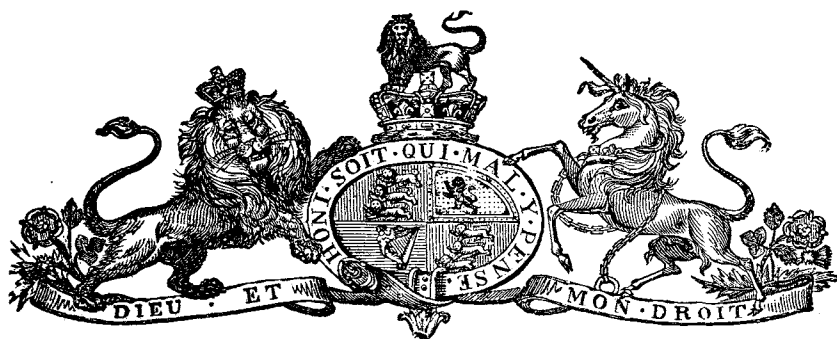


T A S M A N I A.



1887.

ANNO QUINQUAGESIMO-PRIMO

VICTORIÆ REGINÆ,

No. 5.

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AN ACT to amend the Law relating to the Guardianship and Custody of Infants. A.D. 1887.

[3 October, 1887.]

WHEREAS it is expedient to amend the Law relating to the Guardianship and Custody of Infants: PREAMBLE.

Be it therefore enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

**1** This Act may be cited as “The Guardianship of Infants Act, Short title. 1887.”

**2** In this Act the expression “The Court” shall mean the Supreme Court of *Tasmania*. “The Court” defined.

**3** On the death of the father of an infant, and in case the father shall have died prior to the passing of this Act, the mother if surviving shall be the guardian of such infant, either alone when no guardian has been appointed by the father, or jointly with any guardian appointed by the father. When no guardian has been appointed by the father, or if the guardian or guardians appointed by the father is or are dead, or refuses or refuse to act, the Court may, if it shall think fit, from time to time appoint a guardian or guardians to act jointly with the mother. On death of father, mother to be guardian alone or jointly with others.

**4—**(1.) The mother of any infant may by deed or will appoint any person or persons to be guardian or guardians of such infant after the death of herself and the father of such infant (if such infant be then unmarried); and where guardians are appointed by both parents they shall act jointly. Mother may appoint guardian in certain cases.

(2.) The mother of any infant may by deed or will provisionally nominate some fit person or persons to act as guardian or guardians of

*Guardianship of Infants.*

A.D. 1887.

such infant after her death jointly with the father of such infant, and the Court, after her death, if it be shown to the satisfaction of the Court that the father is for any reason unfitted to be the sole guardian of his children, may confirm the appointment of such guardian or guardians, who shall thereupon be authorised and empowered so as to act as afore-said, or make such other Order in respect of the guardianship as the Court shall think right.

(3.) In the event of guardians being unable to agree upon a question affecting the welfare of an infant, any of them may apply to the Court for its direction, and the Court may make such Order or Orders regarding the matters in difference as it shall think proper.

Powers of guardian.

12 C. 2, c. 24.

**5** Every guardian under this Act shall have all such powers over the estate and the person, or over the estate (as the case may be) of an infant as any guardian appointed by will or otherwise now has in *England* under the Act of the Twelfth *Charles* the Second, Chapter Twenty-four.

Court may make Orders as to custody.

**6** The Court may, upon the application of the mother of any infant (who may apply without next friend) make such Order as it may think fit regarding the custody of such infant, and the right of access thereto of either parent, having regard to the welfare of the infant and to the conduct of the parents, and to the wishes as well of the mother as of the father; and may alter, vary, or discharge such Order on the application of either parent, or, after the death of either parent, of any guardian under this Act, and in every case may make such Order respecting the costs of the mother and the liability of the father for the same, or otherwise as to costs as it may think just.

Power to Court to remove guardian.

**7** The Court may, in its discretion, on being satisfied that it is for the welfare of the infant, remove from his office any testamentary guardian or any guardian appointed or acting by virtue of this Act, and may also, if they shall deem it to be for the welfare of the infant, appoint another guardian in place of the guardian so removed.

Guardianship in case of divorce or judicial separation.

**8** In any case where a decree for judicial separation or a decree either *nisi* or absolute for divorce shall be pronounced, the Court pronouncing such decree may thereby declare the parent by reason of whose misconduct such decree is made to be a person unfit to have the custody of the children (if any) of the marriage; and in such case the parent so declared to be unfit shall not, upon the death of the other parent, be entitled as of right to the custody or guardianship of such children.

Rules for procedure and for regulating Fees may be made by Judges.

**9** The Judges of the Supreme Court may, and they are hereby required, from time to time to make Rules for regulating the practice and procedure in any proceedings under this Act and the form in such proceedings; and in making such Rules the Judges are hereby directed to have regard to the Rules of Court of the High Court of Justice in *England* relating to the same subject-matter.

Saving Clause.

**10** Nothing in this Act contained shall restrict or affect the ordinary jurisdiction of the Supreme Court under any Statute or the *Charter of Justice* to appoint guardians and keepers of infants and their estates.