

*Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1839.* Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1839.

2 Victoria – Chapter 29

**An Act relating to the sale and disposition of the real estate of Infants. Passed 23d March 1839.**

I. Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That whenever any infant shall be seized or possessed of any Lands, Tenements or Hereditaments, by way of Mortgage or in trust only for others, the Chancellor or Master of the Rolls, on the Petition of the guardian of such Infant or of any person interested, may enable and compel such infant to convey and assure such Lands, Tenements and Hereditaments to any other person in such manner as the said Court shall order and direct; and every conveyance or assurance made pursuant to such order, shall be as good and effectual in the law as if the same were made by such Infant when of lawful age.

II. And be it enacted, That the Court of Chancery shall have power to decree and compel the specific performance, by any Infant Heir or other person, of any bargain, contract or agreement made by any party who may die before the performance thereof, on petition of the executors or administrators of the estate of the deceased, or of any person or persons interested in such bargain, contract or agreement, and on hearing all parties concerned, and being satisfied that the specific performance of such bargain, contract or agreement, ought to be decreed or compelled.

III. And be it enacted, That any Infant seized of any real estate or entitled to any term for years in any lands may, by his next friend or by his guardian, apply by petition to the Chancellor or the Master of the Rolls for an order for the sale or other disposition of the said property in manner hereinafter mentioned.

IV. And be it enacted, That on such application the said Court may appoint one or more suitable person or persons to be the guardian of such Infant in relation to the proceedings on such application, who shall be required to give security by bond to the Infant, to be filed with the Registrar, in such penalty and with such sureties and in such form as the Court shall direct, conditioned for the faithful performance of the trust reposed, for the paying over, investing and accounting for all monies which shall be received by such guardians, according to the order of the Court, and for the observance of the orders and directions of the said Court, in relation to the said trust; and in case of the forfeiture of such bond, the said Court may order and direct the same to be prosecuted for the benefit of the party injured.

V. And be it enacted, That upon the filing of such Bond by such guardian as aforesaid, the said Court may proceed in a summary way by reference to a Master to inquire into the merits of such application, and in case it shall appear satisfactorily that a disposition of the real estate of such Infant, or any part thereof, or any term of years of which he may be possessed, or in which he may be interested, is necessary or proper, either for the support and maintenance of such Infant or for his education, or that the interest of such Infant requires or will be substantially promoted by such

disposition on account of any part of his said property being exposed to waste and dilapidation, or on account of its being wholly unproductive or for any other reasons or circumstances, the Court may order the letting for a term of years, the sale or other disposition of such real estate or interest by such guardian so appointed, in such manner and with such restrictions as shall be deemed expedient: Provided always, that nothing herein contained shall be construed to authorize the ordering of the sale, leasing or other disposition of any real estate or term for years, in any manner contrary to the provisions of any last will, or any conveyance by, through or under which such estate or term was devised or conveyed to such Infant.

VI. And be it enacted, That upon any agreement for the sale, leasing or other disposition of such property made pursuant to such order, the same shall be reported to the Court on the oath of the guardian making the same, and if it be confirmed a conveyance shall be executed under the direction of the Court.

VII. And be it enacted, That all sales, leases, dispositions and conveyances, made in good faith by any guardian in pursuance of any such agreement so confirmed as aforesaid, shall be valid and effectual as if made by such Infant when of full age.

VIII. And be it enacted, That upon any order for the sale of any property being made as aforesaid, the Infant to whom the same shall belong shall be considered, so far as relates to such property, a ward of the Court of Chancery; and the Court shall have power to make such order for the investment, disposition and application of the proceeds of such property, and of the increase and interest arising therefrom, as to secure the same for the benefit of such Infant in such manner as may be deemed most expedient.

IX. And be it enacted, That no sale so made as aforesaid shall give to such Infant any other or greater interest or estate in the proceeds of such sale than he had in the estate so sold; but the said proceeds shall be deemed estate of the same nature as the property sold.

X. And be it enacted, That every conveyance made under the provisions of this Act, having been first duly acknowledged or proved according to the provisions of the laws relating to the Registry of Deeds, may be registered in the Registry Office of the County where the lands lie, and such conveyance so registered, or a copy thereof, may be given in evidence in any Court of law or equity in this Province, in like manner with and under the same rules and restrictions as any other registered Deed, and when so given in evidence shall be deemed and taken to be evidence that all the proceedings on which such conveyance is founded were rightly had and done.