

Abatement of suits by death of parties.

X. And be it enacted, That where in any suits pending in the said Court the cause of action shall survive, such suit shall not abate by reason of the death of one or more of the Plaintiffs or Defendants, but upon suggestion of such death to the Court the suit shall be allowed to proceed in favor of or against the surviving party as the case may be; and in case of the death of one or more Plaintiffs or Defendants in any suit where the cause of action shall not survive, it shall only abate as to the person or persons so dying and not otherwise.

Revival of suits.

XI. And be it enacted, That in all cases where it shall be necessary to revive a suit against the representatives of a deceased Defendant, no bill of revivor shall be necessary, but the Court may by order direct that the same stand revived, upon the petition of the Plaintiff, subject to such rules and regulations as may be made in that behalf.

Court may enforce its decrees by execution against the body, chattels or lands.

XII. And be it enacted, That the said Court shall have power to enforce performance of any decree, or obedience thereto, by execution against the body of the party against whom such decree is made, or against the goods and chattels, and in default thereof the lands and tenements of such; which execution so issued shall have the like effect as executions issuing out of the Supreme Court of the said Province; and every person so imprisoned under any execution issuing out of the said Court of Chancery shall be entitled to the like benefit of any statute made for the relief of insolvent debtors, as if arrested under process of the said Supreme Court.

Practice of the High Court of Chancery in England to obtain, when not otherwise provided for.

XIII. And be it enacted, That in all matters relating to the practice of this Court, not otherwise particularly provided for by Legislative enactment or the rules and orders of this Court, the rules of practice of the High Court of Chancery in England, as now established, shall be in force, subject nevertheless to the like exceptions, limitations, restrictions and rules of construction in the application of the same as the practice of the said High Court of Chancery prevailing and in force at the time of the erection of this Province have heretofore been, and subject to be altered, modified and restricted by such rules of practice as may be hereafter from time to time introduced and established in the Court of Chancery of this Province by any Act or Acts of the General Assembly, or the orders of the said Court.

Chancellor with the consent of the Master of the Rolls may prepare a table of fees for the Court.

XIV. And be it enacted, That from and after the passing of this Act it shall and may be lawful for the Chancellor, by and with the consent of the Master of the Rolls, to prepare and make a proper table of fees for the Court of Chancery in this Province, in lieu of the table of fees at present established in that Court, which table of fees so to be made and established as aforesaid shall be in full force and effect from the time notice thereof shall be given by the Master of the Rolls in the Royal Gazette, until altered by any Legislative enactment in this Province.

CAP. XXXVI.

An Act relating to the partition of lands, tenements and hereditaments, held in coparcenary, joint tenancy and tenancy in common.

Passed 23^d March 1839.

‘**W**HEREAS the present mode of proceeding for the partition of lands, tenements, and hereditaments, held in coparcenary, joint tenancy and tenancy in common, has been found inconvenient;

I. Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That from and after the passing of this Act, the partition of lands, tenements, and

Partition of Lands, &c. held in coparcenary to

and hereditaments, held in coparcenary, joint tenancy or tenancy in common, shall be effected by the Court of Chancery according to the practice and proceedings established or to be established in that Court.

be effected by the Court of Chancery according to the practice of that Court.

II. And be it enacted, That in case any of the parties to any proceeding in the said Court of Chancery for a partition, shall be infants under the age of twenty one years, it shall and may be lawful for the said Court to appoint a guardian or guardians *ad litem* for such infant, in like manner as such guardians may be appointed in any other suit in the said Court.

Court may appoint guardians *ad litem* when any of the parties are under age.

III. And be it enacted, That the decree of the said Court, whereby any part or portion of lands, tenements or hereditaments, held in coparcenary, joint tenancy or tenancy in common shall be decreed to any coparcener, joint tenant, or tenant in common, in severalty, shall operate and be effectual to convey and transfer to such coparcener, joint tenant, or tenant in common all and singular the right, title, interest, property, claim and demand of all and every other of the coparceners, joint tenants, or tenants in common, as such interested therein, as well infants and feme coverts as others, being parties to such proceeding, in as full and ample a manner as if the same had been conveyed and transferred by deed or conveyance, duly signed, sealed and delivered by such other coparceners, joint tenants and tenants in common, and duly proved or acknowledged, and registered in the County where such part or portion of the lands may lie, and in the case of infants in like manner as if such infants were at the time of full age; Provided always, That such decree shall have been first duly signed and enrolled, and registered in the Office of Register of Deeds of the County where the lands may lie, according to the provisions hereinafter contained.

Decree of the Court signed, sealed, and registered to convey the lands, &c. decreed to any coparcener as effectually as a conveyance from the other coparceners.

IV. And be it enacted, That any decree of the said Court of Chancery, having been first duly signed and enrolled, may be registered in the Office of the Register of Deeds for any County in like manner and order, as any deed or conveyance, upon production to the Register of Deeds of a copy thereof, with a certificate indorsed thereupon, of the Registrar of the Court of Chancery, under the seal of the said Court, that the same is a true copy of a decree of the said Court, and that the same has been duly signed and enrolled; and the Register of Deeds shall indorse upon such copy a certificate of such registry in like manner as is required by law, in respect of any deed or conveyance duly registered, and for his services in that behalf shall be entitled to the like fees and emoluments as are provided in the case of the registry of deeds and conveyances; and such copy of such decree with such certificates thereon shall be evidence in all Courts of Law and Equity in this Province, of such decree and of such registering thereof, and a copy from the County Registry of such decree, duly certified by the Register of Deeds shall be admitted in evidence in such cases and under such rules and restrictions as a copy of a registered deed taken from such County Register would be so admitted.

Decree may be registered in the County Registry.

Dec 1st vic. c
8 20th Dec
by the Master of the
Rolls page 213
Ordnance by 14th
the cap 26
Account of Decree
Copy from the Registry to be admitted in evidence.
10.1.8

CAP. XXXVII.

An Act in amendment of the Act relating to the appointment of a Master of the Rolls in the Court of Chancery.

Passed 23d March 1839.

I. **B**E it enacted by the Lieutenant Governor, Legislative Council and Assembly, That the right and power of appointment to the office of the Master of the Rolls, pursuant to an Act of the Assembly passed in the first year of Her present

Right of appointment of the Master of the Rolls vested in the Queen's Majesty.