

such further sums as may thereafter fall due on the Mortgage, and upon any subsequent default of payment thereof, may be enforced by the further order of the Court for the sale of the Mortgaged premises, or of such part thereof as shall be necessary from time to time, until the amount secured by the Mortgage and the costs of the proceedings thereon, shall have been fully paid and satisfied.

V. And be it enacted, That if in any of the foregoing cases it shall appear to the Court, that the Mortgaged premises are so situated that the sale of the whole will be most beneficial to the parties, the decree shall in the first instance be entered for the sale of the whole premises accordingly, and in such case the proceeds of such sale shall be applied as well to the payment of the amount due and of the costs of suit, as towards the residue of the sum not due at the time of such sale; and if such residue do not bear interest, then the Court may direct the same to be paid with a deduction of the rebate of legal interest, for the time during which such residue shall not be due and payable.

VI. And be it enacted, That in case of subsequent incumbrances affecting any mortgaged premises, which may be sold under the decree of the said Court by virtue of this Act, the residue of the proceeds which may remain after the discharge of the first mortgage thereon shall be subject, under the order and direction of the said Court, to the claims of the holders of such subsequent incumbrances according to their due priority, whether the same be due and payable or otherwise, subject to the like rebate of interest in case of sums not payable, when the same do not bear interest, as is provided in the fifth section of this Act.

VII. And be it enacted, That all sales of any Mortgaged premises made under the authority of this Act, shall be made by public auction, of which not less than three months notice shall be given.

CAP. XXIX.

An Act relating to the sale and disposition of the real estate of Infants.

Passed 23d March 1839.

I. **B**E it enacted by the Lieutenant Governor, Legislative Council and Assembly, That whenever any infant shall be seized or possessed of any Lands, Tenements or Hereditaments, by way of mortgage or in trust only for others, the Chancellor or Master of the Rolls, on the petition of the guardian of such infant, or of any person interested, may enable and compel such Infant to convey and assure such Lands, Tenements and Hereditaments to any other person in such manner as the said Court shall order and direct; and every conveyance or assurance made pursuant to such order, shall be as good and effectual in the law as if the same were made by such Infant when of lawful age.

II. And be it enacted, That the Court of Chancery shall have power to decree and compel the specific performance by any Infant Heir or other person of any bargain, contract or agreement made by any party who may die before the performance thereof, on petition of the executors or administrators of the estate of the deceased, or of any person or persons interested in such bargain, contract or agreement, and on hearing all parties concerned, and being satisfied that the specific performance of such bargain, contract or agreement, ought to be decreed or compelled.

III. And be it enacted, That any Infant seized of any real estate or entitled to any term for years in any lands may, by his next friend or by his guardian, apply by petition to the Chancellor or the Master of the Rolls for an order for the sale or other disposition of the said property in manner hereinafter mentioned.

IV. And be it enacted, That on such application the said Court may appoint one or more suitable person or persons to be the guardian of such Infant in relation to the proceedings on such application, who shall be required to give security by bond to the Infant, to be filed with the Registrar, in such penalty and with such sureties and in such form as the Court shall direct, conditioned for the faithful performance of the trust reposed, for the paying over, investing and accounting for all monies which shall be received by such guardians, according to the order of the Court and for the observance of the orders and directions of the said Court, in relation to the said trust; and in case of the forfeiture of such bond, the said Court may order and direct the same to be prosecuted for the benefit of the party injured.

V. And be it enacted, That upon the filing of such Bond by such guardian as aforesaid, the said Court may proceed in a summary way by reference to a master to inquire into the merits of such application, and in case it shall appear satisfactorily that a disposition of the real estate of such Infant, or any part thereof, or any term of years of which he may be possessed, or in which he may be interested, is necessary or proper, either for the support and maintenance of such Infant or for his education, or that the interest of such Infant requires or will be substantially promoted by such disposition on account of any part of his said property being exposed to waste and dilapidation, or on account of its being wholly unproductive, or for any other reasons or circumstances, the Court may order the letting for a term of years the sale or other disposition of such real estate or interest by such guardian so appointed, in such manner and with such restrictions as shall be deemed expedient: Provided always, that nothing herein contained shall be construed to authorize the ordering of the sale, leasing or other disposition of any real estate or term for years, in any manner contrary to the provisions of any last will, or any conveyance by, through or under which such estate or term was devised or conveyed to such Infant.

VI. And be it enacted, That upon any agreement for the sale, leasing or other disposition of such property made pursuant to such order, the same shall be reported to the Court on the oath of the guardian making the same, and if it be confirmed a conveyance shall be executed under the direction of the Court.

VII. And be it enacted, That all sales, leases, dispositions and conveyances made in good faith by any guardian in pursuance of any such agreement so confirmed as aforesaid shall be valid and effectual as if made by such Infant when of full age.

VIII. And be it enacted, That upon any order for the sale of any property being made as aforesaid, the Infant to whom the same shall belong shall be considered, so far as relates to such property, a ward of the Court of Chancery, and the Court shall have power to make such order for the investment, disposition and application of the proceeds of such property, and of the increase and interest arising therefrom, as to secure the same for the benefit of such Infant in such manner as may be deemed most expedient.

IX. And be it enacted, That no sale so made as aforesaid shall give to such Infant any other or greater interest or estate in the proceeds of such sale than he had in the estate so sold;

but the said proceeds shall be deemed estate of the same nature as the property sold.

X. And be it enacted, That every conveyance made under the provisions of this Act, having been first duly acknowledged or proved according to the provisions of the Laws relating to the Registry of Deeds, may be registered in the Registry Office of the County where the lands lie, and such conveyance so registered, or a copy thereof, may be given in evidence in any Court of law or equity in this Province, in like manner with and under the same rules and restrictions as any other registered Deed, and when so given in evidence shall be deemed and taken to be evidence that all the proceedings on which such conveyance is founded were rightly had and done.

CAP. XXX.

An Act to provide for the government and regulation of the House of Correction for the City and County of Saint John.

Passed 23d March 1839.

I. **B**E it enacted by the Lieutenant Governor, Legislative Council and Assembly, That it shall and may be lawful to and for the Lieutenant Governor or Commander in Chief, by and with the advice of Her Majesty's Executive Council, from time to time, to appoint not less than five, nor more than nine fit and proper persons to be Commissioners for the House of Correction for the City and County of Saint John, of whom not less than two shall be members of the Court of Sessions of the Peace in and for the said City and County, and one a member of the Common Council of the said City of Saint John, and such Commissioners or any of them to remove, and others in their places from time to time appoint as aforesaid; which said Commissioners shall be sworn to the faithful discharge of their duties, before any Justice of the Peace in and for the said City and County, and the said Commissioners shall meet from time to time at such place or places within the said City and County as may be for that purpose named, and then and there by a majority of votes of those present at any appointed meeting, decide all questions and manage all business touching the said House of Correction, and any three of the said Commissioners shall form a Board for the transaction of business, except as hereinafter provided; and that the first person named as Commissioner shall be Chairman of the Commissioners, and in case of his absence from any meeting, the Commissioners met shall out of their number choose a Chairman for the time being; and that the Chairman, or in case of his sickness or absence, any two of the said Commissioners shall have full power to summon a meeting of the said Commissioners for the transaction of business, by causing a notice to be left at the usual place of abode of each of the said Commissioners of the time and place of such meeting.

II. And be it enacted, That the said Board of Commissioners shall have full power and authority, at any and at all times to make such rules, orders and regulations for the good government and management of the said House of Correction, and of the several persons from time to time confined therein, as they shall find necessary, and shall and may from time to time nominate and appoint all requisite officers, servants and keepers in and about the same, and them and any of them to remove; and also shall and may provide such provisions, materials and things as they may judge necessary, as well for the support and maintenance as for the setting to work and employing the several persons that may therein be confined and imprisoned, and also shall have full power and authority to enforce the observance of the rules, orders and regulations which they may from time to time make, for the government and management of the prisoners in the said House of Correction, by solitary confinement or other reasonable punishment: Provided always, that at any meeting of the said Commissioners, at which any rule, order or regulation for the government and management of the said House of Correction, or of the prisoners therein being, may be made, or at which any officer, keeper or servant may be appointed or removed, there shall be not less than five Commissioners present, and the said Commissioners shall cause a record of all their proceedings to be kept in a book to be provided for that purpose.

III. And be it enacted, That the said Board of Commissioners shall annually before the first day of March in each and every year, cause a full, complete and perfect statement of the said House of Correction, and all persons therein, and the mode in which each has been employed during the year, and also a just and detailed account of all receipts and expenditures for and on account of the said House of Correction, to be filed with the Clerk of the Peace in and for the said City and County, for the information of the General Sessions of the Peace, which said account shall be audited by a Committee of the said Court of Sessions, and also shall at the same time submit an estimate of what sum or sums of money will be needful for the maintenance, support and employment of the persons therein and therewith connected, for the year then next ensuing, which sum and sums of money shall be assessed, levied, collected and paid in such proportions and in the same manner as any other County rates for public charges are or may be assessed, levied, collected and paid under and by virtue of any Act or Acts which, at the time of making such assessments, may be in force in the Province, for the assessing, levying and collecting of rates for public charges, and shall be paid by the said Collector or Collectors to the said Commissioners.

IV. And be it enacted, That the proceeds arising from any work or labour to be performed in the said House of Correction, under the direction of the said Commissioners, shall be duly accounted for by them, and shall be applied towards the support and maintenance of the said House of Correction.

V. And be it enacted, That neither of the said Commissioners shall receive any compensation or allowance directly or indirectly for his services as such, nor shall either of them be capable of holding any office, place or employment in, about, connected with, or arising from the said House of Correction, for or by means of which any salary, fee, emolument, compensation, or perquisite can be derived, nor shall any Commissioner be engaged or interested in any way whatever, either as security or otherwise, in any contract for or on account of the said House of Correction.

VI. And be it enacted, That it shall and may be lawful for the Mayor, Recorder and Aldermen of the said City, and all Justices of the Peace for the said City and County for the time being, or either of them, to take up and arrest or order to be taken up and arrested, all and any rogues, vagabonds, stragglers, idle, suspicious or disorderly persons, within the said City and County, and to order such rogues, vagabonds, stragglers, idle, suspicious or disorderly persons to be committed to the said House of Correction, there to remain and be kept to hard labour for any term not exceeding forty days.

VII. And be it enacted, That it shall and may be lawful for the said Justices of the Peace, in General or in Special Sessions to be for that purpose held, to cause all prisoners sentenced to imprisonment with hard labour, and all vagrants, rogues, vagabonds, stragglers, and other idle, suspicious and disorderly persons, at such time in confinement in the Common Gaol or Work House of the said City, to be removed to the said House of Correction, there to remain, and be kept to hard labour, until their several and respective terms of imprisonment shall expire.

CAP. XXXI.

An Act in further amendment of the Criminal Law.

Passed 23d March 1839.

BE it enacted by the Lieutenant Governor, Legislative Council and Assembly, That where any person shall be charged with and convicted of any of the following offences as misdemeanors, that is to say, of any assault with intent to commit Felony, of any assault upon any Peace Officer, Officer of the Customs or Revenue Officer in the due execution of his duty, or upon any person acting in aid of such Officer, of any assault upon any person, with intent to resist or prevent the lawful apprehension or detainure of the party so assaulting, or of any other person, for any offence for which he or they may be liable by law to be apprehended or detained, or of any perjury, in any such case the Court may sentence the offender to be imprisoned, with or without hard labour, in the Common Gaol or House of Correction, for any term not exceeding two years, and may also (if it shall so think fit) fine the Offender, and require him to find sureties for keeping the Peace, and being of good behaviour.

CAP. XXXII.

An Act in amendment of an Act, intituled "An Act in addition to and in amendment of the several Acts now in force to provide for sick and disabled Seamen, not being Paupers belonging to this Province."

Passed 23d March 1839.

WHEREAS the additional duty of one penny imposed upon every Ship or Vessel of the burthen of sixty tons or upwards, arriving at the Harbour of Saint John or Out Bays of the Port of Saint John, has been found to be more than sufficient to meet the objects contemplated by the said Act;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That the first Section of the said Act, passed in the seventh year of the reign of His Majesty King George the Fourth, intituled "An Act in addition to and in amendment of the several Acts now in force to provide for sick and disabled Seamen, not being Paupers belonging to the Province," be and the same is hereby repealed.

II. And be it further enacted, That from and after the passing of this Act, every Ship or Vessel that shall arrive at the said Harbour of Saint John, or the said Out Bays of the Port of Saint John, and shall be of the burthen of sixty tons or upwards, shall pay the sum of one halfpenny per ton in addition to the sum of one penny per ton, imposed by the first Section of an Act of the General Assembly, made and passed in the sixtieth year of the reign of His Majesty King George the Third, intituled "An Act to provide for sick and disabled Seamen, not being Paupers, belonging to this Province," making in the whole one penny half penny per ton for every registered ton such ship or vessel shall be rated at, the same to be paid, recovered and received in the manner directed in and by the several Acts in force for providing for sick and disabled Seamen, and subject to the rules, regulations and restrictions therein contained.

CAP. XXXIII.

An Act to explain and amend an Act, intituled "An Act to incorporate sundry persons by the name of the Saint John Water Company."

Passed 23d March 1839.

WHEREAS by an Act made and passed in the second year of the Reign of His late Majesty King William the Fourth, intituled "An Act to incorporate sundry persons by the name of the Saint John Water Company," and by a certain other Act made and passed in the fourth year of the same reign, intituled "An Act to revive and amend an Act to incorporate sundry persons by the name of the Saint John Water Company," authority was given to establish the said Company agreeably to the several provisions of the said Acts, and the same has been established, and is now in full operation, but doubts are entertained whether some of the terms of the said Acts, have been strictly complied with, and thereby the permanence of this useful undertaking may be greatly endangered; for remedy whereof,

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That so much of the second Section of the said first mentioned Act as declares that the Capital Stock of the said Corporation shall consist of current Gold and Silver Coins of the Province, and as requires the five per cent thereof to be paid in current gold and silver coins of the Province, be and the same is hereby repealed.

II. And be it further enacted, That such part of the said Capital Stock as has been actually and bona fide paid in, to the satisfaction of the President and Directors of the said Company for the time being, by any Stockholder as a per centage upon, or part payment of his share or shares in the said Capital Stock, whether the same was paid in gold and silver coins or otherwise, shall be deemed and adjudged and is hereby declared to be a good and sufficient payment of such part of such Capital Stock, according to the true intent and meaning of the said Acts.

III. And be it further enacted, and it is hereby declared That no part of the proceedings of any President and Directors of the said Company, or of any meeting of the Stockholders thereof since the passing of the said Acts, shall be deemed and adjudged as illegal, unauthorized or contrary to the intent and meaning of the said Acts or either of them, by reason of any irregularity that may have arisen in the first general meeting of the Stockholders of the said Company, or in the election of the first Directors of the said Company, or in the election of the first President of the said Company, or by reason of the said Stockholders not having heretofore made any Bye Laws, Ordinances and Regulations for the good management of the affairs of the said Corporation, or by reason of such part of the Stock that has been paid, not having been paid in gold and silver coins: and that all proceedings heretofore had and done, and all transfers of shares in the said