



ANNO QUADRAGESIMO SEXTO ET QUADRAGESIMO SEPTIMO

VICTORIÆ REGINÆ.

A.D. 1883-4.

No. 295.

An Act to provide for the Custody of Infants.

[Assented to, February 28th, 1884.]

WHEREAS it is desirable to amend the law as to the custody of infants—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows: Preamble.

1. This Act may be cited as “The Infants Custody Act, 1883.” Short title.

2. From and after the passing of this Act, it shall be lawful for the Supreme Court, or the Local Court of Full Jurisdiction nearest to the residence of the petitioner, upon hearing the petition of the mother of any infant or infants, under sixteen years of age, to order that the petitioner shall have access to such infant or infants, at such times, on such terms, and subject to such regulations as the Court shall deem proper, or to order, on such terms, and subject to such regulations as the Court shall deem proper, that such infant or infants shall be delivered to the mother, and remain in or under her custody and control, or shall, if already in her custody or under her control, remain therein until such infant or infants shall attain such age, not exceeding sixteen, as the Court shall direct; and, further, to order that such custody and control shall be subject to such regulations as regards access by the father or guardian of such infant or infants as the Court shall deem proper. Supreme Court may order that mother may have access to or custody of infant under sixteen years.

3. Where any guardian, trustee, executor, curator, or person acting in a fiduciary capacity shall, under any will, gift, or settlement, Court may order trustees, &c., to pay maintenance to mother during period of custody.

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ment, or otherwise by law, be possessed of any fund for the maintenance and education of any infant, or any fund a portion of which may by law be applied to such maintenance and education, and the Court shall order the infant to be delivered to or to remain in the custody of the mother, it shall be lawful for the Court also to order such guardian, trustee, executor, curator, or person acting in a fiduciary capacity, to pay to the mother from time to time during the continuance of such custody, for the purpose of the maintenance and education of such infant, such portion of such fund, not exceeding the portion lawfully applicable to such maintenance and education, as the Court may deem proper: Provided always that on proof that any money so paid for the purpose of such maintenance and education has been misapplied, it shall be lawful for such Court to rescind, alter, or vary any order made as aforesaid.

The case of separation deed between father and mother.

4. No agreement contained in any separation deed made between the father and mother of an infant, or infants, shall be held to be invalid by reason only of its providing that the father of such infant, or infants, shall give up the custody or control thereof to the mother: Provided always that no such agreement shall be enforced if the Court shall be of opinion that it will not be for the benefit of the infant, or infants, to give effect thereto.

Saving of jurisdiction under Matrimonial Causes Act, 1867.

5. Nothing herein contained shall affect the exercise of any jurisdiction, power, or discretion vested in the Court, or any Judge thereof, under the "Matrimonial Causes Act, 1867," or any Acts which may be passed to extend or amend the same.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WILLIAM C. F. ROBINSON, Governor.