

Laws of Her Majesty's Province of Newfoundland, passed in the year 1867. J. C. Withers,
Queen's Printer, 1867.

30 Victoria – Chapter 11

An Act to amend the Practice of the Superior Courts, as regards the Estates of Infants and Persons of Unsound Mind. (Passed 26th April, 1867.)

Whereas it is expedient to amend the Practice of the Superior Courts as regards the Estates of Infants and Persons of Unsound Mind:

Be it therefore enacted by the Governor, Legislative Council and Assembly, in Legislative Session convened, as follows:

- I. An Infant entitled to Real Estate, or Chattels Real, may, by his next Friend or Guardian, petition the Court for an order to sell or dispose of the said property, who shall proceed, in a summary way, on affidavit, to enquire into the merits of such application; and if the disposal of such property, or any part thereof, be necessary for the support of such Infant, or for his Education furnished or to be furnished, or if the interest of the Infant will be substantially promoted by such disposal on account of any part of his said property being exposed to waste or dilapidation, or being wholly unproductive, or for any other reasonable cause, the Court may, on the filing of a bond by such Guardian or next friend, or other person approved of by the Court, in case he be not already a lawfully appointed Guardian, with such Sureties, in such form, and on such terms and conditions, as shall be directed, order the letting for a term of years, the sale, mortgage, or other disposal of such property, whether possessory or reversionary, by such Guardian or next friend, in such manner and with such restrictions as shall be deemed expedient, but not in any case contrary to any last Will or Conveyance by which such Property was devised or conveyed to such Infant, unless where the support or maintenance of the Infant shall have required, or shall then require it, and it shall be so expressed in the order.
- II. All Sales, Leases, Mortgages, or Conveyances, made in good faith by any Guardian or next Friend, in pursuance of such order, shall be as effectual as if made by such Infant after he had attained the age of Twenty-one years; and it shall not be necessary, in the Conveyance, to recite any part of the proceedings required by this Section, but the same shall briefly refer to the order and the sale, leasing, or other disposal of such Property. The party making the sale shall file a Report thereof with the Chief Clerk and Registrar of the Court.
- III. Upon any order for the sale of any Property being made as aforesaid, the Court may make such order for the investment, disposal and application of the proceeds of such Property, and of the increase and interest arising therefrom, as shall secure the same for the Infant's benefit.
- IV. No sale made as aforesaid shall give to any such Infant any other or greater interest or estate in the proceeds of such sale than he had in the estate so sold.

V. Every Conveyance made under the provisions, and registered in the District where the Lands lie, shall be taken as presumptive evidence that all the proceedings on which the same is founded were rightly had.

VI. The terms of the Act 27 Vic., Cap. 9, so far as they apply to the Partition of Property of Infants, or of Persons of Unsound Mind, held in joint tenancy, co-parcenary or common, shall be subject to the following provisions, viz.: the Court may, of its own motion, or upon that of any party to a Writ of Partition, or of the Guardian or next Friend of an Infant, or of the Guardian or next Friend of a Person of Unsound Mind, direct the Guardian of such Infant or Person of Unsound Mind to be made a party to such Writ, and in such cases the judgment to be had shall be as final and binding upon such Infant or Person of Unsound Mind, his representatives and estate, as other parties to the proceedings. If there be no such Guardian existing, one may be appointed by the Court, and the provisions of this Section shall apply in such cases.

VII. The Record of the Partition, under a Writ of Partition, shall be registered in the Registry of Deeds for the District in which the Lands are situated.