

NEW
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SERIES.

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BY AUTHORITY.

CAP. XIX.

An Act to provide against the importation and spreading of Distempers in the Counties of Westmorland, Gloucester and Kent.

WHEREAS from the arrival of shipping from foreign ports to the different Harbours of Shediac, and at the head of the Bay of Fundy in the County of Westmorland; and also in the Harbours of Richibucto, Baie du Chevreuil and Cocagne in the County of Kent; Resignouche, Bathurst, Carraquet and Shippegan in the County of Gloucester, it has become expedient to make regulations to prevent the importation of infectious distempers:

I. Be it therefore enacted by the Lieutenant Governor, Council, and Assembly, That no Vessel having on board the small Pox, Yellow fever, putrid Bilius Fever, or other pestilential or contagious distemper, or coming from any place infected with such distempers, or at which any such distempers at any time of her departure were known or supposed to prevail, or on board of which vessel any person during the voyage had died, or been sick of any such distemper, or having on board passengers, shall come or proceed or be navigated further from the sea into the Bay of Fundy towards any port or place in the County of Westmorland, or further from the sea into the Harbours of Bay de Vert and Chediac in the County of Westmorland, or further from the sea into the Harbours of Resignouche, Bathurst, Carraquet and Shippegan, in the County of Gloucester, or further from the sea into the Harbour and Rivers of Richibucto, Baie du Chevreuil and Cocagne in the County of Kent, than such place or places as the Justices of the Peace in the Counties of Westmorland, Gloucester, and Kent at their General Sessions of the Peace, or at any special Session to be for that purpose convened, shall in such Counties respectively order and appoint, until such vessel shall have been duly inspected and examined by the Physician or Physicians, or health Officer, to be for that purpose as hereinafter mentioned appointed, and shall have received a licence for that purpose from two of His Majesty's Justices of the Peace; and in case such licence shall be denied and it shall be judged expedient by the Justices of the Peace of the said Counties respectively, or by any two of them, that such vessel with her cargo and all persons on board shall ride or perform quarantine, then the Master or Commander of such vessel for the time being shall forthwith cause such vessel with all the persons, goods and cargo on board thereof, to be removed to and anchor at such place and for such length of time, not exceeding forty days, as the said Justices or any two of them in either county shall direct and appoint; and during the time such vessel shall be performing such quarantine, the Master or Commander thereof shall not permit any intercourse between the persons on board such vessel and the shore or shores, or any other vessel or vessels in the said harbour or harbours, except under the direction of the said physician or physicians; and the Master or Commander of any such vessel, and all and every such person or persons belonging to or being on board of such vessel, who shall disobey any such orders and directions as aforesaid, or shall neglect to execute and perform the same, or who shall come on shore or on board of any other vessel within the said Harbour or Harbours, or shall presume to bring or put, or aid or assist in bringing and putting, on shore or on board any other vessel as aforesaid, any person or any goods from any such vessel as having come to anchor, or which shall be ordered to perform quarantine as aforesaid, without the licence or permission of the said physician or physicians being for that purpose first obtained, shall for each and every offence severally forfeit and pay a sum not less than fifty pounds nor more than two hundred pounds current money of this Province.

II. And be it further enacted, That the Master or Commander of every vessel having on board any pestilential or contagious distemper, or coming from any place infected with such distemper or distempers, or at which any such distempers at the time of her departure were known or supposed to prevail, or on board of which vessel any person during the voyage had died or been sick of any such distemper, shall immediately after her arrival at such place or places as shall be appointed as aforesaid by the Justices of the Peace of the said counties respectively in General or Special sessions convened, hoist such Vessel's Ensign with the Union down, or if there be no Ensign on board then he shall hoist such other colours as shall be on board, in the starboard main rigging, and continue the said signal so hoisted, until a Licence be had to remove the same from the said Justices or any two of them for the said counties respectively, under the penalty of twenty pounds for each and every offence.

III. And be it further enacted, That the several Branch Pilots in the aforesaid counties of Westmorland, Gloucester, and Kent respectively shall be furnished with printed or written instructions containing such memorandum or abstract of the Provisions of this Act, and of the regulations to be made in pursuance thereof, as the said Justices of the Peace of the said counties respectively at any General or Special Sessions may direct, and such instructions shall in all cases contain a notice to the following effect: That the master or commander of any such vessel shall not put on shore, or on board of any other vessel or suffer any other persons to go or put on shore or on board of any other vessel, any person or goods out of the said Vessel, until such Vessel shall have been so inspected by the Physician or Physicians, health officer or officers, and his or their licence for that purpose obtained, under the penalty of not less than fifty pounds nor more than two hundred pounds, and further that the said master or commander shall cause the said vessel's Ensign or such other colours as shall be on board to be hoisted in the starboard main rigging (if the Ensign, with the Union down), and shall continue the same so hoisted until leave be granted by two Justices of the Peace to remove the same, under the penalty of twenty pounds; and it shall be the duty of the said Pilots respectively on first boarding any vessel coming into any of the said Harbours to read such notice to the master or commander of such vessel, or to communicate to him the purport and effect of such notice, and any Branch Pilot or person having charge of any vessel who shall neglect his duty in this respect shall for the first offence forfeit and pay the sum of ten pounds, and for the second offence, in addition to the further penalty of ten pounds, be prevented forever after from holding a Branch.

IV. And be it further enacted, That the provisions of the fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth and nineteenth sections of an Act made and passed in the first year of the reign of His present Majesty King William the Fourth, intituled *An Act to make more effectual provision for preventing the importation and spreading of infectious distempers within the towns and Settlements in the counties of Charlotte and Northumberland*, shall extend and be construed to extend to the counties of Westmorland, Gloucester and Kent, and shall be taken and considered as part and parcel of this Act.

V. And be it further enacted, That this Act shall continue and remain in force until the first day of January one thousand eight hundred and thirty seven.

CAP. XX.

An Act to regulate the service of writs of Scire Facias.

Passed 9th March 1832.

I. BE it enacted by the Lieutenant Governor, Council, and Assembly, That the proceeding by Two Nulls returned, and also that of summoning by summoners, on writs of Scire Facias, shall be abolished.

II. And be it enacted, That writs of Scire Facias may be directed to the Sheriff of any County within the Province whether or not it be the County in which the Court sits, or in which the Venue is laid, and may be served into any County although directed to the Sheriff of another County.

III. And be it enacted, That when the Defendant or Defendants in writs of Scire Facias can be found within the Province, or have a known place of abode therein, such writs shall be served by delivering a copy of the writ to each Defendant, or leaving such co-

py at the Defendant's place of abode, with the wife, or an adult member of the Family, or a person having the care of the house of such Defendant; which service shall be proved by affidavit made and filed: Provided that in cases where the service is not personal, it shall not be deemed good service without the order of the Court, or a Judge of the Court, from which the writ has issued, upon reading the affidavit of Service.

IV. And be it enacted, That when any defendant cannot be found within the Province, and has not a known place of abode therein, writs of Scire Facias may be served by delivering a copy of the writ to any known agent of such Defendant, or to any person having charge of any Property, real or personal, of such Defendant, or being jointly interested in any property, real or personal, of such Defendant within the Province; and such service shall be deemed good service when so ordered by the Court, or a Judge of the Court, from which the writ has issued, upon affidavit of such service, and upon its being also made to appear upon affidavit to the satisfaction of such Court or Judge that the Defendant cannot be found, and has no known place of abode within the Province.

V. And be it enacted, That good service of writs of Scire Facias, according to the provisions of this Act, shall in all cases be equivalent to a return of Scire Feci by the Sheriff as heretofore practised.

VI. And be it enacted, That when it shall be made to appear upon affidavit to the satisfaction of the Court or Judge of the Court from which a writ of Scire Facias may have issued, that such writ cannot be served in any of the modes herein before specified for that purpose, such Court or Judge shall, after the return and filing of the writ, direct a rule to be entered requiring any Defendant as to whom such service cannot be made to appear to such writ within twenty Days after the last Publication of such Rule in one or more Newspapers published in such parts of the Province as such Court or Judge shall direct; and a copy of such Rule certified by the Clerk of the Court shall be published in such Newspaper or Newspapers for four weeks successively; and if an appearance to the Scire Facias shall not be duly entered for such Defendant within the said Twenty Days, such proceedings may be had as in the case of Default of appearance after due service of the writ, affidavit of the due Publication of such Rule according to the Tenor thereof being first made and filed.

VII. And be it enacted, That the fourth Section of an Act made and passed in the eighth year of the reign of His Majesty King George the Fourth, intituled *An Act for the more easy assessment of damages on Bonds payable by Instalments and other similar instruments, and for the more convenient service of writs of Scire Facias*, be and the same is hereby repealed.

VIII. And be it enacted, That this Act shall commence and take effect on the first day of May in the present year.

CAP. XXI.

An Act to amend an Act passed in the fiftieth year of the Reign of His Majesty King George the Third, intituled *An Act for the more easy and speedy recovery of small Debts*.

Passed 9th March 1832.

WHEREAS it is necessary for the purposes of Justice, that the expence attending suits at law should bear a reasonable proportion to the amount of injury sustained: And whereas also in order in some measure to accomplish this object, it is expedient in cases involving damages comparatively trifling, to establish a summary and cheap remedy:

I. Be it enacted by the Lieutenant Governor, Council, and Assembly, That the eighteenth section of an Act made and passed in the fiftieth year of the reign of King George the Third, intituled *An Act for the more easy and speedy recovery of small Debts*, be and the same is hereby repealed.

II. And be it further enacted, That the jurisdiction of the Justices of the Peace in the said Act mentioned shall also be held and is hereby made to extend to all actions of trespass, trover, and other wrongs where the amount of the damages demanded for the injury or wrongs complained of shall not exceed forty shillings, except in cases where the title to lands shall come in question, and except also cases for libel and slander; and the judgment of any of the said Justices, or the verdict of the Jury in favor of the said plaintiff, for such sum as he or they may think proper, not exceeding the said forty shillings, shall be a full determination of the whole matter laid before him or them, and a bar to the recovery of any further damage for the same, or any part of the same matter, injury or wrongs, although the damage may be much greater than the said sum of forty shillings.

III. And be it further enacted, That the same proceedings shall be had in all cases arising under or by virtue of this Act, where the same are applicable, as are provided in and by the said above recited Act, as fully as if this Act were incorporated with and made a part of the said above recited Act.

IV. And be it further enacted, That so much of the seventeenth Section of the above in part recited Act as relates to the fees of Constables for serving subpoenas be repealed, and in lieu thereof a sum not exceeding one shilling be allowed for serving each and every subpoena, including mileage and all other fees.

CAP. XXII.

An Act to alter and amend an Act, intituled *An Act to incorporate sundry persons by the name of the 'New-Brunswick Fire Insurance Company'*.

Passed 9th March 1832.

I. WHEREAS in and by the fifteenth section of an Act passed in the first year of the Reign of His present Majesty King William the Fourth, intituled *An Act to incorporate sundry persons by the name of the 'New-Brunswick Fire Insurance Company'*, the Directors of the said Corporation are required to make half yearly dividends of all the profits, rents, premiums and interest of the said Corporation: And whereas it is expedient that some provision should be made by the Directors of the said Company to meet any contingencies that may happen, by creating a surplus fund out of the profits, rents, premiums and interest of the said Corporation; Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That the Directors of the said Corporation shall not at any half yearly dividend of the profits, rents, premiums and interest of the said Company divide or pay, or cause or permit to be divided or paid, any greater or larger dividend than will amount to the rate of six pounds per centum on the total amount of Capital Stock collected and actually invested and disposed of as is provided in and by the said Act of Incorporation, and of such Surplus Fund as may be created; and also that the sum at any time divided and paid shall not exceed two thirds of the net amount of the actual gains and earnings of the said Company, gained or earned since the making of the then last dividend: Provided always, that whenever the Capital Stock collected and actually invested, as by the said Act of Incorporation is required, and the Surplus fund, shall together amount to the sum of twenty five thousand pounds, then the Directors of the said Company may, if they shall think the same advisable, divide and pay the whole of the net amount of the gains and earnings of the said Company at each half yearly dividend; any thing herein before contained to the contrary thereof in any wise notwithstanding.

II. And whereas the said Company or Corporation in and by the sixteenth section of the said Act of Incorporation are restrained from directly or indirectly dealing in the lending of money, or in Bills of Exchange or other negotiable instruments, by way of Discount or otherwise; and also in and by the seventeenth section of the same Act are prevented from lending money upon Mortgage on lands or other real property, or from holding lands or real property in security for the payment of money, unless by way of additional security for debts contracted with the said Company in the course of its lawful dealings: And whereas in and by the first section of this Act it is provided that a surplus fund shall be created out of the profits, rents, premiums and interest of the said Company: And whereas as it would be highly injurious as well to the Stockholders in the said Company as to the public in general, to compel the said Company to keep out of circulation the amount of its gains and earnings; Be it therefore enacted, That it shall and may be lawful to and for the Directors of the said Corporation to use, apply and dispose of the monies arising in the course of the dealings of the said Corporation, and all the profits, rents, premiums and interest thereof, by letting the same out at interest, either upon the security of lands or other property or otherwise as the Directors thereof may think fit; any thing in the said Act of Incorporation contained to the contrary thereof in any wise notwithstanding: Provided always, nevertheless, that no monies of the said Corporation shall be put out at interest nor any security taken for the same either by Mortgage, Bond, Bill, Note, or otherwise, for a shorter period than one year.

CAP. XXIII.

An Act to improve the law relating to mortgages.

Passed 9th March 1832.

WHEREAS the existing Law relating to mortgages needs amendment in certain respects:

I. Be it enacted by the Lieutenant Governor, Council, and Assembly, That from and after the passing of this Act, any mortgage already registered, or which may hereafter be registered, under the provisions of the Acts in force for the public registering of deeds and conveyances, may be discharged by a certificate under the hand and seal of the mortgagee, his executors, administrators or assigns, declaring that all the monies due upon the mortgage have been paid, or that the mortgage has been otherwise satisfied and discharged; which certificate shall be duly acknowledged or proved in like manner as a deed or conveyance under the provisions of the said registry Acts, and shall be registered at full length, with the acknowledgement or proof thereof, in the registry Book in the office where the mortgage is registered; and the register shall make an entry in the margin of the Registry of the mortgage, that such mortgage is satisfied and discharged, which entry shall refer to the Book and page where such certificate is registered; and such certificate shall also be filed in the Registry office.

II. And be it declared and enacted, That every discharge of mortgage duly made and entered in the Registry Book according to the Provisions of the seventeenth section of an Act made and passed in the twenty sixth year of the Reign of King George the third, intituled *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 according to the Provisions of this Act, shall be valid and effectual to discharge and release the mortgage to all intents and purposes, as well at law as in Equity, from the time when such entry is made, and to revert the legal estate in the Mortgage, his Heirs, Executors, Administrators or Assigns, without any reconveyance thereof.

III. And be it enacted, That where any action shall be brought on any contract or obligation for payment of the money secured by a mortgage, or upon any covenant in the mortgage deed, for a payment of such money, or where any action of Ejectment shall be brought for the recovery of any mortgaged Lands, Tenements, or Hereditaments, and no suit shall be then depending in the Court of Chancery of this Province for or touching the foreclosing or redeeming of such mortgaged Lands, Tenements, or Hereditaments, if the person or persons having right to redeem such mortgaged Lands, Tenements, or Hereditaments, and who shall appear and become defendant or defendants in such action, shall at any time pending such action pay unto such mortgagee or mortgagees, or in case of his, her, or their refusal, shall bring into the court where such action shall be depending, all the principal monies and interest due on such mortgage, and also all such costs as have been expended in any suit or suits at Law or in Equity upon such mortgage (such money for principal, interest, and costs to be ascertained and computed by the court where such action is or shall be depending, or by the proper officer by such court to be appointed for that purpose), the monies so paid to such mortgagee or mortgagees, or brought into such Court, shall be deemed and taken to be in full satisfaction and discharge of such mortgage; and the Court shall and may discharge every such mortgagor or defendant of and from the same accordingly, and shall and may by rule or rules of the same Court compel such mortgagor or mortgagees, either to discharge the mortgage in the manner and form provided by Act of Assembly for that purpose, or else (at the option of such mortgagor or mortgagees) to assign, surrender, or reconvey such mortgaged Lands, Tenements, and Hereditaments, and such Estate and interest as such mortgagee or mortgagees have or hath therein, and also in either case to deliver up all deeds, Evidences and writings in his, her, or their custody relating to the title of such mortgaged Land, Tenements and Hereditaments unto such mortgagor or mortgagors who shall have paid or brought such monies into the Court, his, her or their Heir, Executors or Administrators, or to such other person or persons as he, she or they shall for that purpose nominate or appoint.

IV. And be it enacted, That hereafter in any action of Ejectment brought by a mortgagor or mortgagors, his, her or their Heirs, Executors, Administrators or assigns, to recover possession of any Lands, Tenements, or Hereditaments under mortgage, no defendant other than the mortgagee or mortgagees, his, her or their Heirs, Executors, Administrators or Assigns shall be permitted to set up the mortgage to bar the right of recovery, or to defeat the title of such mortgagor or mortgagors, his, her or their Heirs, Executors, Administrators or Assigns; any Law or usage to the contrary notwithstanding.

CAP. XXIV.

An Act further to amend the Laws regulating the Qualifications of Church Wardens and Vestrymen in this Province.

Passed 9th March 1832.

WHEREAS by an Act passed in the First Year of His present Majesty's Reign, intituled *An Act to repeal an Act passed in the Fifth Year of the Reign of His Majesty King George the Third, intituled, 'An Act to declare the Qualifications of Church Wardens and Vestrymen in the several Parishes in this Province, and of the Persons having voices in their Elections, and to make other and more effectual Enactments in lieu thereof'*, Owners or Proprietors of Pews are eligible to the Offices of Church Wardens and Vestrymen of the Church in the Parish only in which they actually reside: And whereas it is desirable and proper that Owners or Proprietors of Pews, although residing in an adjoining Parish, shall be qualified to be elected to the said offices:

Be it therefore enacted by the Lieutenant Governor, Council, and Assembly,