

Not to apply to  
recital of Deeds, &c.

Nor to control the  
operation of  
12 V c 39, s 38.

No plea in abate-  
ment allowed for  
misnomer for not  
setting out at length  
the right christian  
or first name where  
one such name is  
set out and others  
by initial letters or  
contractions, unless  
on affidavit, &c.

Name may be  
altered on applica-  
tion to the Court.

other proceeding whatsoever, shall be vacated, annulled, set aside, or be demurred to, or otherwise affected, or treated as nugatory, defective or irregular, by reason of the insertion of initial letters, or other usual contractions or abbreviations of christian or first names, where one christian or first name commonly used by the person or by which he or she may be generally called or known, is set out at length; provided always, that nothing herein contained shall extend or be construed to apply to the insertion of names in the recital or setting forth of any deed or paper where it is necessary, or it is purported, to recite or set out such deed or paper *in hæc verba*; and provided also, that nothing herein contained shall extend or be construed to limit or control the operation of the thirty eighth section of an Act passed in the twelfth year of Her Majesty's Reign, intituled *An Act to consolidate and amend various Acts of Assembly relating to the further amendment of the Law*.

II. And be it enacted, That no plea in abatement for misnomer for not setting out at length the right christian or first name of any defendant where one such name is set out, and another or others designated by initial letters, contractions or abbreviations, shall be allowed or filed, unless the same is accompanied by an affidavit of such defendant, that he or she doth not commonly use and is not generally known by that name, but by some other and which of the names designated by initial letters, contractions or abbreviations, and further, that he or she hath not in the matter in contest in such suit or other transaction with the plaintiff or plaintiffs, described or designated himself or herself by that name; and that in case of any plea in abatement being duly filed, with such affidavit, it shall be open to the plaintiff or plaintiffs, by application to the Court in which such proceeding may be had, or any Judge thereof, to have the name in the declaration or writ altered and amended so as to conform to the name set out in such plea in abatement, upon such terms as such Court or Judge may prescribe; and so in case of motion to set aside any proceeding for such misnomer, the Court or Judge shall have the same power to alter and amend the proceeding objected to on that ground on like conditions.

#### CAP. XXXIV.

An Act for the punishment of persons guilty of injuring Electric Telegraphs.

*Passed 26th April 1850.*

Wilfully damaging  
the works of any  
Electric Telegraph  
made felony.

Punishment.

**B**E it enacted by the Lieutenant Governor, Legislative Council and Assembly, That whosoever shall wilfully break, throw down, cut, sever, injure, damage, or destroy any of the works or property of any Electric Telegraph Company in this Province, or do any other act whereby the communication by any Telegraph may be interrupted, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned in the Provincial Penitentiary for any term not exceeding four years, which punishment shall be in addition to any civil or other remedy for such offence.

#### CAP. XXXV.

2 V. c. 48.

An Act to amend an Act, intituled *An Act to provide for the summary punishment of persons committing trespasses upon Square Timber and other Lumber*.

*Passed 26th April 1850.*

Preamble.  
2 V. c. 48.

**W**HEREAS the Act intituled *An Act to provide for the summary punishment of persons committing trespasses upon Square Timber and other Lumber*, and the several Acts of Assembly in continuation thereof, are about to expire, and

‘ and it is deemed advisable and necessary to continue and amend the provisions of the said Act, and provide more effectual protection to the honest dealer in the staple of the Province;’

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That from and after the passing of this Act if any person or persons shall by himself or another by his direction, fraudulently and wilfully take, carry away, convert to his own or their own use, or possess himself or themselves without the consent of the owner or person in lawful charge thereof, any Timber squared or unsquared, Saw Log, Mast, Spar, or other Lumber sawed or unsawed, the property of another, whether the owner be known or unknown, lying or being in on or near any River, Pond, Bay, Stream or Inlet, or the bank or shore thereof, within this Province, or shall injure, cut up or destroy any such Timber, Logs or Lumber, or shall wantonly or maliciously cut away or cast adrift any Boom for preserving the same, or any raft of Timber, Logs or Lumber as aforesaid, or shall hew out or otherwise obliterate or deface the mark or marks by which the same shall have been distinguished, such person or person shall for every such offence be deemed and taken to be guilty of larceny, and be liable to be imprisoned therefor for any term not exceeding two years, on conviction before any Court of competent jurisdiction.

Fraudulently taking possession of Timber, &c., near any River, &c., or destroying the same or casting adrift Booms or Rafts, or obliterating marks, deemed larceny.

Punishment.

II. And be it enacted, That in every case of prosecution under the preceding section of this Act, whenever it shall be proved that any such Timber, Log, Mast, Spar, or other Lumber was found in the possession of the defendant without the consent of the owner, with the marks thereof or any of them cut out, altered, obliterated or defaced, or said Timber, Log, Mast, Spar, or other Lumber shall be found partly sawed or manufactured, or partly destroyed, it shall be deemed and taken as prima facie evidence of the guilt of the said defendant, and the burden of proof shall be upon him to discharge himself; provided always, that no person shall be deemed or taken to be in possession of any Timber, Logs or other Lumber, only from the fact of such Timber, Logs and other Lumber being found upon lands in his possession and carried upon such land by force or action of the water.

Possession with marks defaced, &c., to be prima facie evidence of guilt.

Proviso as to Timber, &c., carried on land by force of water.

III. ‘ And whereas it frequently happens that on the removal of Timber, Logs, Spars or other Lumber carried by the water upon the intervale lands adjoining the River Saint John, considerable damage is done to the said lands by the persons managing the same, who are either unknown or unable to pay such damage;’ Be it enacted, That whenever such damage shall be sustained, the owner or agent of such Timber, Logs, Spars and other Lumber shall be liable for all such damage to the owner or occupier of such intervale lands, and may be prosecuted for the same in the form of an action of trespass, or on the case, at the election of the party grieved, in any Court of Law in this Province, and where the damage claimed may not exceed the sum of five pounds, before any two Justices of the Peace in any County in this Province.

Owner or agent of Timber to be liable for damages in removing it when floated on intervale lands adjoining the River Saint John.

IV. And be it enacted, That in any and every case of prosecution under the first section of this Act, the Justice or Justices before whom the complaint shall be preferred shall and may when the same may to him or them seem proper, by warrant direct any Constable of the Parish where the property may be, to take the same into his possession and keep the same for the benefit of the owner thereof; and upon conviction of such offender, or upon his absconding or concealing himself to avoid being brought to justice, or after trial of the offender, without conviction, when the Justice or Justices shall be satisfied upon sufficient evidence that the ownership of such Timber, Log, Mast, Spar or other Lumber,

Justice may order Constable to take possession of Timber, &c., in cases of prosecution under first section.

On proof of ownership to be delivered up on payment of charges.

On failure of proof to be redelivered on like payment.

No such adjudication to be evidence of right of property in any other Court.

Notwithstanding conviction, party to be liable to an action of trespass.

Owners of Timber may enter any Mill Pond, &c., in search of lost property. Penalty for obstructing.

Limitation.

is in the party claiming the same, or any other person, not being the defendant, shall order the same to be delivered up to the owner thereof or his lawful agent, on payment of the reasonable charges for keeping the same, and on failure of satisfactory evidence of ownership in any other person, the said Justice or Justices shall direct the redelivery of the said property to the person from whom the same may have been taken, on payment by him of the like reasonable charges; provided always, that no adjudication under this section shall be evidence in any Court of Law or Equity of the right of property in any such Timber, Logs, Masts, Spars or other Lumber.

IV. And be it enacted, That notwithstanding any conviction had under the first section of this Act, every person or persons guilty of either of the offences therein described, shall be liable to answer to the owner of any such Timber, Log, Mast, Spar or other Lumber, or raft or boom respecting which the offence shall have been committed, in an action or actions of trespass on the case, wherein the owner shall be entitled to receive double the value of the article taken or injured.

V. And be it enacted, That the owner of any such Timber, Logs, Masts or Spars may at any reasonable time by himself or his agent, enter in a peaceable manner upon any Mill, Mill Pond, Brow, Boom or Raft of Timber, Logs or other Lumber, in search of any such property which he may have lost, and any person who shall wilfully prevent or obstruct such search, shall forfeit for each offence not less than five pounds nor more than ten pounds, to be recovered in an action on the case to the use of the person by whom or on whose account such entry may have been claimed.

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

### CAP. XXXVI.

An Act to provide for the holding a Circuit Court in the County of Victoria.

Passed 26th April 1850.

Preamble.

WHEREAS in consequence of the passing of an Act to erect a part of the County of Carleton into a new County, by the name of Victoria, 'it is necessary to provide for the due administration of justice in the said County';

Provisions of Act 9 V. c. 57, extended to the County of Victoria.

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That the several provisions of an Act made and passed in the ninth year of the Reign of Her present Majesty Queen Victoria, intituled *An Act relating to Circuit Courts in this Province, and to provide for the travelling expenses of the Judges holding such Courts*, be and the same are hereby extended to the County of Victoria, in as full and ample a manner as if the several sections of the said Act respectively were set forth in this Act.

A Circuit Court to be held annually, and commence on Wednesday before the last Tuesday in September.

II. And be it enacted, That from and after the passing of this Act a Circuit Court shall be holden in each and every year during the continuation of this Act, in the County of Victoria, and shall commence and be opened on the Wednesday before the last Tuesday in September in each and every year.

Limitation.

9 V. c. 57.

III. And be it enacted, That this Act shall continue and be in force during the continuance of the said recited Act for the period the said recited Act is continued by an Act made and passed in the eleventh year of the Reign of Her present Majesty Queen Victoria, intituled *An Act to continue an Act relating to Circuit Courts in this Province, and to provide for the travelling expenses of the Judges holding such Courts*.

11 V. c. 18.