

Judge in Chambers, for the opinion, advice, or direction of such Judge on any question respecting the management or administration of the trust property or the assets of any testator or intestate; such petition or statement to be accompanied by a certificate of counsel, to the effect that in his judgment the case stated is a proper one for the opinion, advice, or direction of the Judge under this Act, and such application to be served upon or the hearing thereof to be attended by all persons interested in such application or such of them as the said Judge shall think expedient; and the trustee, executor or administrator, acting upon the opinion, advice or direction given by the said Judge, shall be deemed, so far as regards his own responsibility, to have discharged his duty, as such trustee, executor or administrator, in the subject matter of the said application; Provided, nevertheless, that this Act shall not extend to indemnify any trustee, executor or administrator in respect of any act done in accordance with such opinion, advice or direction as aforesaid, if such trustee, executor or administrator shall have been guilty of any fraud or wilful concealment or misrepresentation in obtaining such opinion, advice, or direction; and the costs of such application as aforesaid shall be in the discretion of the Judge to whom the said application shall be made. 22 & 23 Vic., cap. 35, sec. xxx.

Judge of Chancery for opinion, advice, &c., in management, &c., of trust property.

LIABILITY OF TRUSTEES.

32. Every deed, will, or other document creating a trust, either expressly or by implication, shall, without prejudice to the clauses actually contained therein, be deemed to contain a clause in the words or to the effect following, that is to say:—“That the trustees or trustee, for the time being, of the said deed, will, or other instrument, shall be respectively chargeable only for such moneys, stocks, funds and securities as they shall respectively actually receive, notwithstanding their respectively signing any receipt for the sake of conformity, and shall be answerable and accountable only for their own acts, receipts, neglects, or defaults, and not for those of each other, nor for any banker, broker, or other person with whom any trust, moneys, or securities may be deposited, nor for the insufficiency or deficiency of any stocks, funds, or securities; nor for any other loss, unless the same shall happen through their own wilful default respectively; and also that it shall be lawful for the trustees or trustee for the time being, of the said deed, will, or other instrument, to reimburse themselves or himself, or pay or discharge out of the trust premises all expenses incurred in or about the execution of the trusts or powers of the said deed, will or other instrument.” 22 & 23 Vic., cap. 35, sec. xxxi.

Every trust instrument to be deemed to contain clauses for the indemnity and reimbursement of the trustees.

LAND SUBJECT TO MORTGAGES.

33. When any person shall, after the thirty-first of December, one thousand eight hundred and sixty-five, die seized of or entitled to any estate or interest in any land or other hereditaments, which shall at the time of his death be charged with the payment of any sum or sums of money by way of mortgage, and such person shall not, by his will or deed, or other document, have signified any contrary or other intention, the heir or devisee to whom such land or hereditaments shall descend or be devised, shall not be entitled to have the mortgage debt discharged or satisfied out of the personal estate, or any other real estate of such person, but the land or hereditaments so charged shall, as between the different persons claiming through or under the deceased person, be

In case of persons dying after 31st Dec. 1865, mortgages on his real property to be paid out of such property and not out of his personal estate.