

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1861. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1861.

24 Victoria – Chapter 7

An Act in further amendment of the Law relating to Courts of Probate. Passed 12th April 1861.

Section.

1. Judge may order inventories & accounts to be filed: costs.
2. Testimony need not be entered in a book.
3. Proof of Will when all witnesses are dead, partly non-resident, &c.;

Section.

4. When residing out of the County, but within the Province.
5. Licenses for sale of real estate shall be registered.
6. Power to punish witnesses.

Be it enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows:—

1. Every Executor or Administrator who shall not file an Inventory of the Estate which he represents, or an account of his administration within the time allowed by law for that purpose, shall, after being required so to do by the Judge of Probates, file such Inventory or Account within such time as the Judge may appoint; and for every neglect, whensoever made, shall be liable to pay the costs of such proceeding, to be taxed and recovered as in other cases.
2. Whenever any testimony shall be taken before a Judge of Probates, the same need not be entered in a book, but shall be filed with the other papers in the case.
3. When all the Witnesses to any Will are dead, or some are dead and the others reside out of the Province, or the whole do so reside, the Judge of Probates may grant Probate of such Will on proof of the hand writing of the Witnesses and Testator, together with the fact of the deaths and non-residence aforesaid, to the satisfaction of the Judge, unless the Will be required to be proved in solemn form; in which case, and also if the Judge be satisfied there is just reason to believe the Will was procured by fraud, or the Testator was under any legal incapacity in making the same, a Commission may be ordered by the Judge, directed to one or more persons, to take the testimony of the Witnesses to the Will, with such other testimony as may be necessary, in such manner and under such direction as respects the expenses thereof, as may be mentioned in the said Commission.
4. If all the Witnesses to any Will reside out of the County, where by law the Will must be proved, but within this Province, and none of them can attend to prove the same from age, infirmity, sickness, or other good cause, a Commission may issue in the manner before mentioned, with the same powers, to any other part of the Province, to take the proof of the due execution of the said Will.
5. Every licence for the sale of real estate issued by any Judge of Probates, or a copy thereof, certified by the Registrar of Probates to be a true copy, and acknowledged or proved as in cases of

conveyances, shall be registered in the Office of the Registrar of Deeds in the County where issued, and also where the real estate is situate; and the same, or a copy of such Registry, certified as in cases of registered conveyances by the Registrar of Deeds, shall be evidence of such licence in all Courts in this Province without further proof.

6. The Probate Courts shall have power to punish Witnesses for refusing to testify after appearing in any such Courts, in like manner as Courts of Record in similar cases.