

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1867. Fredericton, NB: G. E. Fenety, Printer to the Queen's Most Excellent Majesty, 1867.

30 Victoria – Chapter 55 (1852)

15th & 16th Victoria, Chapter LV.

An Act to extend the Provisions of "The Trustee Act, 1850." 30th June 1852.

Section.

1. Court of Chancery may make Order for vesting the Estate, in lieu of conveyance by a party to the suit after a Decree or Order for sale.
2. Power to make an Order for vesting the Estate, on refusal or neglect of a Trustee to convey or release.
3. Power to make an Order for the transfer or receipt of Dividends of stock in name of an infant Trustee.
4. On neglect to transfer stock for 28 days. Order may be made vesting right to transfer in such person as the Court shall appoint.
5. On like neglect by Executor, similar Order may be made.
6. Bank of England and Companies to comply with such Orders.

Section.

7. Indemnity to bank and Companies so obeying.
8. Power to appoint new Trustees in lieu of persons convicted of felony.
9. Power to appoint new Trustees where there is no existing Trustee.
10. Chancellor may make Orders for appointment of Trustees, without it being necessary that it should be made in Chancery, &c.
11. As to powers of persons entrusted with the care of lunatics.
12. Act to be construed as part of Trustee Act. 1850.
13. All orders made under Trustee Act. 1850, or this Act. To be chargeable with the same Stamp duty as Deeds of Conveyance.

Whereas it is expedient to extend the Provisions of the Trustee Act, 1850: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same;—

1. That when any Decree or Order shall have been made by any Court of Equity directing the Sale of any Lands for any Purpose whatever, every Person seised or possessed of such Land, or entitled to a contingent Right therein, being a Party to the Suit or Proceeding in which such Decree or Order shall have been made, and bound thereby, or being otherwise bound by such Decree or Order, shall be deemed to be so seised or possessed or entitled (as the Case may be) upon a Trust within the Meaning of the Trustee Act, 1850; and in every such Case it shall be lawful for the Court of Chancery, if the said Court shall think it expedient for the Purpose of carrying such Sale into effect, to make an Order vesting such Lands or any Part thereof, for such Estate as the Court shall think fit, either in any Purchaser or in such other Person as the Court shall direct;

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and every such Order shall have the same Effect as if such Person so seized or possessed or entitled had been free from all Disability, and had duly executed all proper Conveyances and Assignments of such Lands for such Estate.

2. That Sections numbered Seventeen and Eighteen in the Queen's Printer's Copy of the Trustee Act, 1850, be repealed; and in every Case where any Person is or shall be jointly or solely seized or possessed of any Lands or entitled to a contingent Right therein upon any Trust, and a Demand shall have been made upon such Trustee by a Person entitled to require a Conveyance or Assignment of such Lands, or a duly authorized Agent of such last-mentioned Person, requiring such Trustee to convey or assign the same, or to release such contingent Right, it shall be lawful for the Court of Chancery, if the said Court shall be satisfied that such Trustee has wilfully refused or neglected to convey or assign the said Lands for the space of Twenty-eight Days after such Demand, to make an Order vesting such Lands in such Person, in such manner and for such Estate as the Court shall direct, or releasing such contingent Right in such manner as the Court shall direct; and the said Order shall have the same Effect as if the Trustee had duly executed a Conveyance or Assignment of the Lands, or a Release of such Right, in the same manner and for the same Estate.

3. That when any Infant shall be solely entitled to any Stock upon any Trust, it shall be lawful for the Court of Chancery to make an Order vesting in any Person or Persons the Right to transfer such Stock, or to receive the Dividends or Income thereof; and when any Infant shall be entitled jointly with any other Person or Persons to any Stock upon any Trust, it shall be lawful for the said Court to make an Order vesting the Right to transfer such Stock, or to receive the Dividends or Income thereof, either in the Person or Persons jointly entitled with the Infant, or in him or them together with any other Person or Persons the said Court may appoint.

4. That where any Person shall neglect or refuse to transfer any Stock, or to receive the Dividends or Income thereof, or to sue for or recover any Chose in Action, or any Interest in respect thereof, for the space of Twenty-eight Days next after an Order of the Court of Chancery for that Purpose shall have been served upon him, it shall be lawful for the Court of Chancery to make an Order vesting all the Right of such Person to transfer such Stock, or to receive the Dividends or Income thereof, or to sue for and recover such Chose in Action, or any Interest in respect thereof, in such Person or Persons as the said Court may appoint.

5. When any Stock shall be standing in the sole Name of a deceased Person, and his personal Representative shall refuse or neglect to transfer such Stock or receive the Dividends or Income thereof for the space of Twenty-eight Days next after an Order of the Court of Chancery for that Purpose shall have been served upon him, it shall be lawful for the Court of Chancery to make an Order vesting the Right to transfer such Stock, or to receive the Dividends or Income thereof, in any Person or Persons whom the said Court may appoint.

6. When any Order being or purporting to be under this Act, or under the Trustee Act, 1850, shall be made by the Lord Chancellor, intrusted as aforesaid, or by the Court of Chancery, vesting the Right to any Stock, or vesting the Right to transfer any Stock, or vesting the Right to call for the Transfer of any Stock, in any Person or Persons, in every such Case the legal Right to Transfer such Stock shall vest accordingly; and the Person or Persons so appointed shall be authorized and empowered to execute all Deeds and Powers of Attorney, and to perform all Acts relating to the Transfer of such Stock into his or their own Name or Names, or otherwise, to the Extent and in conformity with the Terms of the Order; and the Bank of England, and all Companies and Associations whatever, and all Persons, shall be equally bound and compellable to comply with the Requisitions of such Person or Persons so appointed as aforesaid, to the Extent and in conformity with the Terms of such Order, as the said Bank of England, or such Companies, Associations, or Persons would have been bound and compellable to comply with the Requisitions of the Person in whose Place such Appointment shall have been made.

7. That every Order made or to be made, being or purporting to be made under this or the Trustee Act, 1850, by the Lord Chancellor intrusted as aforesaid, or by the Court of Chancery, and duly passed and entered, shall be a complete Indemnity to the Bank of England, and all Companies and Associations whatsoever, and all Persons, for any Act done pursuant thereto; and it shall not be necessary for the Bank of England, or such Company or Association, or Person, to enquire concerning the Propriety of such Order, or whether the Lord Chancellor intrusted as aforesaid, or the Court of Chancery, had Jurisdiction to make the same.

8. That when any Person is or shall be jointly or solely seised or possessed of any Lands or entitled to any Stock upon any Trust, and such Person has been or shall be convicted of Felony, it shall be lawful for the Court of Chancery, upon Proof of such Conviction, to appoint any Person to be a Trustee in the Place of such Convict, and to make an Order for vesting such Lands, or the Right to Transfer such Stock, and to receive the Dividends or Income thereof, in such Person to be so appointed Trustee; and such Order shall have the same Effect as to Lands as if the Convict Trustee had been free from any Disability, and had duly executed a Conveyance or Assignment of his Estate and Interest in the same.

9. That in all Cases where it shall be expedient to appoint a new Trustee, and it shall be found inexpedient, difficult, or impracticable so to do without the Assistance of the Court of Chancery, it shall be lawful for the said Court to make an Order appointing a new Trustee or new Trustees, whether there be any existing Trustee or not at the time of making such Order.

10. In every Case in which the Lord Chancellor intrusted as aforesaid has Jurisdiction under this Act, or the Trustee Act, 1850, to order a Conveyance or Transfer of Land or

Stock, or to make a Vesting Order, it shall be lawful for him also to make an Order appointing a new Trustee or new Trustees, in like manner as the Court of Chancery may do in like Cases, without its being necessary that the Order should be made in Chancery as well as in Lunacy, or be passed and entered by the Registrar of the Court of Chancery.

11. That all the Jurisdiction conferred by this Act on the Lord Chancellor, intrusted by virtue of the Queen's Sign Manual with the Care of the Persons and Estates of Lunatics, shall and may be had, exercised, and performed by the Person or Persons for the time being intrusted as aforesaid.

12. That this Act shall be read and construed according to the Definitions and Interpretations contained in the Second Section of the Trustee Act, 1850, and the Provisions of the said last-mentioned Act (except so far as the same are altered by or inconsistent with this Act) shall extend and apply to the Cases provided for by this Act, in the same Way as if this Act had been incorporated with and had formed Part of the said Trustee Act, 1850.

13. That every Order to be made under the Trustee Act, 1850, or this Act, which shall have the Effect of a Conveyance or Assignment of any Lands, or a Transfer of any such Stock as can only be transferred by stamped Deed, shall be chargeable with the like Amount of Stamp Duty as it would have been chargeable with if it had been a Deed executed by the Person or Persons seised or possessed of such Lands, or entitled to such Stock; and every such Order shall be duly stamped for denoting the Payment of the said Duty.