



Western Australia.

ANNO QUADRAGESIMO SEPTIMO

VICTORIÆ REGINÆ.

No. XX.

AN ACT for the protection and better Administration of the Estates of Deceased Persons in certain cases.

[Assented to, 8th September, 1883.]

WHEREAS by "The Supreme Court Ordinance, 1861," and "The Supreme Court Act, 1880," the Supreme Court has power to grant Probates of Wills and Letters of Administration of the Estates of Persons who shall die and leave effects in Western Australia; And whereas it is expedient that provision shall be made for the further care and management of such estates in certain cases as herein provided: Be it therefore enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:—

1. IN addition to the Officers of the Supreme Court mentioned in the 15th Section of "The Supreme Court Ordinance, 1861," there shall be an Officer styled "The Curator of Intestates' Estates," hereinafter called "The Curator."

The Curator of Intestates' Estates.

2. ON the decease of any person who shall die or who shall have died leaving real or personal estate in Western Australia,

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Unprotected estate of deceased person to vest in Curator till probate of will or letters of administration or entry.

which shall appear to the Supreme Court to be unprotected or exposed and liable to waste, it shall be lawful for the said Court to order that such estate shall vest and be deemed to have vested in "The Curator" until probate of the will or letters of administration of the estate of such person shall be granted by the Supreme Court, or in the case of real estate until entry thereon by the heir or devisee or other person lawfully claiming under, through, or in trust for him.

Powers of Curator till grant of probate or letters of administration or entry.
For preventing waste, spoil, or injury to the estate.

3. UNTIL such grant or entry shall be made, "The Curator" shall have all the rights and privileges, powers and authorities of a duly constituted personal representative, or of a devisee or trustee of the estate of such deceased person, for the purpose only of collection and of preventing waste, spoil, detriment, or injury to his or her real or personal estate; subject always to such further or other order as the said Court may think fit to make with reference to such estate or to any part thereof.

Proof of intestacy.

4. THE absence of probate of the will of a deceased person for six years, or the absence of any person from Western Australia for six years, there being no person in Western Australia claiming any estate, right, title, or interest through, under, or in trust for, or as the duly constituted agent of such person during that time, shall be deemed to constitute an intestacy for all the purposes of this Act.

Remuneration of the Curator.

5. IN every case the Court may direct that the Curator shall receive out of the estate of a deceased person such reasonable remuneration for what he shall do or cause to be done under this Act as the Court shall think fit, not exceeding Five pounds per centum on the full estimated or ascertained value of the personal estate and One pound per centum on the value of the real estate.

Cessor of Curator's estate.

6. THE estate and interest of the Curator in the estate of a deceased person shall, subject to any order of the Supreme Court as aforesaid, cease and be deemed to have ceased on probate of the will or letters of administration of the estate of such person being or having been granted by the Supreme Court, or on such lawful entry as aforesaid; and in all future cases on such probate or letters being granted or such entry made as aforesaid the Curator shall pass his accounts in such manner as the Court shall direct, and shall hand over to the executor or administrator or to such other person as the Court may by order direct, or retain under such order, so much of the real and personal estate as shall then be in his possession or power.

Curator to pass his accounts.

Application for order to administer the estate.

7. AT the expiration of six calendar months from the death of such deceased person, the Curator may, from time to time, and until probate of the will or letters of administration of such estate shall

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be granted by the Supreme Court, apply to the Court for an order authorising him to administer the estate of such deceased person. And such order when made shall give to the Curator all the rights, privileges, powers and authorities, and shall place him under all the duties and liabilities, of a personal representative or devisee in trust of such deceased person, and of a trustee in bankruptcy.

Effect of such order.

8. NOTWITHSTANDING such period may not have elapsed, any person interested in an estate of such deceased person, or the Attorney General on the part of the Crown, may apply or cause the Curator to apply to the Court for such order as last aforesaid; and it shall be in the discretion of the Court to make such order. And in case such order shall be made on the application of a creditor of such deceased person such creditor shall have no preference or right of retainer over other creditors of such deceased person.

Notwithstanding such period shall not have elapsed, persons interested in the estate, or the Attorney General on the part of the Crown, may apply or cause Curator to apply for such order.

9. IF twelve years shall elapse from the time when any real or personal estate of a deceased person shall have vested in the Curator under this Act, and no probate of the will or letters of administration of the estate of such person shall have been granted, and no entry shall have been made as aforesaid, and such estate or part thereof shall still remain vested in the Curator, and there shall be no suit or action then pending in any Court of the Colony by or on behalf of any person claiming such estate, the said estate shall thenceforth vest absolutely in and become the property of the Crown.

Forfeiture to the Crown.

10. IN all proceedings under this Act the Curator shall sue and be sued by his name with the addition of the words "Curator of Intestates' Estates"; and it shall not be necessary for him or for any person suing him to prove his authority or appointment under this Act.

Curator to sue and be sued.

11. IF the office of Curator of Intestates' Estates shall become vacant during the pendency of any action, such action shall not abate or become defective, but shall continue by or against the officer who shall be appointed to the office, and his name shall be used in all future proceedings in lieu of the name of the officer whose office shall so become vacant.

Office of Curator to have succession.

12. THE Curator shall not by reason of the exercise of the duties of his office incur any personal liability to the payment of any sum of money for costs or otherwise in any action or matter except such as shall arise or be incurred by his own neglect or default.

Limitation of Curator's responsibility.

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Curator to make inventory and list of estate.

13. IN all cases in which the Curator shall meddle or interfere with the estate of a deceased person, he shall cause to be made an inventory and list and appraisement of such estate, and keep one copy thereof in his office, and return one other to the Supreme Court; and he shall also permit all persons to inspect and take copies thereof, and of all documents relating to such estate in his custody, at all reasonable times.

Expenses of Curator to be a first charge on estate.

14. ALL costs, charges, and expenses properly incurred by or payable to the Curator with reference to the estate of a deceased person in exercise of the powers and authorities given to him by this Act, shall be deemed to be a first charge on such estate.

Short title.

Incorporation with Supreme Court Acts.

15. THE Short Title of this Act shall be "The Deceased Persons' Estate Act, 1883," and this Act shall be incorporated with "The Supreme Court Ordinance, 1861," and "The Supreme Court Act, 1880."

In the name and on behalf of the Queen I hereby assent to this Act.

F. NAPIER BROOME, Governor.