

V. And be it enacted, That whenever any judgment or decree shall be rendered in favour of any plaintiff or party on service of process on any agent or person in charge of property as aforesaid, no such decree or judgment shall be enforced by any process or proceeding, until the plaintiff or party obtaining such decree or judgment, or his attorney or agent, shall file an affidavit in the cause, that he verily believes that such decree or judgment is just, and also shall give a bond with two sufficient sureties, and to an amount to the satisfaction of the Master, Clerk or Registrar of such Court, conditioned for a re-hearing of the action or suit in which such decree or judgment has been rendered, provided such re-hearing shall be ordered by the Court in which such action or suit was brought, at any time within two years from the rendering of such decree or judgment.

Conditions on which a judgment may be enforced.

Proviso.

VI. And be it enacted, That a re-hearing shall be allowed to any defendant who has not been personally served with process by order of the Court in which the action or suit was brought, upon such terms as to giving security to pay or answer the decree or judgment that may be rendered on a re-hearing or otherwise, as such Court shall direct: Provided always, that such re-hearing is applied for by such defendant within two years from the time of decree or judgment rendered.

Defendant not personally served may have a re-hearing.

Proviso.

## SCHEDULE.

### NOTICE TO PROCESS.

*To C. D., the Defendant.*

Take notice, that your appearance to this Writ must be entered in Her Majesty's Court of Queen's Bench, (Common Pleas or Chancery, *as the case may be,*) at the office of such Court at Toronto, or at the office of the Deputy Clerk of the Crown of the County or United Counties of—(*as the case may be*) within (*the time mentioned in the Act, according to the country in which the service has been effected,*) from the service hereof, and in default of such service, A. B., the within plaintiff, will enter an appearance for you, and proceed thereon. (*And also, where the service is on an agent or party in charge of property,*) and also take notice, that you, E. F., (*agent's name*) are served with this process as the Agent or person in charge, in this Province, of some property, real or personal, of the within named Defendant, C D., and you are hereby required to enter an appearance for him as aforesaid.

G. H.,  
*Plaintiff's Attorney.*

## CAP. XI.

An Act to amend the Law relating to Apprentices and Minors.

[ 2d August, 1851. ]

**W**HEREAS there is no Statute in force in that part of this Province called Upper Canada, to provide for binding Apprentices for a less term than seven years; and whereas it would promote the general interest of society if shorter terms of Apprenticeship were made legal, and the law relating to Apprentices more clearly defined: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, it shall and may be lawful for any parent, guardian, or other person having the care or charge of any Minor, not under the age of fourteen years, with the consent of such Minor, to put and bind the same as an Apprentice by written Indenture, to any Master Mechanic, Farmer, or other person carrying on any trade or calling for any term not to extend beyond the minority of such Apprentice.

Preamble.

Power of Parents, &c. to bind minors as apprentices.

Power of the Mayor or Chief Magistrate to bind orphans, &c. as apprentices.

II. And be it enacted, That in any City or incorporated Town, it shall and may be lawful for the Mayor, Recorder, or Police Magistrate, and in any County or Union of Counties, it shall and may be lawful for the Chairman of and at any Court of General Quarter Sessions of the Peace, to put and bind as aforesaid, to any Master Mechanic, Farmer or other person as aforesaid, with the consent of such person, and with the consent of the Minor, any Minor who may be an orphan, or who may be deserted by his or her parents or guardian, or whose parents or guardian may for the time be committed to any common gaol or house of correction, or any Minor who may be dependant upon any public charity for support; and such Apprentice and the Master of such Apprentice shall severally be held in the same manner as if such Apprentice had been bound by his or her parent.

If the master die, apprentice to be transferred to his successor in the business, &c.; apprentices may be transferred.

III. And be it enacted, That if any Master of any such Apprentice shall die, such Apprentice shall by Act of Law, be transferred to the party, if any such there be, who shall continue the establishment of the deceased Master, and such party shall hold such Apprentice upon the same terms as his Master if alive would have done, and any Master may legally transfer his Apprentice to any person competent to receive or take any Apprentice; Provided always, that no Master shall transfer his Apprentice except to another carrying on the same kind of business as himself.

Proviso.

Duty of masters towards apprentices.

IV. And be it enacted, That every Master shall provide suitable board, lodging and clothing, or such equivalent therefor as may be mentioned in the Indenture, to his Apprentice during the term of his Apprenticeship, and shall also properly teach and instruct, or cause him to be taught and instructed in the art and mystery of his trade or calling.

Duty of apprentices.

V. And be it enacted, That every Apprentice shall, during the term of his Apprenticeship, faithfully serve his Master, shall obey all lawful and reasonable commands, and shall not absent himself from his service, day or night, without his consent.

Justices, &c. may hear and determine complaints by apprentices against their masters.

VI. And be it enacted, That any Justice of the Peace, Mayor, or Police Magistrate, shall have power, on complaint made before him on oath, by any Apprentice against his Master for any refusal of necessary provisions, misusage, cruelty or ill-treatment, after having duly summoned such Master to appear before him to answer to the complaint, to hear and determine such complaint, and on conviction to levy such fine on the offender not exceeding the sum of Five Pounds currency, as to such Justice, Mayor, or Police Magistrate may seem meet, and to issue distress to collect such fine and the necessary costs, and in default of satisfaction of such distress, to imprison the offender in any common gaol for a term not exceeding one month. And any of the said Justices, Mayor, or Police Magistrate shall have power also, on complaint of any Master against his Apprentice for refusal to obey his commands, for waste or damage to property, or for any other improper conduct, to cause such Apprentice to come before him, and to hear and determine such complaint, and on conviction, to order such Apprentice to be imprisoned in any common gaol or house of correction for any time not exceeding one month.

And by masters against their apprentices.

Liability of apprentice deserting his master's service.

VII. And be it enacted, That if any Apprentice shall absent himself from his Master's service or employment before the time of his Apprenticeship shall be expired, he shall at any time thereafter, wherever he shall be found in this Province, be liable and may be compelled to serve his Master for so long a time as he shall have so absented himself from his service, unless he shall make satisfaction to his Master for the loss he shall have sustained by his absence from his service. And in case such Apprentice shall refuse to serve as hereby required, or to make such satisfaction to his Master as aforesaid, or in case any such Apprentice refuse to obey the lawful commands of his Master, or in any other way or manner refuse to perform his duty to his Master, or neglect to perform the same, such Master, or his overseer or agent, may complain on oath to any Justice of the Peace, Mayor, or Police Magistrate, either in the County, City or Town where such Master resides, or in any County, City or Town where such absconding Apprentice may be found; and any such Justice, Mayor, or

How complaints may be heard, &c.

Police

Police Magistrate may, by Warrant under his hand and seal, cause such Apprentice to be apprehended and brought before him, or some other Justice of the Peace, and upon hearing the complaint, may determine what satisfaction shall be made by such Apprentice to his Master : And in case such Apprentice shall not give or make such satisfaction immediately, or if the satisfaction be of such a nature as not to allow of immediate performance, give sufficient surety to make such satisfaction, then in either case it shall be lawful for such Justice, Mayor, or Police Magistrate to commit such Apprentice to the common gaol, or House of Correction of such County, City or Town, for any time not exceeding three months : Provided always, that such imprisonment shall not release such Apprentice from his obligation to make up his lost time to his Master as aforesaid : And provided also, that where such Apprentice shall not have left that part of this Province called Upper Canada, or having left it, shall return thereto, such Master shall not proceed under this Act against such Apprentice, except within three years next after the expiration of the term for which such Apprentice shall have contracted to serve, or next after such his return, as the case may be.

Committal of apprentice in certain cases, &c.

Proviso.

Proviso.

VIII. And be it enacted, That any person who shall knowingly harbor or employ any absconding Apprentice, shall be liable to pay to the Master of such Apprentice the full value of such Apprentice's labor, which value shall be deemed and taken to be the value which such Master would have received from the labor and service of such Apprentice if he had continued faithfully in his service, which may be recovered in any Court having jurisdiction where such Apprentice may be employed, or where his Master may reside.

Penalty for employing or harboring absconding apprentice.

IX. And be it enacted, That if any Apprentice shall become insane, or be convicted of any crime of the degree of felony, or be sentenced to the Provincial Penitentiary, or abscond, his Master may avoid the indenture of Apprenticeship, from the time he shall give notice in writing of his intention so to do to the other parties to the indenture, either by serving them with such notice or copy thereof, or by inserting the same in some newspaper of the County or City where such Master's establishment is situated, or in the *Canada Gazette* : Provided always, such Master make such election within one month after the happening of the event upon which such right of election arises, but not otherwise.

Indenture may be avoided if apprentice becomes insane, &c.

Proviso.

X. And be it enacted, That the provisions of a certain Act of the Parliament of this Province, passed in the Session thereof held in the thirteenth and fourteenth years of the reign of our Sovereign Lady Queen Victoria, intituled, *An Act to extend the right of appeal in certain cases in Upper Canada*, shall be held to extend and apply to all cases arising under this Act, or having any reference thereto.

Act 13 & 14 Vict. c. 54, to apply.

XI. And be it enacted, That nothing in this Act shall be construed to deprive the Court of Quarter Sessions of primary jurisdiction over offences committed against this Act, but that whenever the said Court of Quarter Sessions shall be called upon to adjudicate in any matter or case arising under this Act, in addition to the powers now possessed by such Court, it shall have power and discretion in cases where it shall appear necessary for the full and perfect administration of justice, to annul any Apprenticeship, and compel the parties to the indenture of Apprenticeship to deliver the same up to be cancelled, and make such further order as the circumstances may require.

Act not to affect jurisdiction of Q. S.

Additional powers given to that Court.

XII. And be it enacted, That all fines imposed and collected under this Act shall be paid to the Chamberlain of the City, or to the Treasurer of the County or Town respectively, where the offence was committed.

Application of fines,

XIII. And be it enacted, That the word "Master," when it occurs in this Act, shall include any person or number of persons, male or female, carrying on business singly or in copartnership; and words importing the singular number or masculine gender, shall include several persons, and males as well as females, unless there be something in the subject inconsistent with such interpretation.

Interpretation clause.

Minors may bind themselves to labour in certain cases.

XIV. And be it enacted, That any Minor over the age of sixteen years having no parent or legal guardian, or who shall not reside with his parent or guardian, who shall, after the passing of this Act, enter into any engagement written or verbal to perform any service or work, shall be subject to the same legal provisions, and have the same benefit as if such Minor had been of legal age at the time of making such agreement.

Extent of Act.

XV. And be it enacted, That this Act shall extend only to Upper Canada.

### C A P. X I I .

An Act to amend the Heir and Devisee Act.

[ 2d August, 1851. ]

Preamble

8 Vict. c. 8.

12 Vict. c. 63.

13 Vict. c. 61.

Part of Sect. 2, of 8 Vict. c. 8 repealed: and other provisions substituted.

**W**HEREAS by the second section of the Act of the Parliament of this Province, passed in the eighth year of Her Majesty's Reign, chaptered eight, and intituled, *An Act to repeal certain Acts therein mentioned, and to make better provision for the relief of parties claiming lands in Upper Canada for which no patent hath issued, as representing the original Nominees of the Crown*, it is enacted, that it shall be lawful for the Governor of this Province, from time to time, to issue such and so many Commissions, under the Great Seal of this Province, to the Chief Justice of Her Majesty's Court of Queen's Bench for Upper Canada, the Vice-Chancellor of Upper Canada, and the Puisné Justices of the said Court of Queen's Bench, and to such and so many other persons as he shall see fit; and such Commissioners, or any three of them, of whom the said Chief Justice, the said Vice-Chancellor, or one of the said Puisné Justices shall be one, shall form a quorum, and have full power and authority for all the purposes of the said Act: And whereas, by a certain Act, passed in the twelfth year of Her Majesty's Reign, chaptered sixty-three, and intituled, *An Act to make further provision for the Administration of Justice by the establishment of an additional Superior Court of Common Law, and also a Court of Error and Appeal in Upper Canada, and for other purposes*, an additional Court of Common Law, called the Court of Common Pleas, consisting of a Chief Justice and two Puisné Judges, has been constituted and established; and by a certain other Act, passed in the said twelfth year of Her Majesty's Reign, chaptered sixty-four, and intituled, *An Act for the more effectual Administration of Justice in the Court of Chancery of the late Province of Upper Canada*, it is enacted, that the said Court of Chancery shall be presided over by a Chief Judge, to be called the Chancellor of Upper Canada, and two additional Judges, to be called Vice-Chancellors; and whereas it is expedient that the said second section of the first herein recited Act should be repealed, and power given to the Governor or person administering the Government to issue Commissions under the said first recited Act, as well to the said Chief Justice and Puisné Justices of the Court of Common Pleas, and the said Chancellor and Vice-Chancellors, as to the said Chief Justice and Puisné Justices of the said Court of Queen's Bench: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That that part of the second section of the Act herein first above recited, which designates the persons to whom Commissions may be issued for all the purposes of that Act, be and the same is hereby repealed; and from and after the passing of this Act, it shall be lawful for the Governor, or person administering the Government of this Province, from time to time, to issue such and so many Commissions, under the Great Seal of this Province, to the Chief Justice of Her Majesty's Court of Queen's Bench for Upper Canada, the Chancellor of Upper Canada, the Chief Justice of the said Court of Common Pleas,