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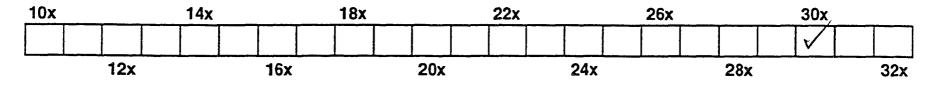
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No. 274.

2nd Session, 7th Parliament, 26 Victori

BILL.

An Act to enable the surviving trustee the will of the late Lieutenant-(Sir William Johnston, K. C. B., de to sell certain lands in Canada be to the estate of the said General Jd

PRIVATE BILL.

Received and read 1st time, Wec 22nd April, 1863. Second reading, Thursday, 23rd Apr

Mr. WALLER

QUEBEC:

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BILL.

[1863.

An Act to enable the surviving Trustees under the Will of the late Lieutenant-General Sir William Johnston, K.C.B., deceased, to sell certain lands in Canada belonging to the estate of said General Johnston,

WHEREAS Robert Johnston, of Laputa, in the County of Donegal, Preamble, in Ireland, Esquire, and James Johnston, a Lieutenant-Colonel in Her Majesty's Eighth (The King's) Regiment of Foot, at present sta-tioned at Gibraltar, Devisces and Trustees named in the last will and

- 5 testament and codicil thereto, of Lieutenant-General Sir William Johnston, Knight Commander of the Bath, late of the Town of Southampton, England, deceased, and Jane Johnston, of the same place, spinster, only surviving daughter of said Lieutenant-General Johnston, have presented their petition to the Legislature of the Province of Canada, setting forth,
- 10 amongst other things, that, by the will and codicils of the said late will of Lieut, General Johnston, he devised certain lands situate in the County of General Sir Lincoln and the County of Middlesex, in Canada, unto the said petition- W. Johnston, er, Robert Johnston and James Johnston and Lady Johnston (since to Canada deceased), upon trust for his son, the said James Johnston, for life, and lands recited.
- 15 after his decease, in case he should leave lawful issue of his body living at his decease, upon trust for his child or children then living, and the issue per stirpes of any deceased child, as tenants in common, and the heirs and assigns of said children, as in said will is particularly set forth; but in case the said James Johnston should die without leaving lawful
- 20 issue living at his decease, then upon trust for the testator's six daughters therein named, and their respective heirs and assigns in equal shares as tenants in common, and in case of the death of any of hissaid daughters under age and without issue, that the shares original or accruing of them or her so dying, should be in trust for the others of his said
- 25 daughters, their or her heirs and assigns for ever, as tenants in common, as in the said will is particularly set forth :

And that Lady Johnston, widow of the testator, dicd without having Death of married again, and that all the other children aforesaid of the said Gen- widow and eral Johnston, except the petitioners, James Johnston and Jane John-surviving children,

- 30 ston, have died, unmarried and without issue; That the petitioner, James Johnston, is unmarried and without issue, tioners, &c., and that the petitioners, James and Jane Johnston, are the only per- &c., &c, sons in existence beneficially interested in said lands in Canada ;
- And that the said lands, being of great value, but almost entirely 35 wild and unproductive, entail serious loss to the estate of the said General Johnston, by reason of the payment of large sums of money for taxes, employment of agents, care takers and solicitors, and their travelling expenses, and that the petitioners are unable to reside in Canada ; And that depredations are constantly committed upon said lands,
- 40 which are in many cases wholly denuded of timber, and that, owing to inattention of agents, a large portion of said lands have been sold for taxes ; And that from the scarcity of material for fencing and building, it would be too expensive for the interests of the estate to lease the said lands so as to produce a commensurate income;

in reference

except peti-

And the petitioners submit that it was an oversight and error, and is a hardship, and ruinous to the estate to be compelled to hold unproductive property which annually diminishes the income of those whom it was the testator's intention to benefit; and that it would be for the interests of the family to sell the lands and hold the purchase money subject to the trusts imposed by the testator in respect of the said lands, and they pray for authority so to do.

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Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :----

Trustees inwested with

1. Robert Johnston and James Johnston, the trustees aforesaid, or 10 the trustees for the time being, under the will and codicils of the said powers to sell late Lieutenant-General Sir William Johnston, K. C. B., deceased, shall adabelonging have power to sell and dispose of the lands owned by the estate of the said to the estate. General Johnston, in Canada, either by public sale or by private contract, either in parcels or together, and either for cash or upon security by 15 mortgage, or in such manner as to the trustees, for the time being, shall seem best, with or without any special or other stipulations as to title or evidence or commencement of title or otherwise, and shall have power to buy in, rescind, or vary any contract for sale, and resell without being answerable for loss occasioned thereby. 20

And after payment of expenses, stand possesof purchase moneys, subject to trusts in will.

2. The trustees for the time being shall, for the purposes of this Act, have power to execute and do all such assurances, assignments, deeds, acts, and things as they shall think fit; and shall, by and out of sed of residue the moneys arising from such sale or sales, pay, and reimburso themselves for any expenses incurred in or about the execution of any of the 25 trusts or powers now granted them, or granted them under the provisions of the said will and codicils thereto, and pay the expenses incurred in or about the obtaining of this Act, and shall stand possessed of the residue of the same monies, upon such trusts, and with, and subject to such powers as are declared by the said will and codicils in respect of 30 the said lands in Canada, thereby devised, and shall have power to invest said moneys in such manner as to the trustees for the time being shall seem best for the benefit and advantage of the parties beneficially entitled under the said will to the lands aforesaid.

Purchaser 3. No purchaser or purchasers shall be bound to enquire, or to 35. not bound to see to the application of the said purchase moneys, or be responsible for see to application of pur- their misapplication, and the receipts of the said trustees, for the time chase money. being, or of their agent or attorney duly authorized in that behalf, shall wholly absolve any purchaser or purchasers from the responsibility in respect of the application or missapplication of the same. 40

Public Act.

4. This Act shall be deemed a public Act.