

NEW BRUNSWICK REPORTS.

The Legislature may authorize after acquired property to be transferred, but inasmuch as such a mode of conveyance would conflict with the rule of law "that a man cannot grant or charge that which he hath not," it would require very clear and unambiguous words in the Act to show that such was the intention.

An incorporated company has no power to change its corporate name without the authority of the Legislature. Where property was conveyed to a company under the name by which it was afterwards incorporated, but which had no legal existence at the time, it was held that nothing passed by the conveyance.

The title to ferry-boats running in the harbour of Saint John, must be transferred according to the provisions of the Merchant Shipping Act. *Lloyd v. E. & N. A. Railway Co.*, 104.

CRIMINAL LAW.

Power of the Crown to enter nol. pros.—

Second indictment for same offence—

Where bill contains two counts, each a separate indictment.

The prisoner was convicted of receiving stolen goods, on an indictment containing two counts, one for stealing the goods, and the other for receiving them, knowing them to have been stolen.

The prisoner had, on a former day in the same Circuit, been indicted for stealing the same goods as those which he was charged with stealing by the first count of the present indictment. A jury was impanelled and the trial of the prisoner begun; but in consequence of it appearing from the testimony that the prisoner could not be convicted for larceny, the Clerk of the Crown, who was conducting the prosecution by direction of the Attorney-General, entered a *nolle prosequi*, and then sent another bill before the Grand Jury, containing a count for receiving, the indictment on which the conviction took place, and on the trial he consented that the prisoner should be acquitted of the charge of stealing alleged in the first count, and he was acquitted accordingly:—

Held, on a case reserved,

1. That the Clerk of the Crown has authority to enter a *nolle prosequi*.

2. That a *nol. pros.* being entered the prisoner could again be indicted for the same offence.

3. Even admitting that the Clerk of the Crown has no authority to enter a *nol. pros.* the conviction upon the count for receiving would be good, each count being a separate indictment in itself. *Regina v. Thornton*, 140.

FIRE INSURANCE.

Plaintiff must have insurable interest—

Where plaintiff has made advances to build vessel but no transfer made.

Plaintiff, in 1872, commenced supplying B. with advances for building a vessel, under a verbal arrangement that he was to supply B. to build the vessel, and hold her as security for his advances. He was to dispose of her in shares, or in the whole, as he saw proper, and when the vessel was disposed of, whatever was remaining after he got his pay, was to go to B. When she was well advanced, in August 1874, plaintiff effected insurance on her in his own name. He, however, never had possession of the vessel, nor held any bill of sale or transfer of her.

Held, in an action on the policy, that plaintiff had no insurable interest, and could not recover. *Clarke v. Scottish Imperial Insurance Co.*, 240.

INSOLVENT ACT OF 1869.

Fraudulent preference—Where mortgage given five months before issue of attachment—Burthen of proof.

Where a mortgage to secure an antecedent debt was given by a trader more than five months before the issue against him of a writ of attachment under the Insolvent Act of 1869, the Court held that, as the burden of proving that the mortgage was given in contemplation of insolvency was upon the assignee of the estate, in which he had wholly failed, and as fraud was not to be presumed unless the conveyance was made within thirty days of the issuing of