

## No. IV.

TRUSTEES.

### An Act to extend the provisions of “ The Trustee Act of 1852.” [4th July, 1853.]

**W**HEREAS it is expedient to extend the provisions of the Trustee Act of 1852 Be it therefore enacted by His Excellency the Governor of New South Wales by and with the advice and consent of the Legislative Council thereof as follows :—

Supreme Court may make an order for vesting the estate in lieu of conveyance by a party to the suit after a decree or order for sale.

1. When any decree or order shall have been made by the Supreme Court 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

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be so seised or possessed or entitled (as the case may be) upon a trust within the meaning of the said Trustee Act of 1852 and in every such case it shall be lawful for the said Supreme Court 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 and every such order shall have the same effect as if such person so seised 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. Sections seventeen and eighteen of the said Trustee Act of 1852 are hereby repealed and in every case where any person is or or shall be jointly or solely seised or possessed of any lands or entitled to a contingent right therein upon any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 said Supreme Court 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.

Power to make an order for vesting the estate on refusal or neglect of a trustee to convey or release.

3. When any infant shall be solely entitled to any stock upon any trust it shall be lawful for the Supreme Court 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.

Power to make an order for the transfer or receipt of dividends of stock in name of an infant trustee.

4. 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 Supreme Court for that purpose shall have been served upon him it shall be lawful for the said Court 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.

On neglect to transfer stock for twenty-eight days order may be made vesting right to transfer in such person as the Court shall 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 Supreme Court for that purpose shall have been served upon him 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 in any person or persons whom the said Court may appoint.

On like neglect by executor similar order may be made.

6. When any order being or purporting to be under this Act or under the Trustee Act of 1852 shall be made by the Supreme Court vesting the right to any stock or vesting the right to transfer any

Companies and associations to comply with such orders.

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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 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 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.

Indemnity to company so obeying.

7. Every order made or to be made being or purporting to be made under this Act or the Trustee Act of 1852 by the Supreme Court and duly passed and entered shall be a complete indemnity to all companies and associations whatsoever and all persons for any act done pursuant thereto and it shall not be necessary for such company or association or person to inquire concerning the propriety of such order or whether the said Court had jurisdiction to make the same.

Power to appoint new trustees in lieu of persons convicted of felony.

8. 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 Supreme Court 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.

Power to the Court to appoint new trustees where there is no existing trustee.

9. 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 Supreme Court 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.

Supreme Court may make order for appointment of trustees.

10. In every case in which the Supreme Court has jurisdiction under this Act or the Trustee Act of 1852 to order a conveyance or transfer of land or stock or to make a vesting order it shall be lawful for the said Court also to make an order appointing a new trustee or new trustees.

Act to be construed as part of Trustee Act of 1852.

11. This Act shall be read and construed according to the definitions and interpretations contained in the second section of the Trustee Act of 1852 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 of 1852.