

Laws of Her Majesty's Province of Upper Canada, passed in the year 1849. Montreal: Stewart Derbyshire & George Desbarats, 1849.

12 Victoria – Chapter 72

An Act to provide for the Sale and Disposition of the Real Estate of Infants in certain cases therein mentioned. 30th May, 1849.

Whereas it is expedient to authorize the Sale and Disposition of the Real Estate of Infants in certain cases where the same is for their benefit: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That any Infant seized or possessed of, or entitled to any Real Estate in fee, for a term of years, or otherwise howsoever, in Upper-Canada, may, by his or her next friend, or by his or her guardian, apply to the Court of Chancery in and for Upper-Canada, for the sale or other disposition of such property, or a competent part thereof, in manner and for any of the purposes hereinafter directed: Provided always, that no such application shall be made to the said Court of Chancery without the consent of such Infant if he or she be of the age of seven years or upwards.

II. And be it enacted, That whenever, upon any such application as aforesaid, it shall appear satisfactorily to the said Court, that a disposition of any part of such Real Estate of such Infant is necessary and 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, by reason of any part of his or her said property being exposed to waste and dilapidation, the Court may order the sale, or the letting for a term of years, or other disposition of such Real Estate or any part thereof, to be made under the direction of the Master of the said Court, or by the Guardian or Guardians of such Infant, or by any person appointed by the said Court for the purpose, in such manner and with such restrictions as to the said Court shall seem expedient, and may order the Infant to convey such Real Estate as the said Court shall think proper; and every such conveyance shall be as valid and effectual, to all intents and purposes, as if the Infant had been, at the time of making or executing the same, of the age of twenty-one years: Provided always, that no such Real Estate shall be so sold, leased or otherwise disposed of as aforesaid in any manner, against the provisions of any last will or of any conveyance by which such Estate was devised or granted to such Infant, or for his or her use.

III. And be it enacted, That where the said Court shall find or deem it more convenient that the conveyance to be made and executed in pursuance of the provisions of this Act, should be executed by some person in the place of the Infant, then and in such case it shall be lawful for the said Court of Chancery to direct any person whom such Court may think proper to appoint for that purpose, in the place of the Infant, to convey such estate to such person, and in such manner as the said Court shall think proper; and every such conveyance shall be as valid and effectual to all

intents and purposes, as if the Infant had made and executed the same, and had been of the age of twenty-one years at the time of making and executing the same.

IV. And be it enacted, That the moneys arising from any such sale, lease or other disposition, as hereinbefore mentioned, shall be laid out, applied and disposed of in such manner as the said Court shall direct.

V. And be it enacted, That on any sale or other disposition which shall be made in pursuance of this Act, the moneys thereby raised, or the surplus thereof, as the case may be, shall be of the same nature and character as the Estate so sold or disposed of, and the heirs, next of kin, or other representatives of the Infant, shall have such and the like interest in any surplus which may remain of such moneys at the decease of such Infant, as they would have had in the Estate so sold or disposed of, if no such sale or other disposition had been made.

VI. And be it enacted, That if the Real Estate of any Infant applying as aforesaid, or any part of it, shall be subject to Dower, and the person entitled thereto shall consent in writing to accept such gross sum in lieu of such Dower as the Court shall think reasonable, or the permanent investment of a reasonable sum in such manner as that the interest thereof be made payable to the person entitled to the said Dower during her life, the said Court may direct the payment of such sum in gross or the investment of such other sum as aforesaid, as the case may be, which sums so paid or invested shall be taken out of the proceeds of the sale of the Real Estate of such Infant.

VII. And be it enacted, That the said Court shall have full power and authority to make all such rules and orders as may be requisite for carrying this Act into effect, or for regulating the proceedings under it.