

21^o VICTORIÆ, 1857.

A BILL

For better securing Trust Funds and for the relief of Trustees.

WHEREAS it is expedient to provide means for better securing Trust Preamble.

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
5 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 Trustees may pay
Trust Moneys or
transfer Stocks and
Securities into the
Supreme Court.
having in their hands any moneys belonging to any Trust whatsoever,
10 or the major part of them, shall be at liberty, 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, to pay the same into the hands of the Master in Equity of the said
Court, in the matter of the particular Trust, (describing the same by the
15 names of the parties as accurately as may be, for the purpose of dis-
tinguishing it,) in trust, to attend the orders of the said 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 shall be
20 personal representatives, or held by them upon any Trust whatsoever, or
the major part of them, shall be at liberty to transfer or deposit such
Stocks or Securities into or in the name of or with the said Master in
Equity, with his privity, in the matter of the particular Trust (describing
the same as aforesaid,) in trust to attend the orders of the said Court:—
25 and in every such case the certificate of 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.

2. If upon any Petition presented under this Act, it shall appear Court may effectuate
transfer &c. by a
majority of Trustees.
30 to the Court that any such Moneys, Stocks, or Securities are vested in
any persons as Trustees, Executors, Administrators, or otherwise within the

meaning of this Act, and that the major part of such persons are desirous, (or, where there are only two such persons, that one of them is desirous) of paying, transferring, or depositing the same to or with the Master in Equity 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 5 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, shall be deposited with any Banker, Broker, or other Depository, it shall be lawful for the Court to make such Order for the payment, transfer, or delivery thereof to the major part of such persons as aforesaid, 10 or to one of them, for the purpose of being paid, transferred, or deposited, to or with the said 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 the same had been made on the authority, or by the act of all the persons entitled to such Moneys, Stocks, or Securities, and shall fully protect and indemnify all persons acting in pursuance of such Order. 15

Supreme Court in Equity to make Orders for application of Trust Moneys, and administration of Trust.

3. Such Orders as shall seem fit, shall be from time to time made by the Court in its Equitable Jurisdiction in respect of the Trust Moneys, Stocks, or Securities so paid in, transferred, and deposited as aforesaid and for the investment and payment of any such moneys, or of any dividends or interest on any such Stocks or Securities, and for the transfer 20 and delivery out of any such Stocks and Securities, and for the administration of any such Trusts generally, upon a petition to be presented in a summary way to the said Court, by such party or parties as to the Court shall appear to be competent and necessary in that behalf, and service of such petition shall be made upon such person or persons as the Court 25 shall see fit and direct ; and every Order made upon any such Petition shall have the same authority and effect, and shall be enforced and subject to re-hearing and appeal in the same manner as if the same had been made in a suit regularly instituted in the Court ; and if it shall appear that any such Trust Funds cannot be safely distributed without the institution 30 of one or more suit or suits, the Court may direct any such suit or suits to be instituted.

Judges may make General Orders.

4. Any two or more of the Judges of the said Court shall have power to make such Orders as from time to time shall seem necessary for better carrying the provisions *and objects* of this Act into effect. 35

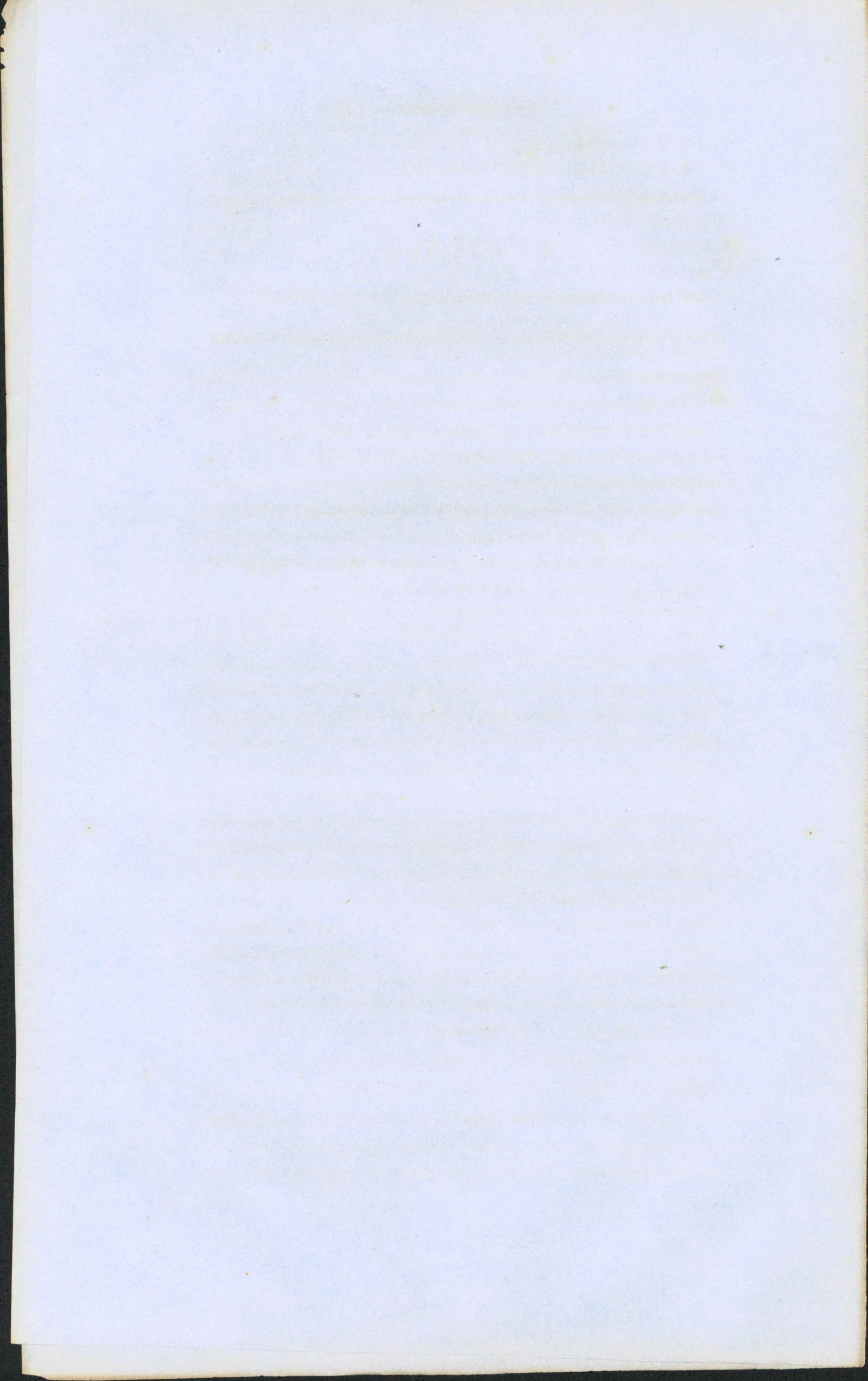
Power to compel certain Trustees to account.

5. Where any Guardian, Committee, or Receiver or other Trustee shall have *been appointed by the Supreme Court*, or the Primary Equity Judge

Judge, and shall have been or shall be either specially in the particular cause or matter, or by any General Rule, ordered to account from time to time to the Court, or to file any Report or Statement or Account in the Office of the Master in Equity, it shall be lawful for such Court or Judge, 5 upon the application of any party interested, or of the Attorney General, or of such Master on behalf of the parties interested, or any of them, or without any such application, *to enforce compliance with every such Rule or Order*, by Rule or Summons to show cause, and by Rule or Order Absolute thereupon, as in an action or proceeding at law; and to punish 10 non-compliance with any such first mentioned Rule or Order, or with any such Rule or Order Absolute by Attachment for Contempt as in any ordinary case of Contempt at Law, by disobedience of an Order of the Court :—with Costs, in each case, payable by and to whom such Court or Judge shall think fit to direct.

15 6. The jurisdiction and powers by this Act vested in the Supreme Court, may be exercised by the Primary Equity Judge, or one other Judge Powers may be exercised by Equity Judge. acting as such in his absence, or during his illness, subject nevertheless to the like appeal, re-hearing, and review as in ordinary cases.

7. This Act may be amended or repealed by any Act to be passed Act may be amended &c. in this present Session of Parliament.

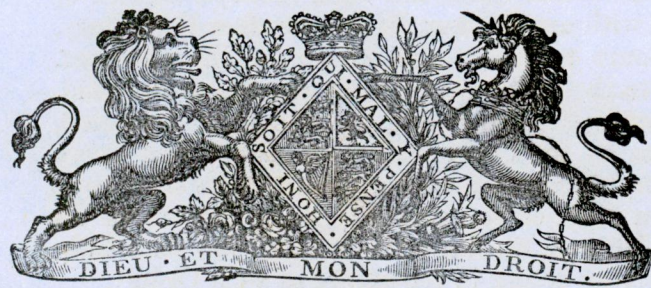


This PUBLIC BILL, having been this day passed by the LEGISLATIVE COUNCIL, is ready for presentation to the LEGISLATIVE ASSEMBLY, for its concurrence.

Legislative Council Chamber,
Sydney, 5th November, 1857. }

WM. MACPHERSON,
Clerk of the Legislative Council.

New South Wales.



ANNO VICESIMO PRIMO

VICTORIÆ REGINÆ.

No. .

An Act for better securing Trust Funds and for the relief of Trustees.

WHEREAS 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 any moneys belonging to any Trust whatsoever, or the major part of them, shall be at liberty, 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, to pay the same into the hands of the Master in Equity of the said Court, 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 said 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 shall be personal representatives, or held by them upon any Trust whatsoever, or the major part of them, shall be at liberty to transfer or deposit such Stocks or Securities into or in the name of or with the said Master in Equity, with his privity, 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 the certificate of 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.

Trustees may pay Trust Moneys or transfer Stocks and Securities into the Supreme Court.

Trust Funds Security Act.—1857.

2. If upon any Petition presented under this Act, it shall appear to the Court that any such Moneys, Stocks, or Securities are vested in any persons as Trustees, Executors, Administrators, or otherwise within the meaning of this Act, and that the major part of such persons are desirous, 5 (or, where there are only two such persons, that one of them is desirous) of paying, transferring, or depositing the same to or with the Master in Equity 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 10 of the others or other of them :—and where any such Moneys, Stocks, or Securities, shall be deposited with any Banker, Broker, or other Depositary, it shall be lawful for the Court to make such 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 said Master, as to the Court shall seem meet ; and every 15 payment, transfer, and delivery, in pursuance of any such Order shall be as valid as if the same had been made on the authority, or by the act of all the persons entitled to such Moneys, Stocks, or Securities, and shall fully 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 shall seem fit, shall be from time to time made by the Court in its Equitable Jurisdiction in respect of the Trust Moneys, 20 Stocks, or Securities so paid in, transferred, and deposited as aforesaid and for the investment and payment of any such moneys, or of any dividends or interest on any such Stocks or Securities, and for the transfer and delivery out of any such Stocks and Securities, and for the administration of any such Trusts generally, upon a petition to be presented in a summary way to the said Court, by such party or parties as to the Court 25 shall appear to be competent and necessary in that behalf, and service of such petition shall be made upon such person or persons as the Court shall see fit and direct ; and every Order made upon any such Petition shall have the same authority and effect, and shall be enforced and subject to re-hearing and appeal in the same manner as if the same had been made in a suit regularly instituted in the Court ; and if it shall appear that 30 any such Trust Funds cannot be safely distributed without the institution of one or more suit or suits, the Court may direct any such suit or suits to be instituted.

Supreme Court in Equity to make Orders for application of Trust Moneys, and administration of Trust.

4. Any two or more of the Judges of the said Court shall have power to make such Orders as from time to time shall seem necessary 35 for better carrying the provisions and objects of this Act into effect.

Judges may make General Orders.

5. Where any Guardian, Committee, or Receiver or other Trustee shall have been appointed by the Supreme Court or the Primary Equity Judge, and shall have been or shall be either specially in the particular 40 cause or matter, or by any General Rule, ordered to account from time to time to the Court, or to file any Report or Statement or Account in the Office of the Master in Equity, it shall be lawful for such Court or Judge, upon the application of any party interested, or of the Attorney General, or of such Master on behalf of the parties interested, or any of them, or without any such application, to enforce compliance with every such Rule or Order, by Rule or Summons to show cause, and by Rule or Order Absolute thereupon, as in an action or proceeding at law ; and to punish 45 such Rule or Order Absolute by Attachment for Contempt as in any ordinary case of Contempt at Law, by disobedience of an Order of the Court :—with Costs, in each case, payable by and to whom such Court or Judge shall think fit to direct.

Power to compel certain Trustees to account.

6. The jurisdiction and powers by this Act vested in the Supreme 50 Court, may be exercised by the Primary Equity Judge, or one other Judge acting as such in his absence, or during his illness, subject nevertheless to the like appeal, re-hearing, and review as in ordinary cases.

Powers may be exercised by Equity Judge.