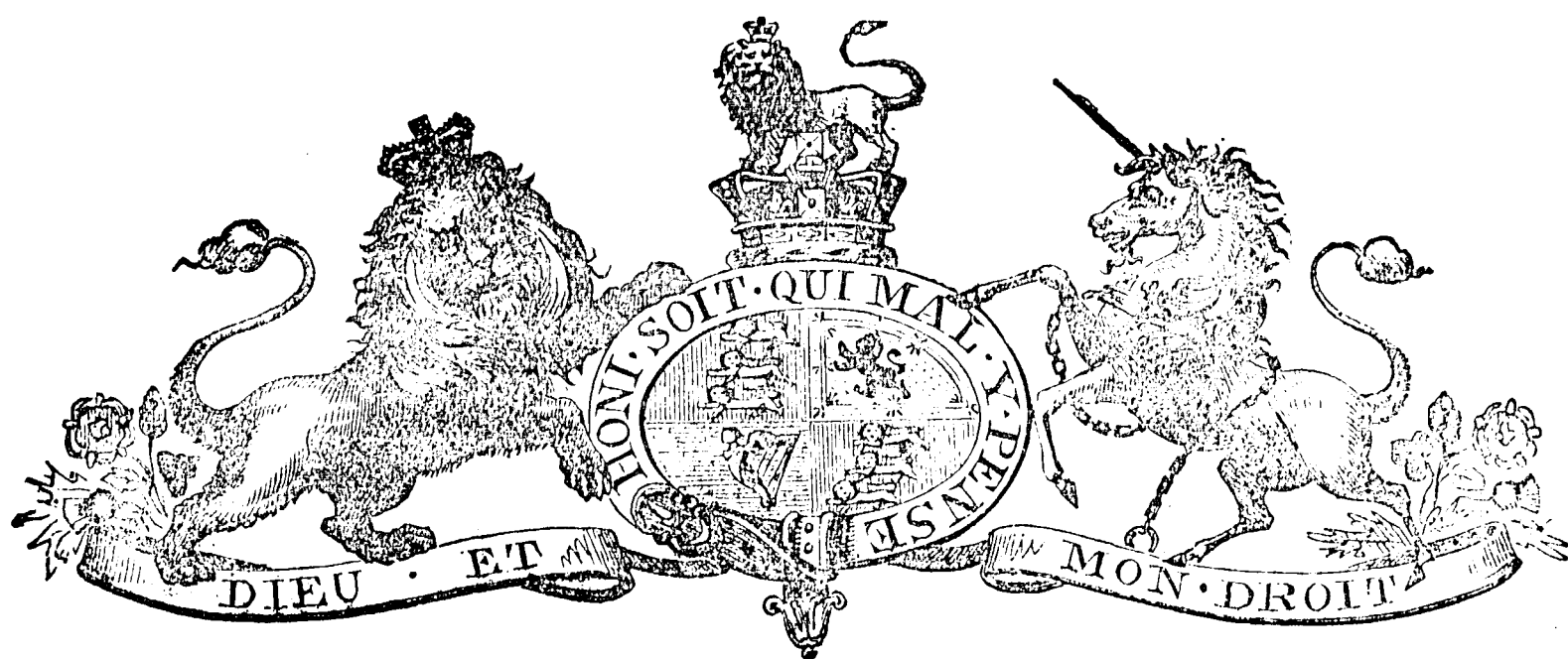


VICTORIA.



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VICTORIÆ REGINÆ.

No. DCCCXLII.

An Act to amend "The Executors Company's Act" and to confer additional powers upon the Trustees Executors and Agency Company Limited.

[8th December 1885.]

WHEREAS by the Act of the Parliament of Victoria number DCXLIV. intituled "*The Executors Company's Act*," the Trustees Executors and Agency Company Limited being a company formed and incorporated under "*The Companies Statute 1864*" with the object among other purposes of affording persons the opportunity of obtaining the services of a permanent corporation for the performance of the duties of the office of trustee executor and other similar offices was enabled to act as executor administrator with the will annexed and trustee and to perform and discharge all the duties of such offices and to receive remuneration for such duties and also to act as receiver and as committee of the estate under the "*Lunacy Statute*" and as agent under power of attorney and to perform and discharge all the duties of such offices and to receive remuneration for such duties and certain powers and privileges were by the said recited Act conferred upon the said company in order to enable the said company the more effectually

Preamble.

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effectually and usefully to carry out the objects sought in its incorporation : And whereas it is expedient to repeal the eighth section of the said recited Act and to substitute another section in lieu thereof and to confer upon the said company the additional powers and privileges hereinafter set forth in order to enable the said company the more effectually and usefully to carry out the objects sought in its incorporation : Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say) :—

Repeal.
S. 8 Act No. 644.

1. The eighth section of "*The Executors Company's Act*" shall be repealed.

Persons entitled to probate may authorize company to obtain administration with will annexed.

2. Any persons or person named expressly or by implication as executors or executor who would be entitled to obtain probate of the will of any testator without reserving leave to any other person to apply for probate may instead of themselves or himself applying for probate authorize the said company to apply to the Supreme Court for administration with the will annexed and administration with the will annexed may be granted to the said company upon its own application when so authorized unless the testator shall by his will have expressed his desire that the office of executor should not be delegated or that the said company should not act in the trusts of his will.

Persons entitled to administration on intestacy may authorize company to obtain administration.

3. Any person entitled to obtain administration to the estate of any intestate as his next of kin may instead of himself applying for administration authorize the company to apply for administration to such estate and administration to the estate of the intestate may be granted to the said company upon its own application when so authorized.

Company may be appointed to act as temporary executor administrator or trustee.

4. Any executor administrator or trustee may appoint the company to act as executor administrator or trustee in his stead and the company if so appointed by deed filed in accordance with any law now or hereafter to be in force providing for the filing of powers of attorney may act within the scope of the authority conferred upon it as effectually as the executor administrator or trustee could have acted and may exercise all discretionary and other powers delegated by the principal as fully as the principal could have exercised them and after the filing of such powers as aforesaid and before the registration of the death of the principal or of the revocation of the authority given by him in accordance with the law now or hereafter to be in force in that behalf every act of the said company within the scope of the authority conferred shall in favour of any person who shall deal with the said company *bonâ fide* and without notice of the death of the principal or of his revocation of the authority be valid and effectual notwithstanding the revocation by or death of the principal.

5. It

5. It shall be lawful for the executors or executor administrators or administrator acting under probate or administration granted after the coming into operation of this Act and for any receiver or committee of the estate under the "*Lunacy Statute*" with the consent of the Supreme Court to appoint the said company to perform and discharge all the acts and duties of such executors or executor administrators or administrator receiver or committee as the case may be and such company shall have power to perform and discharge all such acts and duties accordingly. And in every such case all the capital both paid and unpaid and all other assets of the said company shall be liable for the proper discharge of such duties and the executors or executor administrators or administrator receiver or committee so appointing the said company shall be released from liability in respect of all acts done by or omitted to be done by the said company acting under such appointment.

Executors administrators trustees receivers and committees may appoint company to discharge duties for them.

6. Every application for such consent shall be by motion and notice of the intended application shall be advertised once in one daily newspaper published in Melbourne seven days before the making thereof and in the case of an executor or administrator of a testator or intestate who died in Victoria a like notice shall also be advertised once in some local newspaper (if any) circulating in the district in which the testator or intestate resided and the court may require any person resident in Victoria and entitled to the immediate receipt of any of the income or corpus of the estate in respect of which the application is made to be served with notice thereof and the costs of such application shall be in the discretion of the court and may be ordered to be paid out of the estate and such consent shall not be given in any case of a will in which the testator has expressed his wish that the trusts thereof should not be delegated or that the said company should not act therein.

Application for consent to be by motion.

7. The said company shall be entitled to receive in addition to all moneys properly expended by it and chargeable against the estates placed under the administration and management of the said company a commission to be fixed from time to time by the board of directors of the said company but not to exceed in any case Two pounds ten shillings for every One hundred pounds of the capital value of any estate committed to the management of the said company as executor administrator trustee receiver or committee of the estate under the "*Lunacy Statute*" and Five pounds for every One hundred pounds of income received by the said company as executor administrator trustee receiver or committee of the estate under the "*Lunacy Statute*" or of capital or income received by the said company as an attorney acting under power of attorney and such commission shall be payable out of the moneys or property committed to the management of the said company and shall be received and accepted by the said company as a full recompense and remuneration to the said company for acting as such executor administrator trustee receiver committee or attorney and no other charges beyond the said commission and the moneys so expended by the said company

Company to be paid a commission on moneys received by them.

company shall be made by the said company; but if in any case the Supreme Court or a judge thereof shall be of opinion that such commission is excessive it shall be competent for such court or judge to review and reduce the rate of such commission: Provided that the commission to be charged by the said company shall not exceed in each estate the amount of the published scale of charges of the said company at the time when such estate was committed to the said company, nor shall this enactment prevent the payment of any commission directed by a testator in his will in lieu of the commission hereinbefore mentioned.

MELBOURNE:

By Authority: JOHN FERRES, Government Printer.