

and the residue shall be paid to the Commissioners for the benefit of the Marine Hospital at the Port of Saint John.

Form of conviction and commitment.

XVII. And be it enacted, That the Justices or Police Magistrate before whom any person shall be summarily convicted against this Act, may cause the conviction and commitment to be the same as set out in Form N. in the Schedule to *An Act to facilitate the performance of the duties of Justices of the Peace out of Sessions within this Province, with respect to summary convictions and orders*, passed at this Session of the Legislature.

Convictions and commitments not voidable for want of form, &c.

XVIII. And be it enacted, That no such conviction shall be quashed for want of form, or be removed into any of Her Majesty's Superior Courts, and no Warrant of Commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same.

Definition of 'Merchant Ships.'

XIX. And be it enacted, That the words "Merchant Ships," inserted in this Act, shall be understood to include all vessels trading to Foreign Ports, or Ports within the British Dominions, and not such vessels as are prosecuting the Coasting Trade.

Opposing Acts suspended.

XX. And be it enacted, That so much of any Act or Acts now in force as are at variance and interfere with the working of this Act, shall be and the same are hereby suspended and inoperative during the continuance of this Act.

Commencement and limitation of Act.

XXI. And be it enacted, That this Act shall take effect upon, from and after the first day of July next, and not before, and shall continue and be in force until the first day of May which will be in the year of our Lord one thousand eight hundred and fifty two.

CAP. LI.

An Act to increase the Capital Stock of the Saint John Water Company, and to provide a more efficient supply of Water in the City of Saint John.

Passed 14th April 1849.

Preamble.

WHEREAS it has become necessary to increase the Capital Stock of the Saint John Water Company, and to make provision for a greater and more efficient supply of Water in the City of Saint John;

Capital Stock may be increased by £10,000.

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That the shareholders of the Saint John Water Company shall be and are hereby authorized to increase the Capital Stock of the said Company to an amount not exceeding ten thousand pounds, which additional Stock shall be divided into shares of five pounds each.

Additional shares to be divided among present stockholders, and on neglect to accept to be open to subscription.

II. And be it enacted, That the additional shares in the Capital Stock of the said Company shall be divided among the present shareholders in the said Company, in the proportion of one additional share to every two shares held by such shareholders; and if any of the said shareholders shall neglect or refuse to accept such additional shares, within thirty days after the passing of this Act, then such additional shares, so refused or neglected to be taken up, shall be open to public subscription, or may be disposed of by the Directors of the said Company in such manner as they may deem advisable.

Periods of paying in the capital.

III. And be it enacted, That twelve and one half per cent. of the amount of each of such additional shares shall be paid to the Treasurer of the said Company, within one year after the passing of this Act, and that the residue of each of the said additional shares shall be paid by instalments of twelve and one half per cent. to the Treasurer of the said Company, at intervals of six months, after the payment of the first instalment, until the whole amount of each of such additional shares shall be fully paid up.

IV.

IV. And be it enacted, That in case default be made in payment of all or any of the instalments in the said additional shares, or any of them, it shall and may be lawful for the Directors of the said Company for the time being, within thirty days after any such default, forthwith to sell and dispose of any of the said additional shares on which such default may be made, at their discretion, to the best advantage, to any purchaser or purchasers of the same; and any instalment or instalments which, previously to such default, may have been paid on such additional shares, shall be forfeited to and become the property of the said Company.

On default of payment shares may be sold.

V. And be it enacted, That the additional Stock of the said Company shall be expended and applied as the same is paid up, in procuring a more efficient supply of water by the said Company, and in the erection of all necessary works, buildings, reservoirs and machinery therewith connected, and in laying down pipes and conduits throughout that part of the City of Saint John, on the eastern part of the Harbour of Saint John, in such manner and to such extent as will furnish the inhabitants thereof with a more efficient supply of water.

Capital to be applied in procuring a more efficient supply of water, &c.

VI. And be it enacted, That for the purpose of enabling the said Company to procure a more efficient supply of water, they the said Company shall be and are hereby authorized and empowered, by their agents, servants and workmen, to enter upon private property for the purpose of procuring such supply, and there build and set up dams or embankments on any brook, stream, lake or pond, for the purpose of creating artificial ponds or reservoirs, and by such dams or embankments may cause the flowage of such private property, and continue such flowage so long as they the said Company shall see fit; and they the said Company shall have full power and authority to draw water from such artificial ponds or reservoirs exclusively, and to carry pipes or conductors through the private property of individuals, as may be necessary for the conveyance of the said water to the City of Saint John; provided always, that no such dams or embankments be built or set up, artificial ponds or reservoirs made, flowage created, or pipes or conductors laid upon or through the private property of any person, without a reasonable and proper compensation being allowed and paid for the use and convenience of the same, and for all damage sustained by the operations or works of the said Company, to be agreed upon by the said Company and the respective owners of such private property; and in case of disagreement between the said Company and the owners of the said private property, or any of them, then the amount of such compensation shall be settled and determined in the manner and form prescribed by an Act made and passed in the second year of the Reign of His late Majesty William the Fourth, intituled *An Act to incorporate sundry persons by the name of the Saint John Water Company*, or in such manner and form and by such ways and means as may be prescribed by any Act which may be passed at the present or any Session of the General Assembly of this Province; and for all damage the owner or owners of any Mills or other manufacturing establishments may sustain, for or by reason of any of the operations of such Company, the direct and indirect damage, as well present as future, shall be fully considered, and on any investigation under this Act for ascertaining the same, any such owner or owners may be examined under oath touching and concerning such injury or damage.

Power given to enter on private property to procure the supply of water, and erect dams, &c.

Compensation to be made by agreement, or as pointed out by the Act 2 W. 4, c. 26.

Damage to Mills or manufacturing establishments.

VII. And be it enacted, That so soon as the first instalment of twelve and one half per cent. shall have been fully paid on all the additional shares in the said Company as hereinbefore prescribed, that then it shall be the duty of the Directors of the said Company, and they are hereby required to call a general meeting of all the shareholders in the said Company, by giving public notice in one or more

When twelve and a half per cent. on the additional shares is paid in, a meeting to be called for choosing Directors.

of the newspapers published in the City of Saint John, fourteen days previous to such meeting, for the purpose of choosing five Directors from among the shareholders of the said Company, in manner prescribed by law, to manage the business and affairs of the said Company, which said five Directors shall remain in office until the next annual meeting of the said Company, or until others are chosen in their stead, and no more than five Directors shall after the first of such elections be chosen to manage the business of the said Company.

No more than five Directors to be chosen.

Choice of Directors to be made according to Act 2 W. 4, c. 26.

Quorum for business.

Vote of President or Chairman.

Continuance in office of President, Directors and Officers.

Recital of obligations of the Company to the Province.

If the additional capital stock be paid within five years, and the greater part expended to carry out this Act, the Bonds of Company to the Province for £5000 to be cancelled.

VIII. And be it enacted, That in the choice of such five Directors, the shareholders of the said Company shall vote according to the rules and regulations prescribed by the Act of Assembly hereinbefore mentioned for incorporating the said Company; and the said five Directors when so chosen, shall at their first meeting after their election, choose a President out of their number; provided always, that three Directors shall constitute a Board for the transaction of business, of which the President shall always be one, except in cases of sickness or necessary absence, in which case the Directors present may choose one of their number Chairman in his stead, but that neither the said President nor Chairman for the time being, shall vote as a Director, but in case of an equal number of votes for and against any question before such Board, the President or Chairman for the time being shall have a casting vote.

IX. And be it enacted, That the President, Directors and Officers of the said Company shall continue in office until the first election of five Directors in the manner and at the time hereinbefore prescribed, and no longer; and in case the said additional shares in the said Company shall not be taken up and the first instalment thereon be duly paid as herein provided, then the present Directors of the said Company shall continue in office until the next annual meeting of the Company, after such default, or until others shall be chosen in their stead.

X. 'And whereas divers persons, on behalf of the said Saint John Water Company, are now held and firmly bound unto our Lady the Queen by their certain Bonds or obligations for divers sums of money amounting in the whole to the sum of five thousand pounds, which said sum of five thousand pounds was lent to the said Saint John Water Company by the Province of New Brunswick, and has been expended by the said Company in procuring and furnishing a partial supply of water to the City of Saint John, which has been highly beneficial on many occasions in extinguishing and checking many extensive conflagrations in the said City: And whereas heavy losses have been prevented by such supply of water, and it is highly desirable that the said Company should be aided and encouraged in their endeavour to procure a more extensive supply of water for the said City, as well for the preservation of the public health and the prevention of fires as for the cleanliness and comfort which will thereby be promoted; Be it therefore enacted, that if the said additional Stock in the said Saint John Water Company, hereby authorized and created, shall be actually paid to the Treasurer of the said Company within five years from the passing of this Act, and shall be wholly or for the major part appropriated in carrying out the purposes of this Act, and proof of payment of the same and the appropriation of the whole or the major part thereof for the purposes aforesaid shall be made to the satisfaction of His Excellency the Lieutenant Governor or Officer administering the Government of the Province for the time being, and Her Majesty's Executive Council, that then it shall and may be lawful for the said Lieutenant Governor or Officer administering the Government, to cancel the said bonds or obligations hereinbefore mentioned, and deliver up the same so cancelled to the obligors therein mentioned, and to cancel and release all claims thereon, either

for principal and interest, to such obligors, so that no claim shall thereafter be had either against the said Company or the said obligors for the said sum of five thousand pounds or any part thereof, or for all or any interest on the same, but the same shall be wholly satisfied, cancelled and discharged forever thereafter.

XI. And be it enacted, That for the purpose of furnishing to the Poor of the City of Saint John a gratuitous supply of water, if the Corporation of the City of Saint John shall erect, or cause to be erected within the said City, in such places as the Mayor, Aldermen and Commonalty of the said City may deem most convenient and suitable, tanks, fountains or hydrants, not exceeding six in number, the said Water Company shall, if tanks are constructed, fill with water such tanks once in every day for the free use of the Poor of the said City; and if fountains or hydrants, then shall for two hours in each day furnish a free full flow of water through such fountains or hydrants for the like use; which tanks, fountains or hydrants shall at all times be kept in repair and in good working order by the said Corporation of the said City; and should the said Corporation of the said City deem it expedient to erect or build a greater number of tanks, fountains or hydrants than six, then the said Water Company shall be bound to furnish a full supply of water for such additional tanks, fountains and hydrants for the purpose aforesaid, on payment of such sum or sums of money as may be agreed and contracted for by the Corporation of the said City with the said Water Company.

On the erection of not exceeding six tanks, fountains or hydrants, by the City Corporation, the Water Company are to supply the same with water for the free use of the poor;

If more than six, water to be furnished at a contract price.

XII. And be it enacted, That in order to encourage subscription to the additional Stock hereby created, the subscribers for such additional Stock so created under and by virtue of this Act, shall from time to time, out of the net profits of the said Company, be entitled to receive a dividend of six per centum per annum upon such new Stock, from the date of the payment of such stock respectively, before any division of the profits of the said Company shall be applicable to the original Stock heretofore created; but no dividend exceeding six per centum shall be payable on such new Stock until the proprietors of such original Stock shall receive the like sum of six per centum per annum on such Stock from the time of the passing of this Act, and when the net profits of said Company shall be more than sufficient to pay six per centum on both Stocks, then any surplus of such profits shall be divided pro rata on all the Stock of the said Company without distinction.

Rate of dividends on additional and original stock.

CAP. LII.

An Act in addition to and in amendment of the Act relating to the Navigation of the River and Harbour of Saint John.

Passed 14th April 1849.

I. **BE** it enacted by the Lieutenant Governor, Legislative Council and Assembly, That from and after the passing of this Act, all and every of the provisions of an Act made and passed in the seventh year of the Reign of Her present Majesty, intituled *An Act for more effectually securing the Navigation of the River and Harbour of Saint John, in the City and County of Saint John*, shall and are hereby made to extend to saw dust as well as to slabs, edgings, rinds, bark, or chips, in the same manner and as fully and effectually as if the said saw dust had been included with the said slabs, edgings, rinds, bark or chips in the said recited Act at the time of the passing of the same.

Provisions of 7 V. c. 37, extended to saw-dust.

II. And be it enacted, That whenever any proceedings may be commenced before any Justice of the Peace under this Act, or the said recited Act, it shall and may be lawful for such Justice, by Summons, to require the attendance of any witness or witnesses that may by him be considered necessary to give evidence,

Attendance of witnesses, and production of documents may be enforced in proceedings under this or the recited Act.