

## No. VII.

## An Act for better securing Trust Funds and for the relief of Trustees. [4th June, 1858.]

TRUST FUNDS  
PROTECTION.

**W**HEREAS it is expedient to provide means for better securing Trust Funds and for relieving Trustees from the responsibility of administering Trust Funds in cases where they are desirous of being so relieved Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows :—

1. All trustees executors administrators or other persons having in their hands or under their control any moneys belonging to any trust or the major part of them on filing an affidavit in the Supreme Court in its Equitable Jurisdiction shortly describing the instrument creating the trust according to the best of their knowledge and belief may pay such moneys into the hands of the Master in Equity in the matter of the particular trust (describing the same by the names of the parties as accurately as may be for the purpose of distinguishing it) in trust to attend the orders of the Court—and all such persons having any Government or other stocks or securities in the United Kingdom or in this or any other British Colony standing in their names or in the name of any deceased person of whom they are personal representatives or held by them upon any trust or the major part of them may transfer or deposit such stocks or securities to or in the name of or with the Master in Equity with his privy in the matter of the particular trust (describing the same as aforesaid) in trust to attend the orders of the said Court—and in every such case a certificate from the Master of the fact of the money being so paid in or of the transfer or deposit of such stocks or securities shall be a sufficient discharge to such persons for the money stocks or securities so paid transferred or deposited.

Preamble.

Trustees may pay  
moneys or transfer  
securities into the  
Supreme Court.

2. If upon a petition presented under this Act it shall appear to the Court that moneys stocks or securities are vested in any persons within the meaning of this Act and that the major part of them are desirous (or where there are only two such persons that one of them is desirous) of paying transferring or depositing the same under the provisions of this Act but that for some reason the concurrence of the other or others of them cannot be had it shall be lawful for the Court to direct such payment transfer or deposit to be made by the major part of them (or by one as the case may be) without the concurrence of the others or other of them—and where any such moneys stocks or securities are deposited with any banker broker or other depositary it shall be lawful for the Court to make an order for the payment transfer or delivery thereof to the major part of such persons as aforesaid or to one of them for the purpose of being paid transferred or deposited to or with the Master as to the Court shall seem meet and every payment transfer and delivery in pursuance of any such order shall be as valid as if made on the authority or by the act of all the persons entitled to such moneys stocks or securities and shall protect and indemnify all persons acting in pursuance of such order.

Court may effectuate  
transfer &c. by a  
majority of trustees.

3. Such orders as the Court shall think fit may be from time to time made by the Court in its Equitable Jurisdiction in respect of the trust moneys stocks or securities paid in transferred and deposited as aforesaid and for the investment and payment of such moneys or of any

Court to make  
orders for applica-  
tion of trust  
moneys.

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*Main Roads.*

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dividends or interest on such stocks or securities and for the transfer and delivery out of such stocks and securities and for the administration of the trust generally upon a petition presented in a summary way to the Court by such party or parties as to the Court shall appear to be competent in that behalf and service of such petition shall be made upon such persons as the Court shall direct and every order made upon any such petition shall have the same effect and shall be enforced and subject to re-hearing and appeal in the same manner as if made in a suit regularly instituted in the Court Provided that if it shall appear that any such funds cannot be safely distributed without the institution of a suit or suits the Court may direct such suit or suits to be instituted.

Power to compel  
trustees to account.

4. Where any guardian committee receiver or other trustee appointed by the Supreme Court or the Primary Equity Judge shall have been or shall be (either by order in the particular cause or matter or by any general rule) directed to account from time to time to the Court or to file any report or account in the office of the Master in Equity it shall be lawful for the Court on the application of any party interested or of such Master on behalf of the parties or any of them or without any such application to enforce compliance with every such rule or order by a rule or summons to shew cause and by rule or order absolute thereupon as in an action or proceeding at law and to punish non-compliance with any such rule or order absolute by attachment for contempt as in any case of contempt at law with costs in each case payable by and to whom the Court shall think fit to direct.

Powers may be exer-  
cised by Equity  
Judge Power to  
make general rules.

5. The jurisdiction and powers by this Act vested in the Supreme Court may be exercised by the Primary Equity Judge or one other Judge acting for him in his absence or during his illness subject nevertheless to the like appeal re-hearing and review as in ordinary cases—and the Judges of the said Court or any two of them may make such general rules and orders as from time to time shall seem necessary for better carrying the provisions and objects of this Act into effect.

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