

IV. And be it further enacted, That it shall and may be lawful for the said Justices of the Peace of the said City and County, and they are hereby authorised and required, to make a rate and assessment each and every year of such sum of money, besides the charge for assessing and collecting, as will discharge the interest of the loan contracted by virtue of this Act, until the total amount of the loan and all interest thereon heretofore obtained by virtue of the Act of Assembly made and passed in the ninth year of the reign of His late Majesty King George the Fourth, intituled *An Act to authorise the Justices of the Peace of the City and County of Saint John to raise a sum of money for completing the Court House of the said City and County*, is fully paid off and discharged; and from and after the time of the payment and discharge of the total amount of such loan so contracted by virtue of the same Act, it shall and may be lawful for the said Justices, and they are hereby authorised and required to make a rate and assessment of not exceeding four hundred pounds in each and every succeeding year, besides the charge for assessing and collecting, for the purpose of discharging the principal and interest of the loans contracted by virtue of this Act, until the same shall be paid off; all which said several sums of money are to 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.

V. And be it further enacted, That the monies so to be assessed as aforesaid, shall from time to time be applied, after discharging the yearly interests due on the several loans contracted by virtue of this Act, to the payment of the principal sums mentioned in such certificates or notes in due order according to the numbers, beginning with number one; and that the Treasurer of the said County shall from time to time give one month's public notice by advertisement in one of the newspapers published in the said City, for calling in such and so many of the certificates or notes as he is prepared to pay off, specifying the numbers in such advertisement, and that from and after the expiration of the time named in the said notice the interest on such certificates or notes shall cease.

VI. And be it further enacted, That the said County Treasurer shall be entitled to have and retain the sum of one pound *per centum* on every one hundred pounds for his services, in receiving and paying the said monies so to be assessed under the provisions of this Act and no more.

An annual assessment to be made until the loan under 9 G. 4. c. 2, be paid off; and thereafter after an assessment of not exceeding £400 *per annum* to be made to discharge loan under this act.

To be assessed as other County rates.

Money to be applied after payment of interest to the discharge of the principal according to the numbers of the notes.

Notice of calling in notes for payment to be given.

County Treasurer to have one per centum for his services.

CAP. LI.

An Act relating to the limitation of personal actions.

Passed 16th March 1836.

I. **BE** it enacted by the Lieutenant Governor, Legislative Council and Assembly, That all actions of debt for rent upon an indenture of demise, all actions of covenant or debt upon any bond or other specialty, and all actions of debt or *scire facias* upon any judgment or recognizance, and also all actions of debt upon any award where the submission is not by specialty, and all actions for penalties, damages or sums of money given to the party grieved by any Statute or Act of Assembly now or hereafter to be in force, that shall be sued or brought, shall be commenced and sued within the time and limitation hereinafter expressed and not after; that is to say, the said actions of debt for rent upon an indenture

Limitation of action of debt on specialties &c.

of

of demise, or covenant or debt upon any bond or other specialty, actions of debt or *scire facias* upon any judgment or recognizance, within ten years after the passing of this Act, or within twenty years after the cause of such actions or suits, but not after; the said actions by the party grieved one year after the passing of this Act or within two years after the cause of such actions or suits, but not after; and the said other actions within three years after the passing of this Act or within six years after the cause of such actions or suits, but not after; provided that nothing herein contained shall extend to any action given by any statute when the time for bringing such action is or shall be by any statute specially limited.

Remedy for infants, femes covert, &c.

Absence of defendants beyond seas provided for.

Proviso in case of acknowledgment in writing, or by part payment.

The limitation after judgment reversed.

II. And be it further enacted, That if any person or persons that is or are or shall be entitled to any such action or suit, or to such *scire facias*, is or are or shall be at the time of any such cause of action accrued within the age of twenty one years, *feme covert*, *non compos mentis* or beyond the seas, then such person or persons shall be at liberty to bring the same actions so as they commence the same within such times after their coming to or being of full age, discover, of sound memory or returned from beyond the seas, as other persons having no such impediment should according to the provisions of this Act have done; and that if any person or persons against whom there shall be any such cause of action is or are or shall be at the time such cause of action accrued beyond the seas, then the person or persons entitled to any such cause of action shall be at liberty to bring the same against such person or persons within such times as are before limited after the return of such person or persons from beyond the seas: Provided always, that if any acknowledgment shall have been made either by writing signed by the party liable by virtue of such indenture, specialty, judgment or recognizance, or his agent, or by part payment or part satisfaction on account of any principal or interest being then due thereon, it shall and may be lawful for the person or persons entitled to such actions to bring his or their action for the money remaining unpaid and so acknowledged to be due within twenty years after such acknowledgment by writing or part payment or part satisfaction as aforesaid, or in case the person or persons entitled to such action shall at the time of such acknowledgment be under such disability as aforesaid, or the party making such acknowledgment be at the time of making the same beyond the seas, then within twenty years after such disability shall have ceased as aforesaid, or the party shall have returned from beyond seas as the case may be; and the plaintiff or plaintiffs in any such action on any indenture, specialty, judgment or recognizance, may by way of replication state such acknowledgment, and that such action was brought within the time aforesaid in answer to a plea of this statute.

III. And nevertheless be it enacted, if in any of the said actions judgment be given for the plaintiff, and the same be reversed by error, or a verdict pass for the plaintiff, and upon matter alleged in arrest of judgment the judgment be given against the plaintiff, that he take nothing by his plaint, writ or bill, that in all such cases the party plaintiff, his executors or administrators as the case shall require, may commence a new action or suit from time to time within a year after such judgment reversed or such judgment given against the plaintiff and not after: Provided always, that nothing in this section shall extend to or affect any contract, promise or agreement made and subsisting before the passing of this Act.

IV. And whereas by an Act of Parliament passed in England in the twenty first year of the reign of King James the First, and in force in this Province, intituled *An Act for limitation of actions and for avoiding of suits at law*, it was among other things enacted, that all actions of account and upon the case, other than such accounts as concern the trade of merchandize between merchant and

‘ and merchant, their factors or servants, all actions of debt grounded upon any
 ‘ lending or contract without specialty, and all actions of debt for arrearages of
 ‘ rent, should be commenced within three years after the end of the then present
 ‘ Session of Parliament or within six years next after the cause of such actions or
 ‘ suits, and not after: And whereas various questions have arisen in actions founded
 ‘ on simple contract as to the proof and effect of acknowledgments and promises
 ‘ offered in evidence for the purpose of taking cases out of the operation of the
 ‘ said enactments, and it is expedient to prevent such questions and to make pro-
 ‘ vision for giving effect to the said enactments and to the intention thereof;’ Be
 it further enacted, That in actions of debt or upon the case grounded upon any
 simple contract, no acknowledgment or promise by words only made after the
 passing of this Act shall be deemed sufficient evidence of a new or continuing
 contract whereby to take any case out of the operation of the said enactments of
 the said Act of Parliament, or to deprive any party of the benefit thereof, unless
 such acknowledgment or promise shall be made or contained by or in some writing
 to be signed by the party chargeable thereby, and that where there shall be two
 or more joint contractors, or executors or administrators of any contractor, no such
 joint contractor, executor or administrator shall lose the benefit of the said enact-
 ments so as to be chargeable in respect or by reason only of any written acknow-
 ledgment or promise made and signed by any other or others of them: Provided
 always, that nothing herein contained shall alter or take away or lessen the effect
 of any payment of any principal or interest made by any person whatsoever: Pro-
 vided also, that in actions to be commenced against two or more such joint con-
 tractors, or executors or administrators, if it shall appear at the trial or other-
 wise that the plaintiff, though barred by the recited Act of Parliament of the
 twenty first year of King James the First or this Act, as to one or more of such
 joint contractors, or executors or administrators, shall nevertheless be entitled to
 recover against any other or others of the defendants by virtue of a new acknow-
 ledgment or promise, or otherwise, judgment may be given and costs allowed for
 the plaintiff as to such defendant or defendants against whom he shall recover,
 and for the other defendant or defendants against the plaintiff.

In actions of
debt or upon the
case, no ac-
knowledgment
shall be deemed
sufficient unless
it be in writing
or by part pay-
ment.

Proviso for the
case of joint
contractors.

V. And be it further enacted, That if any defendant or defendants in any ac-
 tion on any simple contract shall plead any matter in abatement, to the effect
 that any other person or persons ought to be jointly sued, and issue be joined
 on such plea, and it shall appear at the trial that the action could not by reason
 of the said recited Act of Parliament of the twenty first year of King James the
 First or this Act be maintained against the other person or persons named in such
 plea or any of them, the issue joined in such plea shall be found against the
 party pleading the same.

Pleas in abate-
ment.

VI. And be it further enacted, That no endorsement or memorandum of any
 payment written or made after the passing of this Act upon any promissory note,
 bill of exchange or other writing, by or on the behalf of the party to whom such
 payment shall be made, shall be deemed sufficient proof of such payment so as to
 take the case out of the operation of the said recited Act of Parliament of the
 twenty first year of King James the First or of this Act.

Indorsement of
payment.

VII. And be it further enacted, That the said recited Act of Parliament of
 the twenty first year of King James the First and this Act shall be deemed and
 taken respectively to apply to the case of any debt alleged by way of set off on
 the part of any defendant, either by plea, notice or otherwise, according to the
 nature of such debt, whether by record, specialty or simple contract.

Debts alleged
by way of set-
off.

VIII. And be it further enacted, That all parts of the world beyond the limits

All parts beyond
the limits of the
Of

Province deemed beyond seas.

of this Province shall be deemed to be beyond the seas within the meaning of this Act and of the said recited Act of the Parliament of England passed in the twenty first year of the reign of King James the First, and of an Act of Parliament passed in England in the fourth year of the reign of Queen Anne and in force in this Province, intituled *An Act for the amendment of the Law and the better advancement of Justice*, so far as relates to personal actions.

CAP. LII.

An Act to make provision for carrying on the affairs of the Savings Bank at Saint John.

Passed 16th March 1836.

‘ **W**HEREAS in consequence of the difficulties in which the Bank for savings established in the City of Saint John has lately been involved, it is expedient to make some further provision by Act of Assembly for carrying on the affairs of the said institution;’

Trustees and managers to call a meeting of the members of the institution and of others within two months from the passing of this Act.

Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That the acting trustees and managers of the said institution or some two or more of them are hereby authorised and required, within two months after the passing of this Act, to call a meeting of the members of the said institution, and of any persons desirous to become members thereof, giving at least fourteen days notice in two of the newspapers published in the said City of the time and place of such meeting, and such meeting shall be deemed to be the annual meeting of the members of the said institution for the present year under the rules and regulations for the management thereof deposited and filed in the office of the Clerk of the Peace for the City and County of Saint John; and it shall be lawful for such persons so assembled at such meeting, or at any adjourned meeting, to choose trustees and managers, and to alter and amend the said rules and regulations, or to make new rules and regulations for the management of the said institution: Provided always, that any rules and regulations so to be made shall be conformable to the provisions of an Act made and passed in the sixth year of the reign of King George the Fourth, intituled *An Act to encourage the establishment of Banks for savings in this Province*, and shall be entered, deposited and filed in the manner directed in and by the said Act.

Persons assembled may choose trustees and managers, and alter and amend the rules and regulations.

6 G. 4, c. 4.

CAP. LIII.

An Act to enable the Governor and Trustees of the Madras School to dispose of certain parts of their Lands.

Passed 16th March 1836.

‘ **W**HEREAS the Governor and Trustees of the Madras School in New Brunswick are seized and possessed of divers wilderness and uncultivated lands in this Province, and it is expedient when it would be for the benefit of the institution that they should have power to sell and dispose of the same, and to invest the proceeds in manner hereafter mentioned;’

Governor and trustees may dispose of any of their wilderness lands or the timber growing thereon. Conveyance under the Corpo-

I. Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That whenever it shall appear to the said Governor and Trustees to be clearly for the benefit and advantage of the institution to sell and dispose of any of their wilderness and uncultivated lands in any part of the Province, or to sell any timber growing on such lands, that they shall be, and are hereby authorised and empowered so to do; and any sale and conveyance thereof, or of any part thereof, in