

SCHEDULE A—Continued.

Number.	Words, Phrases and Sentences of 13 & 14 Vict. cap. 55, repealed by this Act.	Sections and Provisos of 13 & 14 Vict. cap. 55, and the parts thereof respectively in which the repealed Words, Phrases and Sentences are contained.	WORDS, PHRASES AND SENTENCES SUBSTITUTED FOR THOSE BY THIS ACT REPEALED.
22			Act, be entitled to the sum of Fifteen shillings, for every one hundred names so drawn: Which several sums shall be paid by the Treasurer of such County or Union of Counties or by the Chamberlain of such City, as the case may be, to such Officers severally, out of any moneys in his hands belonging to such County, Union of Counties or City respectively, not otherwise specially appropriated by Act of Parliament, upon proof by affidavit made before some Commissioner for taking affidavits in some one of Her Majesty's Superior Courts of Common Law at Toronto, for such County or Union of Counties, of such several services having been executed and of such travel having been so necessarily performed in the service of such summonses. For all which moneys so to be paid as aforesaid, every such Treasurer and Chamberlain shall be allowed in his accounts with such County, Union of Counties or City, as if the same had been paid under the special authority and direction of the Municipal Corporation of such County, Union of Counties or City respectively: Provided always, nevertheless, That in all such cases when there shall be more than a hundred or an even number of hundreds of such names, if the broken number beyond such hundred or hundreds shall fall short of fifty names, the same shall not be reckoned, and if such broken number shall amount to fifty names or upwards, the same shall be reckoned as a full hundred, but in all cases of there being altogether less than a single hundred, the same shall be reckoned as a full hundred."
23	"not exceeding one hundred and forty-four, as such Justices shall think fit."	Sec. 85. Between the words "Petit Jurors" and the words "to direct."	"not exceeding one hundred and forty-four in any County or Union of Counties, except the County of York, or any Union of which that County shall for the time being be the Senior County, and in the said County or Union of Counties last mentioned, not exceeding two hundred and eighty-eight, as such Justice shall think fit."

CAP. LXVI.

An Act to amend an Act passed in the twelfth year of Her Majesty's Reign, intituled, *An Act to improve the Law of Evidence in Upper Canada.*

[30th August, 1851.]

Preamble.
12 Vict. 70, partly repealed.

WHEREAS by a Proviso contained in an Act passed in the twelfth year of Her Majesty's Reign, intituled, *An Act to improve the Law of Evidence in Upper Canada*, it is provided, That the said recited Act shall not render competent any party to any suit, action or proceeding, individually named in the record, or any Lessor of the Plaintiff or tenant of premises sought to be recovered in ejectment, or the landlord of any person in whose right any defendant in *replevin* may make cognizance, or any person in whose immediate or individual behalf any action may be brought or defended, either wholly or in part, or the husband or the wife of such persons respectively: And whereas it is desirable that in no case should there be any exclusion of any person from giving

giving evidence, but that all persons should be admitted to give evidence on oath or affirmation, as the case may be, as hereinafter provided: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the said Proviso in the said first recited Act be, and the same is hereby repealed: Provided always, that no married woman shall be allowed as a competent witness in any civil proceeding, either for or against her husband.

Proviso: married women rendered incompetent as witnesses for or against their husbands.

II. And be it enacted, That any party to any civil proceeding may be examined as a witness in any suit or action, at the instance of the opposite party in such suit or action; Provided always, that such party shall be subpoenaed, or notice of the intention to examine such party shall be given to such party or his Attorney, at least eight days before the time of such examination, and if such party shall not attend upon such notice or subpoena, such non-attendance shall be taken as an admission *pro confesso* against him in such suit or action, unless otherwise ordered by the Court or Judge in which or before whom such examination is pending, and a general finding or judgment may be had against such party thereon, or the plaintiff may be non-suit, or the proceedings in such action or such suit may be postponed by such Court or Judge, on such terms as such Court or Judge shall see fit to impose: Provided also, that no such party shall be compelled in any case to give evidence that may expose or render such party liable to any prosecution for penalties, or to any criminal proceeding whatsoever.

A party to any civil proceeding may be examined as a witness at the instance of the opposite party.

Proviso.

III. And be it enacted, That whenever a party to any such suit or action is resident out of Upper Canada, it shall be lawful for the Court in which such suit or action is brought, or any Judge in Chambers, at the instance of the opposite party, to issue a Commission for the examination of such party, in the same manner as a Commission may now be issued from any of the Superior Courts for the examination of witnesses, and if such party shall refuse to attend before such Commissioners, such refusal, proved by affidavit or otherwise to the satisfaction of a Judge of the Court in which the suit is had, shall authorize a verdict or judgment to pass against such party, or he shall become non-suit: Provided, that no such Commission shall be issued unless the party requiring such Commission shall state under oath by affidavit the facts intended to be proved before such Commission, and then the said Judge after being satisfied that such Commission is applied for in good faith, and not for purposes of delay, may issue such Commission.

Proviso.

A Commission may issue for the examination of such party when out of U. C.; consequence, if the party refuse to comply thereto.

Proviso.

IV. And be it enacted, That whenever any person has died or shall hereafter die in any of Her Majesty's possessions out of Upper Canada, having made a Will sufficient to pass real estate in Upper Canada, and whereby any such estate shall be divided, charged or affected, and such Will shall have been duly proved in any Court having the proof and issuing probate of Wills in any of such possessions, and shall remain filed in such Court, the production of the probate of such Will, or a certificate of the Judge, Registrar or Clerk of such Court, that the original is filed and remains in such Court, and purports to have been executed before two witnesses, shall be sufficient *prima facie* evidence in any Court of Law or Equity in Upper Canada, in any proceeding concerning such real estate, of such Will, and of the same having been executed so as to pass real estate, without the production of the original Will: Provided always, that notice of the intention to use such Probate or Certificate in the place of the original Will, shall be given to the opposite party in any such proceeding, one month before the same shall be so used: And provided also, that such Probate or Certificate shall not be used if, upon cause shewn before any such Court of Law or Equity, or any Judge thereof, such Court or Judge shall find any reason to doubt the sufficiency of the execution of such Will to pass such real estate as aforesaid, and shall make a Rule or Order disallowing the production of such Probate.

Probate of a Will made by any person who shall die in Her Majesty's possessions out of Upper Canada, with a certificate of the filing of the original, &c., to be sufficient *prima facie* evidence in Courts of Upper Canada in proceedings concerning such will.

Proviso: notice of intention to use probate to be given to opposite party.

Production of Certificate to be sufficient proof of its contents, &c.

V. And be it enacted, That the production of the Certificate in the next preceding Section mentioned, shall be sufficient *prima facie* evidence of the facts therein stated, and of the authority of the Judge, Registrar or Clerk, without any proof of his appointment, authority or signature.

C A P. L X V I I .

An Act for vesting in the Commissioners for executing the office of Lord High Admiral of the United Kingdom of Great Britain and Ireland, the estates and property therein described, and for granting certain powers to the said Commissioners, and for other purposes therein mentioned.

[30th August, 1851.]

Preamble.

WHEREAS divers messuages, lands, tenements, estates, and other hereditaments and real property lying within this Province, have been at various times set apart from the Crown Reserves, or other Crown Lands and property in this Province, or from the Clergy Reserves therein, as reserves for the forming or enlarging Her Majesty's Stations, Docks, Naval Arsenals, and Dock Yards therein, and for other public purposes connected with the Naval defence of the Province, and with the several Departments of the public service under the management or control of the Commissioners for executing the office of Lord High Admiral of the United Kingdom of Great Britain and Ireland; And whereas other messuages, lands, tenements, estates and other hereditaments and real property have been at divers times purchased for like purposes, and conveyed or surrendered to or in trust for Her Majesty or Her Royal Predecessors, or have been taken for like purposes under the authority of some Act or Acts of the Legislature of the late Province of Lower Canada, or of the late Province of Upper Canada, or otherwise, according to law, and by the provisions of such Acts or otherwise according to law, vested in Her Majesty, and the price or compensation of and for the same hath been paid out of the funds provided for that purpose by the Parliament of the United Kingdom; And whereas it is necessary and expedient that Her Majesty should be enabled to acquire lands hereafter for the like or similar purposes in this Province; And whereas it may be expedient that such parts of such lands, estates and property as may not be wanted for any of the purposes aforesaid, should from time to time be sold or disposed of; And whereas for effecting such sales and for the better protection and management of such property as aforesaid, and of the Works under the control of the said Commissioners as aforesaid, it is expedient and necessary that the same and all other messuages, lands, tenements, estates, hereditaments and other real property of the nature and description hereinafter mentioned, should be vested in the Lord High Admiral or the Commissioners for executing the office of Lord High Admiral of the said United Kingdom, for the time being, in trust of Her Majesty, Her Heirs and Successors, with the powers hereinafter granted to the said Lord High Admiral and Commissioners for executing the office of Lord High Admiral as aforesaid, and subject to the provisions hereinafter made: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of An Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, all Docks, Dock Yards, Arsenals, Piers, Wharves, Quays, Slips, Messuages, Lands, Lands covered with water, Beaches, Beds of Rivers, Canals, Roads and works connected therewith, tenements, estates and other hereditaments, real property, rights, easements and servitudes whatsoever, (all which things shall be intended by the words "Lands and other Real Property" wheresoever they occur in this Act) within this Province, and immediately before that time vested in Her Majesty, the Lord High Admiral or Commissioners for executing the office of Lord High Admiral aforesaid, or in any other person or persons,

Officer

Lands vested in the Commissioners of the Admiralty.