

gender only shall extend and be applied to a female as well as a male.

Passed in Council this first day of April, in the year of Our Lord one thousand eight hundred and sixty-two.

R. LECHMERE GUPPY,
Clerk of Council.

No. 4.—1862.

1st April.

AN ORDINANCE to amend the Law relating to the Conveyance and Transfer of Real and Personal Property, vested in Mortgagees and Trustees.

ROB. W. KEATE.

WHEREAS it is expedient to amend the Law relating to the Conveyance and Transfer of Real and Personal Property vested in Mortgagees and Trustees and to assimilate the same to the Law of England: Be it enacted by His Excellency the Governor by and with the advice and consent of the Council of Government as follows:

The several words hereinafter named are herein used and applied in the manner following respectively (that is to say):

The word "Lands" shall extend to and include Definitions. messuages, tenements and hereditaments corporeal and incorporeal of every tenure or description, whatever may be the estate or interest therein.

The word "Stock" shall mean any Debentures issued or to be issued by or under the authority of the Government of this Colony, and any fund, annuity or security transferable in books kept by any Company or Society established or to be established or transferable by deed alone or by deed accompanied by other formalities and any share or interest therein respectively.

The word "Seised" shall be applicable to any vested estate for life or of a greater description and shall extend to estates at law and in equity in possession or in futurity in any lands.

The word "Possessed" shall be applicable to any vested estate less than a life estate at law or in equity, in possession or in expectancy in any lands.

The words "Contingent right," as applied to lands shall mean a contingent or executory interest, a possibility coupled with an interest, whether the object of the gift or limitation of such interest or possibility be or be not ascertained, also a right of entry whether immediate or future, and whether vested or contingent.

The words "Convey" and "Conveyance" applied to any person shall mean the execution by such person of every necessary or suitable assurance for conveying or disposing to another lands whereof such person is seised or entitled to a contingent right, either for the whole estate of the person conveying or disposing or for any less estate together with the proof and registration of such assurance and the performance of all formalities required by law to the validity of such conveyance including the acts to be performed by married women in accordance with the provisions of the Ordinance No. 21, of 1855, entitled "An Ordinance with regard to Deeds made by Married Women."

The words "Assign" and "Assignment" shall mean the execution and performance by a person of every necessary or suitable deed or act for assigning, surrendering, or otherwise transferring lands of which such person is possessed, either for the whole estate of the person so possessed or for any less estate.

The word "Transfer" shall mean the execution and performance of every deed and act by which a person entitled to stock can transfer such stock from himself to another.

The word "Trust" shall not mean the duties incident to an estate conveyed by way of mortgage; but with this exception, the words "trust" and "trustee" shall extend to and include implied and constructive trusts and shall extend to and include cases where the trustee has some beneficial estate or interest in the subject of

the trust, and shall extend to and include the duties incident to the office of personal representative of a deceased person.

The word "Lunatic" shall mean any person who shall have been found to be a lunatic upon a commission of inquiry in the nature of a writ *de lunatico inquirendo*.

The expression "person of unsound mind" shall mean any person not an infant, who, not having been found to be a lunatic shall be incapable from infirmity of mind to manage his own affairs.

The word "Devisee" shall in addition to its ordinary signification mean the heir of a devisee and the devisee of an heir, and generally any person claiming an interest in the lands of a deceased person, not as heir of such deceased person but by a title dependent solely upon the operation of the laws concerning devise and descent.

The word "Mortgage" shall be applicable to every estate, interest, or property in lands or personal estate which would in a Court of Equity be deemed merely a security for money.

The word "Registered" shall mean "registered in the Office of the Registrar General of the Island."

The word "Person" used and referred to in the masculine gender shall include a female as well as a male, and shall include a body corporate.

And generally, unless the contrary shall appear from the context, every word importing the singular number only shall extend to several persons or things, and every word importing the plural number shall apply to one person or thing, and every word importing the masculine gender only shall extend to a female.

2. When any lunatic or person of unsound mind shall be seised or possessed of any lands upon any trust or by way of mortgage, it shall be lawful for the Supreme Civil Court in Equity to make an order that such lands be vested in such person or persons in such manner and for such estate as the Court shall direct, and the order shall have the same effect as if the trustee or mortgagee had been sane, and had duly executed a conveyance or assignment of the lands in the same manner for the same estate.

When any trustee or mortgagee shall be of unsound mind, the Supreme Court to make order for the vesting of the lands held by him.

When any lunatic is entitled to a contingent right in lands upon trust or mortgage, the Supreme Court may make order releasing lands from such contingent right.

3. When any lunatic or person of unsound mind shall be entitled to any contingent right in any lands upon any trust or by way of mortgage, it shall be lawful for the Supreme Civil Court in Equity to make an order wholly releasing such lands from such contingent right, or disposing of the same to such person or persons as the Court shall direct; and the order shall have the same effect as if the trustee or mortgagee had been sane, and had duly executed a deed so releasing or disposing of the contingent right.

When any lunatic is entitled to any stock, &c., upon any trust or mortgage the Supreme Court may make order vesting in any persons the right to transfer such stock, or to receive the income thereof.

4. When any lunatic or person of unsound mind shall be solely entitled to any stock or to any chose in action upon any trust or by way of mortgage it shall be lawful for the Supreme Civil Court in Equity, to make an order vesting in any person or persons the right 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; and when any person or persons shall be entitled jointly with any lunatic or person of unsound mind to any stock or chose in action upon any trust or by way of mortgage it shall be lawful for the Court to make an order vesting the right 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; either in such person or persons so jointly entitled as aforesaid, or in such last-mentioned person or persons together with any other person or persons whom the Court may appoint.

The Supreme Court to make order respecting the disposal of stock standing in the name of a deceased person whose representative is a lunatic.

5. When any stock shall be standing in the name of any deceased person, whose personal representative is a lunatic or person of unsound mind, or when any chose in action shall be vested in any lunatic or person of unsound mind as the personal representative of a deceased person it shall be lawful for the Supreme Civil Court in Equity, to make an order vesting the right 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 any person or persons whom the Court may appoint.

6. Where any infant shall be seised or possessed of any lands upon any trust or by way of mortgage, it shall be lawful for the Supreme Civil Court in Equity to make an order vesting such lands in such person or persons in such manner and for such estate as the Court shall direct; and the order shall have the same effect as if the infant trustee or mortgagee had been twenty-one years of age, and had duly executed a conveyance or assignment of the lands in the same manner for the same estate.

The Supreme Court to make order respecting the disposal of lands in possession of infants upon trust or mortgage.

7. Where any infant shall be entitled to any contingent right in any lands upon any trust or by way of mortgage, it shall be lawful for the Supreme Civil Court in Equity to make an order wholly releasing such lands from such contingent right, or disposing of the same to such person or persons as the Court shall direct; and the order shall have the same effect as if the infant had been twenty-one years of age, and had duly executed a deed so releasing or disposing of the contingent right.

Where an infant is entitled to a contingent right in lands upon trust or mortgage, the Supreme Court may make order for releasing the lands from such contingent right.

8. When any person solely seised or possessed of any lands upon any trust shall be out of the Island or cannot be found, it shall be lawful for the Supreme Civil Court in Equity to make an order vesting such lands in such person or persons in such manner and for such estate as the Court shall direct; and the order shall have the same effect as if the trustee had duly executed a conveyance or assignment of the lands in the same manner and for the same estate.

When any trustee is absent or not to be found, Supreme Court may make order for the disposal of the lands held in trust.

9. When any person or persons shall be seised or possessed of any lands jointly with a person who shall be out of the Island, or who cannot be found, it shall be lawful for the Supreme Civil Court in Equity to make an order vesting the lands in the person or persons so jointly seised or possessed, or in such last-mentioned person or persons, together with any other person or persons in such manner and for such estate as the Court shall direct; and the order shall have the same effect as if the trustee who shall be out of the Island or who cannot be found had duly executed a conveyance or assignment of the lands in the same manner for the same estate.

When any joint trustee shall be absent the Supreme Court to make order vesting the trust in the other joint trustee.

Where a person entitled to a contingent right in lands upon a trust is absent or cannot be found, order may be made releasing the lands from such right.

10. When any person solely entitled to a contingent right in any lands upon any trust shall be out of the Island or cannot be found, it shall be lawful for the Supreme Civil Court in Equity to make an order wholly releasing such lands from such contingent right, or disposing of the same to such person or persons as the Court shall direct, and the order shall have the same effect as if the trustee had duly executed a conveyance so releasing or disposing of the contingent right.

When any person jointly entitled with any other person to a contingent right in any lands upon a trust is absent, order may be made disposing of the contingent right to the other person jointly entitled to it.

11. When any person jointly entitled with any other person or persons to a contingent right in any lands upon any trust shall be out of the Island or cannot be found, it shall be lawful for the Supreme Civil Court in Equity to make an order disposing of the contingent right of the person out of the Island or who cannot be found to the person or persons so jointly entitled as aforesaid, or to such last-mentioned person or persons together with any other person or persons, and the order shall have the same effect as if the trustee out of the Island or who cannot be found had duly executed a conveyance so releasing or disposing of the contingent right.

Where it is uncertain which of two or more trustees was the survivor, the Supreme Court to make order for the disposal of the lands held in trust.

12. Where there shall have been two or more persons jointly seised or possessed of any lands upon any trust, and it shall be uncertain which of such trustees was the survivor, it shall be lawful for the Supreme Civil Court in Equity to make an order vesting such lands in such person or persons in such manner and for such estate as the Court shall direct, and the order shall have the same effect as if the survivor of such trustees had duly executed a conveyance or assignment of the lands in the same manner for the same estate.

Where it shall be uncertain whether any trustee be living or dead, Supreme Court to make order for the disposal of the lands held in trust.

13. Where any one or more person or persons shall have been seised or possessed of any lands upon any trust and it shall not be known, as to the trustee last known to have been seised or possessed, whether he be living or dead, it shall be lawful for the Supreme Civil Court in Equity to make an order vesting such lands in such person or persons in such manner and for such estate as the Court shall direct, and the order shall have the same effect as if the last trustee had duly executed

a conveyance or assignment of the lands in the same manner for the same estate.

14. When any person seised of any lands upon any trust shall have died intestate as to such lands without an heir, or shall have died and it shall not be known who is his heir or devisee, it shall be lawful for the Supreme Civil Court in Equity to make an order vesting such lands in such person or persons in such manner and for such estate as the Court shall direct, and the order shall have the same effect as if the heir or devisee of such trustee had duly executed a conveyance of the lands in the same manner for the same estate.

When any trustee shall have died intestate, or where it shall not be known who is his heir, the Supreme Court to make order respecting the disposal of the trust.

15. When any lands are subject to a contingent right in an unborn person or class of unborn persons who upon coming into existence would in respect thereof become seised or possessed of such lands upon any trust, it shall be lawful for the Supreme Civil Court in Equity to make an order which shall wholly release and discharge such lands from such contingent right in such unborn person or class of unborn persons, or to make an order which shall vest in any person or persons the estate or estates which such unborn person or class of unborn persons would upon coming into existence be seised or possessed of in such lands.

When lands are subject to a contingent right upon trust in unborn persons, the Supreme Court may make order respecting the disposal of such contingent right.

16. Where any person is or shall be jointly or solely seised or possessed of any land, 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 authorised 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 Supreme Civil Court in Equity, if the 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

When any trustee shall refuse or neglect to convey or assign lands held in trust by him on a demand having been made by a person entitled to make such demand, the Supreme Court to make order for the disposal of such lands.

lands, or a release of such right in the same manner and for the same estate.

When any infants shall be entitled to stock upon a trust, Supreme Court may make order vesting in any person the right to transfer such stock or to receive the income thereof.

17. When any infant shall be solely entitled to any stock upon any trust, it shall be lawful for the Supreme Civil Court in Equity 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 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 whom the Court may appoint.

When any mortgagee shall have died without having entered into possession or receipt of the profits of the mortgage, and the money due on the mortgage shall have been paid to a person entitled to receive the same, the Supreme Court may in certain cases make order for the disposal of the mortgaged lands.

18. When any person to whom any lands have been conveyed by way of mortgage shall have died without having entered into the possession or into the receipt of the rents and profits thereof, and the money due in respect of such mortgage shall have been paid to a person entitled to receive the same, or such last-mentioned person shall consent to an order for the re-conveyance of such lands, then in any of the following cases it shall be lawful for the Supreme Civil Court in Equity to make an order vesting such lands in such person or persons in such manner and for such estate as the Court shall direct, that is to say—

When an heir or devisee of such mortgagee shall be out of the Island or cannot be found.

When an heir or devisee of such mortgagee shall, upon a demand by a person entitled to require a conveyance of such lands or a duly authorised agent of such last-mentioned person have stated in writing that he will not convey the same, or shall not convey the same for the space of twenty-eight days next after a proper deed for conveying such lands shall have been tendered to him by a person entitled as aforesaid or a duly authorised agent of such last-mentioned person.

When it shall be uncertain which of several devisees of such mortgagee was the survivor.

When it shall be uncertain as to the survivor of several devisees of such mortgagee, or as to the heir of such mortgagee whether he be living or dead.

When such mortgagee shall have died intestate as to such lands and without an heir, or shall have died and it shall not be known who is his heir or devisee.

And the order of the Court made in any one of the foregoing cases shall have the same effect as if the heir or devisee or surviving devisee, as the case may be, had duly executed a conveyance or assignment of the lands in the same manner and for the same estate.

19. In every case where the Supreme Civil Court in Equity shall under the provisions of this Ordinance make an order having the effect of a conveyance or assignment of any lands or having the effect of a release or disposition of the contingent right of any person or persons born or unborn in or to any lands, a copy of such order duly certified under the hand of one of the Judges of the Court shall be registered in the Office of the Registrar-General of the said Island, and such order shall take effect upon and from the time of the registration of such copy.

Orders made by the Supreme Court to be registered in the Registrar-General's Office.

20. In every case where the Supreme Civil Court in Equity shall under the provisions of this Ordinance be enabled to make an order having the effect of a conveyance or assignment of any lands, or having the effect of a release or disposition of the contingent right of any person or persons born or unborn in or to any lands, it shall be lawful for the Court, should it be deemed more convenient, to make an order directing the Registrar for the time being of the said Court to convey or assign such lands, or release and dispose of such contingent right; and the conveyance or assignment or release or disposition of such Registrar, being in conformity with the terms of the said order, and being approved by one of the Judges of the Court, shall when registered have the same effect in conveying or assigning the lands, or releasing or disposing of the contingent right, as an order of the Court registered would in the particular case have had under the provisions of this Ordinance.

The Supreme Court may direct the Registrar of the Court to convey or assign lands or to dispose of contingent rights; and such conveyance, &c., by the Registrar, shall when registered be valid.

21. In every case where the Supreme Civil Court in Equity shall, under the provisions of this Ordinance, be enabled to make an order vesting in any person or persons the right to transfer any stock transferable in

In cases coming under the Ordinance the Supreme Court may

direct the transfer of the stock of any Company or Society by an officer of that Company or Society.

the books of any Company or Society established or to be established, it shall also be lawful for the Court, if it be deemed more convenient, to make an order directing any officer of such Company or Society at once to transfer or join in transferring the stock to the person or persons to be named in the order, and this Ordinance shall be a full and complete indemnity and discharge to all Companies or Societies and their officers and servants for all acts done or permitted to be done pursuant thereto.

The Supreme Court to make order respecting the disposal of stock, &c., held in trust by any person out of the Island, or who cannot be found, or concerning whom it is uncertain whether he is living.

22. When any person or persons shall be jointly entitled with any person out of the Island or who cannot be found, or concerning whom it shall be uncertain whether he be living or dead to any stock or chose in action upon any trust, it shall be lawful for the Supreme Civil Court in Equity to make an order vesting the right to transfer such stock, or to receive the dividends or income thereof, or to sue for or recover such chose in action or any interest in respect thereof, either in such person or persons so jointly entitled as aforesaid, or in such last-mentioned person or persons, together with any person or persons whom the Court may appoint; and when any sole trustee of any stock or chose in action shall be out of the Island, or cannot be found, or it shall be uncertain whether he be living or dead, it shall be lawful for the Court to make an order vesting the right 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 any person or persons the Court may appoint.

Where any trustee shall refuse to transfer the stock held in trust by him on the demand of the person entitled thereto, the Supreme Court may make order vesting the trust in some other person.

23. When any sole trustee of any stock or chose in action shall neglect or refuse to transfer such stock, or to receive the dividends or income thereof, or to sue for or recover such chose in action or any interest in respect thereof, according to the direction of the person absolutely entitled thereto for the space of twenty-eight days next after a request in writing for that purpose shall have been made to him by the person absolutely entitled thereto, it shall be lawful for the Supreme Civil Court in Equity to make an order vesting the sole right 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 Court may appoint.

24. Where any one of the trustees of any stock, or chose in action, shall neglect or refuse to transfer such stock, or to receive the dividends or income thereof, or to sue for or recover such chose in action according to the directions of the person absolutely entitled thereto for the space of twenty-eight days next, after a request in writing for that purpose shall have been made to him or her by such person, it shall be lawful for the Supreme Civil Court in Equity to make an order vesting the right to transfer such stock or to receive the dividends or income thereof, or to sue for and recover such chose in action in the other trustee or trustees of the said stock or chose in action, or in any person or persons whom the Court may appoint jointly with such other trustee or trustees.

When any one of the trustees of any stock, or chose in action shall refuse or neglect to transfer such stock, or to receive the income thereof, or to sue for such chose in action, the Supreme Court may make order for vesting the trust in the other trustees.

25. 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 Civil Court in Equity for that purpose shall have been served upon him, it shall be lawful for the 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 Court may appoint.

When any person shall neglect within 28 days after the order of the Court to that effect to transfer stock or receive income or sue for choses in action, the Court may make further order for the disposal of the trust.

26. When any stock shall be standing in the sole name of a deceased person, and his or her personal representative shall be out of the Island, or cannot be found, or it shall be uncertain whether such personal representative be living or dead, or such personal representative shall neglect or refuse to transfer such stock, or to receive the dividends or income thereof according to the direction of the person absolutely entitled thereto, for the space of twenty-eight days next, after a request in writing for that purpose shall have been made to him by the person entitled as aforesaid, it shall be lawful for the Supreme Civil Court in Equity to make an order

The Supreme Court may make order for the disposal of stock standing in the name of a deceased person whose representative cannot be found, or refuses to transfer such stock, or to receive the income thereof.

vesting the right to transfer such stock, or to receive the dividends or income thereof in any person or persons whom the Court may appoint.

When the representative of any deceased person shall after an order of the Supreme Court neglect to transfer stock or to receive the income thereof, the Supreme Court may make order for the further disposal of the stock.

27. 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 to receive the dividends or income thereof for the space of twenty-eight days next, after an order of the Supreme Civil Court in Equity for that purpose shall have been served upon him, it shall be lawful for the 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 Court may appoint.

Persons in whom the right to any stock is vested by order of the Supreme Court are authorised to perform all lawful acts in compliance with the terms of the order.

28. Where any order shall have been made under any of the provisions of this Ordinance vesting the right to any stock in any person or persons appointed by the Supreme Civil Court in Equity, such legal right shall vest accordingly, and thereupon the person or persons so appointed are hereby authorised 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, or relating to the receipt of the dividends thereof to the extent, and in conformity with the terms of such 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, and shall be equally indemnified in complying with the requisition of such person or persons so appointed, as they would have been indemnified in complying with the requisition of the person in whose place such appointment shall have been made; and after notice in writing of any such order concerning any stock shall have been given, it shall not be lawful for any Company or Association whatever, or any person, having received such notice to act upon the requisition of the person in whose place an appointment shall have been made in any

matter whatever relating to the transfer of such stock, or the payment of the dividends or produce thereof.

29. Where any order shall have been made under the provision of this Ordinance vesting the legal right to sue for or recover any chose in action, or any interest in respect thereof in any person or persons, such legal right shall vest accordingly, and thereupon it shall be lawful for the person or persons so appointed to carry on commence and prosecute in his or their own name or names, any action, suit, or other proceeding at law or in Equity for the recovery of such chose in action in the same manner, in all respects as the person in whose place an appointment shall have been made, could have sued for or recovered such chose in action.

Persons in whom the right to sue for any chose in action is vested by order of the Supreme Court are authorised to prosecute actions in respect of such chose in action.

30. When a decree shall have been made by the Supreme Civil Court in Equity, directing the sale of any lands for the payment of the debts of a deceased person, every person seized or possessed of such lands or entitled to a contingent right therein as heir, or under the will of such deceased debtor shall be deemed to be so seized or possessed or entitled as the case may be upon a trust within the meaning of this Ordinance, and the Court is hereby empowered to make an order wholly discharging the contingent right under the Will of such deceased debtor of any unborn person.

Persons seized of lands ordered by the Supreme Court to be sold for the payment of the debts of a deceased person, or entitled to a contingent right therein shall be deemed to be seized upon a trust.

31. Where any decree shall be made by the Supreme Civil Court in Equity for the specific performance of a contract concerning any lands, or for the partition or exchange of any lands, or generally when any decree shall be made for the conveyance or assignment of any lands either in cases arising out of the doctrine of election or otherwise, it shall be lawful for the Court to declare that any of the parties to the said suit wherein such decree is made are trustees of such lands, or any part thereof within the meaning of this Ordinance, or to declare concerning the interests of unborn persons who might claim under any party to the said suit, or under the will or voluntary settlement of any person deceased, who was during his lifetime a party to the contract or transactions concerning which such decree is made, that such interests of unborn persons are the interests of persons who upon coming into existence would be trus-

Parties to suits in which a decree shall be made by the Supreme Court may be declared trustees by the Court.

tees within the meaning of this Ordinance, and thereupon it shall be lawful for the Court to make such order or orders as to the estates rights and interests of such persons born or unborn as the Court might under the provisions of this Ordinance make concerning the estates rights and interests of trustees born or unborn.

The Supreme Civil Court to direct the manner in which the right to any stock or chose in action is to be exercised.

32. It shall be lawful for the Supreme Civil Court in Equity to make declarations and give directions concerning the manner in which the right to any stock or chose in action vested under the provisions of this Ordinance shall be exercised; and thereupon the person or persons in whom such right shall be vested shall be compellable to obey such directions and declarations by the same process as that by which other orders under this Ordinance may be enforced.

Trustees to be appointed in place of a convict.

33. When any person is or shall be jointly 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 Civil Court in Equity upon proof of such conviction to appoint any person to be a trustee in the place of such convict, and to receive the dividends or income thereof in such persons 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 and registered a conveyance or assignment of his estate and interest in the same.

Appointment of new trustees.

34. Whenever it shall be expedient to appoint a new trustee or new trustees, and it shall be found inexpedient, difficult or impracticable so to do without the assistance of the Supreme Civil Court in Equity it shall be lawful for the Court to make an order appointing a new trustee or new trustees either in substitution for or in addition to any existing trustee or trustees or whether there be any existing trustee or not at the time of making such order.

Rights and powers of such trustees.

35. The person or persons who upon the making of such order as last aforesaid, shall be trustee or trustees, shall have all the same rights and powers as he or they would have had if appointed by decree in a suit duly instituted.

36. It shall be lawful for the Supreme Civil Court in Equity upon making any order for appointing a new trustee or new trustees, either by the same or by any subsequent order, to direct that any lands subject to the trust shall vest in the person or persons who upon the appointment shall be the trustee or trustees for such estate as the Court shall direct; and such order being registered shall have the same effect as if the person or persons who before such order were the trustee or trustees (if any) had duly executed all proper conveyances and assignments of such lands for such estate.

The Supreme Court may upon making order for appointing a new trustee direct that lands subject to the trust shall vest in the person who upon the appointment shall be the trustee.

37. It shall be lawful for the Supreme Civil Court in Equity, upon making any order for appointing a new trustee or new trustees, either by the same or by any subsequent order to vest the right to call for a transfer of any stock subject to the trust or to receive the dividends or income thereof or to sue for or recover any chose in action subject to the trust or any interest in respect thereof in the person or persons who upon the appointment shall be the trustee or trustees.

The Supreme Civil Court may vest the right to call for transfer of stock or to sue for choses in action in the trustee.

38. Any such appointment by the Court of new trustees, and any such conveyance, assignment or transfer as aforesaid shall operate no further or otherwise as a discharge to any former or continuing trustee than an appointment of new trustees under any power for that purpose contained in any instrument would have done.

Appointment by the Court of new trustees how to operate.

39. An order under any of the hereinbefore contained provisions for the appointment of a new trustee or trustees or concerning any lands stock or chose in action subject to a trust, may be made upon the application of any person beneficially interested in such lands, stock or chose in action whether under disability or not, or upon the application of any person duly appointed as a trustee thereof, and an order under any of the provisions hereinbefore contained concerning any lands stock or chose in action subject to a mortgage may be made on the application of any person beneficially interested in the equity of redemption whether under disability or not or of any person interested in the moneys secured by such mortgage.

Orders under this Ordinance may be made on the application of any person beneficially interested.

40. Any person entitled in manner aforesaid to apply for an order from the Court may present a petition to

Persons entitled to apply for an order

may do so by petition.

the Court for such order as he may deem himself entitled to, and may give evidence by affidavit or otherwise in support of such petition, and may serve such person or persons with notice of such petition as he may deem entitled to service thereof.

Petitions may be referred to a Judge for investigation, or may stand over for further evidence.

41. Upon the hearing of any such petition it shall be lawful for the Court, should it be deemed necessary, to direct a reference to one of the Judges of the Court to inquire into any facts which require such an investigation, or it shall be lawful for the Court to direct such petition to stand over to enable the petitioner or petitioners to adduce evidence or further evidence before the Court or to enable notice or any further notice of such petition to be served upon any person or persons.

Petitions may be dismissed, or order made on them.

42. Upon the hearing of any such petition it shall be lawful for the Court to dismiss such petition with or without costs, or to make an order thereupon in conformity with the provisions of this Ordinance.

The Court may make order upon the facts necessary there to being proved.

43. Whensoever in any cause or matter, either by the evidence adduced therein or by the admissions of the parties or by a report of one of the Judges of the Court, the facts necessary for an order under this Ordinance shall appear to the Court to be sufficiently proved, it shall be lawful for the Court, either upon the hearing of the said cause or of any petition or motion in the said cause or matter, to make such order under this Ordinance.

When any order shall be made for disposing of any property, and such order shall be founded on an allegation of the disability of a trustee or mortgagee, or that any mortgagee has died without an heir; the fact that the Court has made an order shall be conclusive evi-

44. Whenever any order shall be made under this Ordinance for the purpose of conveying or assigning any lands, or for the purpose of releasing or disposing of any contingent right, and such order shall be founded on an allegation of the personal incapacity of a trustee or mortgagee, or on an allegation that a trustee or the heir or devisee of a mortgagee is out of the Island or cannot be found or that it is uncertain which of several trustees, or which of several devisees of a mortgagee was the survivor or whether the last trustee or the heir or last surviving devisee of a mortgagee be living or dead; or on an allegation that any trustee or mortgagee has died intestate without an heir, or has died and it is not known who is his heir or devisee; then in any of such cases the fact that the Court has made an

order upon such an allegation, shall be conclusive evidence of the matter so alleged in any Court of Law or Equity upon any question as to the legal validity of the order: Provided always that nothing herein contained shall prevent the Supreme Civil Court in Equity directing a re-conveyance or re-assignment of any lands conveyed or assigned by any order under this Ordinance, or a re-disposition of any contingent right conveyed or disposed of by such order; and it shall be lawful for the Court to direct any of the parties to any suit concerning such lands or contingent right to pay any costs occasioned by the order under this Ordinance, when the same shall appear to have been improperly obtained.

dence of the matter so alleged in any Court as to the legal validity of the order.

45. Where any infant or person of unsound mind shall be entitled to any money payable in discharge of any lands, stock, or chose in action conveyed, assigned or transferred under this Ordinance, it shall be lawful for the person by whom such money is payable to pay the same into the Colonial Treasury, with the privity of the Registrar of the Supreme Civil Court in Equity in trust in any cause then depending concerning such money or if there shall be no such cause, to the credit of such infant or person of unsound mind, subject to the order or disposition of the Court; and it shall be lawful for the Court upon petition in a summary way to order any money so paid to be invested in such manner as the Court shall see fit, and to order payment or distribution thereof, or payment of the dividends or interest thereof as to the Court shall seem reasonable, and the Registrar of the Court receiving any such money is hereby required to give to the person paying the same a receipt for such money, and such receipt shall be an effectual discharge for the money therein respectively expressed to have been received.

Moneys due to infants and lunatics to be paid into Colonial Treasury, and the Court may upon petition order the investment thereof.

46. Where in any suit commenced or to be commenced in the Supreme Civil Court in Equity, it shall be made to appear to the Court by affidavit that diligent search and inquiry has been made after any person made a defendant, who is only a trustee, to serve him with the process of the Court, and that he cannot be found, it shall be lawful for the said Court to hear and determine such cause, and to make such absolute decree therein against every person who shall appear to them to be

Absolute decrees may be made by the Court against any trustee who cannot be found.

only a trustee, and not otherwise concerned in interest in the matter in question, in such and the same manner as if such trustee had been duly served with the process of the Court, and had appeared and filed his answer thereto, and had also appeared by his counsel and solicitor at the hearing of such cause : Provided always that no such decree shall bind, affect or in anywise prejudice any person against whom the same shall be made without service of process upon him as aforesaid, his heirs, executors or administrators, according to the course of practice of the Court for or in respect of any estate, right or interest which such person shall have at the time of making such decree for his own use or benefit, or otherwise, than as a trustee as aforesaid.

Court may order expenses to be paid from the estates in respect of which the same have been caused.

47. The Court may order the costs and expenses of and relating to the petitions, orders, directions, conveyances, assignments and transfers to be made in pursuance of this Ordinance, or any of them, to be paid and raised out of or from the lands or personal estate, or the rents or produce thereof, in respect of which the same respectively shall be made, or in such manner as the Court shall think proper.

Commission *de lunatico inquirendo*.

48. Upon any petition being presented under this Ordinance to the Supreme Civil Court in Equity concerning a person of unsound mind, it shall be lawful for the Court, should it so think fit, to direct that a commission in the nature of a writ *de lunatico inquirendo* shall issue concerning such person, and to postpone making any order upon such petition until a return shall have been made to such commission.

Order may be postponed till the right of the petitioners has been declared.

49. Upon any petition under this Ordinance being presented, it shall be lawful for the Court to postpone making any order upon such petition until the right of the petitioner or petitioners shall have been declared in a suit duly instituted for that purpose.

Section IV of Ordinance No. 23 of 1845 repealed.

50. The section marked IV. of the Ordinance No. 23 of 1845, entitled "An Ordinance to amend the Law with regard to Mortgages, and to assimilate the same to the Law of England," shall be and the same is hereby repealed.

51. In citing this Ordinance in other Ordinances and in legal instruments and legal proceedings it shall be sufficient to use the expression "The Trustee Ordinance, 1862." Title of this Ordinance.

Passed in Council this first day of April, in the year of our Lord one thousand eight hundred and sixty-two.

R. LECHIMERE GUPPY,

Clerk of Council.

No. 5.—1862.

1st April.

AN ORDINANCE for regulating the execution of Deeds, and the proof, registration and admission in evidence of Deeds and Wills.

ROB. W. KEATE.

WHEREAS a Proclamation was issued by His Excellency Sir Ralph James Woodford on the fifth day of February in the year one thousand eight hundred and fourteen, for the better preservation and security of the properties of all His Majesty's subjects within this Island and others interested therein, and for the more effectual registry and authentication of such deeds and instruments as are thereafter mentioned and referred to: And whereas an Order was made by His Royal Highness the Prince Regent in Council in the name and on the behalf of His Majesty King George the Third on the sixth day of April in the year one thousand eight hundred and eighteen to remove all doubts that might arise respecting the valid execution or registration of deeds, acts, or instruments whether executed within the Island of Trinidad or executed out of the said Island and intended to take effect within the said Island, and to make further provisions for the security and rights of Mortgagees and purchasers of real property within the same: And whereas an Ordinance was passed in Council on the eighth day of March Preamble.