

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1850. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1850.

13 Victoria – Chapter 2 Private or Personal Acts

An Act to settle certain doubts raised under the last Will and Testament of Mark Varley, late of the City of Saint John, Brick Maker, but now deceased. Passed 26th April 1850.

Whereas Mark Varley, late of the City of Saint John, in the City and County of Saint John, Brick Maker, did on the fourth day of October one thousand eight hundred and forty nine, make and publish his last Will and Testament, whereby, inter alia, he did devise and bequeath in the words or to the effect following, that is to say:—

“I give, devise and bequeath all my share and interest in the vessel called the ‘El-Dorado,’ owned by Michael Thompson and myself, to the Trustees of the Wesleyan Methodist Church in the City of Saint John, for the establishment and maintenance of a Day School: A School House to be built out of the monies arising from my share, but not to exceed in the cost of the erection thereof the sum of two thousand pounds currency, unless such additional cost be raised by contributions from other parties, or by other means: The said School House to be built of brick or stone: The remainder of the moneys arising from my said share in the said vessel to go to the support of the School Establishment, and the payment of the Teachers: The said Establishment and School House to be built and maintained in the City of Saint John. It is my wish, however, that the said vessel shall be run until it suits the said Michael Thompson's convenience that she be sold: He accounting and paying over to the Trustees of the said School Establishment hereby created, and their successors, the proceeds of my share of the said vessel, as earned, to be by them invested in undoubted security on Lands, or Government Stocks, bearing six per cent interest, and added to the funds arising from the sale of my said share, when sold. It is my wish, however, that the erection of the School House, and the establishment of the School, should be commenced as soon as sufficient funds are in hand; but until sufficient are in hand, to be invested as aforesaid. And it is also my wish that similar investment should be adopted for all moneys hereby bequeathed by me for the purpose aforesaid, after paying for the erection of the said School House, and the necessary expenses attendant upon carrying out the objects of this bequest.

My lot of land and premises in Dock Street, in the City of Saint John, I hereby devise and bequeath to the said Trustees of the Wesleyan Methodist Church, and their successors, to and for the School Establishment above created, subject nevertheless to the payment of the rents arising therefrom to my Brother, John Varley, residing in Hull, Yorkshire, England, during his natural life. It is my Will and Testament, that in case there should be any incompetency in the parties hereinbefore named as Trustees, to accept and carry out the trust for the said School hereby created, then I devise and bequeath the several properties and estates, both real and personal, hereinbefore devised and bequeathed for the purpose aforesaid, to such body or bodies belonging to the Wesleyan Methodist Church in the City of Saint John, and their successors, heirs or assigns, as will be competent to accept and carry out such trust; and that in case any question thereabout should arise, then and until the same should be determined, it is my wish that my executors hereinafter

named should receive, collect, and invest the funds herein for that purpose devised, in the manner before provided, and pay over the same, with all accumulation thereof, to the party or parties entitled to receive the same, and for the purpose aforesaid. I do give, devise and bequeath my lot of land and freehold properly in Lower Cove, in the City of Saint John, together with the buildings and improvements thereon, to the Trustees of the School Fund hereinbefore created, to and for the purposes of the said School, and subject to the trusts for the same created:

And did nominate and appoint Thomas Parks, of the City of Saint John, Merchant, and William F. Smith, of the same place, Mason, executors of his said Will: And whereas the said Mark Varley has departed this life: And whereas the said Will was duly executed according to the Laws of this Province for passing real and personal estate, and the same has been duly proved, and is now on file in the Office of the Registrar of Probates for the City and County of Saint John: And whereas the executors of the said estate are anxious to carry out the provisions of the said Will, but doubts have been raised as to the identity of the Trustees named in the Will, and those actually in existence in the City of Saint John, and of the ability of such Trustees and their successors to take said property, without the intervention and aid of the Court of Chancery or the Legislature: And whereas it is expedient that such doubts should be disposed of, and the said trust estate saved from the expenses of a suit in equity, and the charitable intentions of the testator carried into effect with as little delay as possible: And whereas Gilbert T. Ray, George A. Lockhart, George Whittaker, John B. Gaynor, Edward E. Lockhart, David Collins, Richard Whiteside, Senior, Henry Whiteside, Edward T. Knowles, James Smith, Richard W. Thorne, Edward Lloyd, Daniel J. M'Laughlin, William Till, Aaron Eaton, George P. Sancton, William A. Robertson, John Gardner, Michael Thompson, Colin E. Cross, Robert Salter, Isaac Olive, James Olive, William Beattie, G. B. Vaughan, J. J. Clarke, Zachariah Adams, Ben-jamin Tibbits, William O. Theal, Thomas Thompson, and John Jordan, now are the Trustees of the Wesleyan Methodist Church in the City of Saint John, in connexion with the British Conference, and the Trustees contemplated and intended, by the said testator, Mark Varley, in his said last Will and Testament, and they have been duly appointed under the provisions of the respective Deeds of Trust of the several Wesleyan Chapels in the said City;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That the said Gilbert T. Ray, George A. Lockhart, George Whittaker, John B. Gaynor, Edward E. Lockhart, David Collins, Richard Whiteside, Senior, Henry Whiteside, Edward T. Knowles, James Smith, Richard W. Thorne, Edward Lloyd, Daniel J. M'Laughlin, William Till, Aaron Eaton, George P. Sancton, William A. Robertson, John Gardner, Michael Thompson, Colin E. Cross, Robert Salter, Isaac Olive, James Olive, William Beattie, G. B. Vaughan, J. J. Clarke, Zachariah Adams, Benjamin Tibbits, William O. Theal, Thomas Thompson, and John Jordan, now being the Trustees of the said Wesleyan Methodist Church in the City of Saint John, in connexion with the British Conference, appointed as hereinbefore recited, and their successors being in like manner duly appointed, are hereby declared to be vested with the said property, real and personal, so hereinbefore recited to have been devised upon the Trusts, and subject to the provisions, stipulations and conditions in said Will contained, and the same shall be so held by them so long as they shall so continue to be such Trustees, and their successors to be duly appointed as hereinbefore recited, for ever; saving, nevertheless, the rights of Her Majesty, and of all persons, heirs, executors, devisees, legatees,

creditors, bodies corporate, and others, of in and to the said property hereinbefore mentioned to have been devised and bequeathed.

II. And be it further enacted, That the said Gilbert T. Ray, George A. Lockhart, George Whittaker, John B. Gaynor, Edward E. Lockhart, David Collins, Richard Whiteside, Senior, Henry Whiteside, Edward T. Knowles, James Smith, Richard W. Thorne, Edward Lloyd, Daniel J. M'Laughlin, William Till, Aaron Eaton, George P. Sancton, William A. Robertson, John Gardner, Michael Thompson, Colin E. Cross, Robert Salter, Isaac Olive, James Olive, William Beattie, G. B. Vaughan, J. J. Clarke, Zachariah Adams, Benjamin Tibbits, William O. Theal, Thomas Thompson, and John Jordan, so long as they shall continue to be such Trustees, and their successors, are hereby declared to be the Trustees under the said Will, and as such, vested with the said trust property, real and personal, and all accumulations thereof, and all and every other property, real and personal, that may at any time or times hereafter be given, devised or granted to them or purchased by them, or which may or ought in any way come to their hands to be applied in aid of or in addition to such Trust Fund; and the said executors of the said estate are hereby authorized and empowered to hand over to the said Trustees as aforesaid, all the property, real and personal, bequeathed and devised under the said Will, as hereinbefore recited; and the said trust property and funds, and all accumulations thereof, and additions thereto, as aforesaid, whether real or personal, shall by operation of law vest in the said Trustees, and their successors, upon the trusts, and for the uses and purposes in said Will contained; and the said Trustees, and their successors to be appointed as aforesaid, shall at all times hereafter, with reference to the management and control of the said trust property, and the accumulations thereof, or additions thereto, both real and personal, be known as the Trustees of the Wesleyan Methodist Church in the City of Saint John; and with reference to all matters connected with such trust property or fund, or growing thereout, may sue and be sued, implead and be impleaded in all Courts of Justice, by and under the name of "The Trustees of the Wesleyan Methodist Church in the City of Saint John."