein before prescribed for the present year.

CAP. IX.

An Act in addition to an Act, intitled "An Act to incorporate sundry persons by the name of the President, Directors and Company of the Saint Stephens Bank in the County of Charlotte."

Passed 22d July 1837.

WHEREAS by the second section of the above recited Act, one half of the Capital Stock of the said Bank is required to be paid in within one year, and the other half within two years from the passing of the same: And whereas it is expedient that a longer time be given for paying in the remaining half of the said Capital Stock than is allowed by the said Act;

Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That the further time of two years from the eighth day of March one thousand eight hundred and thirty eight, be allowed for paying in the unpaid half of the said Capital Stock, the same to be paid in current gold and silver coins of this Province, agreeably to the provisions of the said recited Act.

CAP. X.

An Act in addition to and in amendment of an Act, intitled "An Act to incorporate the Saint Stephens Whale Fishing Company."

Passed 22d July 1837.

BE it enacted by the Lieutenant Governor, Legislative Council and Assembly, That so much of the second section of the said recited Act as requires twenty per cent of the capital stock of the said Company to be paid in within twelve calendar months from the passing of the same be and the same is hereby repealed, and in lieu thereof the time of four years from the passing of the same be allowed for that purpose.