



An Act directing the *Guardianship* of *Minors*.

E it enacted by His Excellency the Governor, Council and Assembly, and by the Authority of the same it is hereby enacted, That, from and after the Publication hereof, where any Person shall have Children under the Age of *Twenty One Years*, and not married at the Time of his Death, it shall be lawful for the Father of such Children, whether born at the Time of the Decease of the Father, or at that Time in *Ventre sa mere*, or whether such Father be within the Age of *Twenty One Years*, or of *full Age*, by Deed executed, or by his *last Will and Testament* in Writing in the Presence of *two* credible Witnesses, to dispose of the Custody and Tuition of such Children, for such Time, as they shall respectively remain under the Age of *Twenty One Years* or any lesser Time, to any Persons in Possession or Remainder, other than Persons not *Protestants*. And such Disposition of the Custody of such Children shall be good, against all Persons claiming the Custody and Tuition of such Children; and such Person, to whom the Custody of such Children shall be disposed or devised, may maintain an Action of *Ravishment of Ward*, or *Trespass*, against any Person who shall wrongfully take away or detain such Child, and shall recover Damages in the said Action, for the Use of such Children.

And be it further enacted, That any Persons, to whom the Custody of such Children shall be so disposed or devised, may take into their Custody, to the Use of such Children, the Profits of all *Lands, Tenements, or Hereditaments*, and also the Management of the *Goods and Personal Estate* of such Children, till their respective Age of *Twenty One Years*, or any lesser Time, according to such Disposition, and may bring such Actions in Relation thereto, as such Children themselves might do if arrived at *full Age*.

And be it further enacted, That whensoever any Person, not being a *Protestant*, shall die seized of any such Estate in *Lands, Tenements, or Hereditaments*, for which his *Heirs* should be in *Ward*, his *Heirs* being under the Age of *Twenty One Years* at the Time of the Death of his Ancestor, it shall be lawful for the Governor, Lieutenant Governor, or Commander in chief of the Province for the Time being, after due Proof to him of the Death of such Person not being a *Protestant*, and of his *Heir*

being so under Age, to dispose of the Custody and Tuition of such *Heirs*, for such Time as they shall remain under the Age of *Twenty One Years*, or any lesser Time, to any Persons next of Kin to the *Heir*, being a *Protestant*, if they shall apply for the same; or in Default thereof to any other Person being a *Protestant* as aforesaid.

And be it further enacted, That the Governor, Lieutenant Governor, or Commander in Chief for the Time being, when and so often as there shall be Occasion, be and hereby is impowered to allow of *Guardians*, that shall be chosen by *Minors* of the Age of *Fourteen Years*, and to appoint *Guardians* for such as shall be within that Age, taking sufficient Securities of all such *Guardians*, for the faithfull Discharge of the Trust, as hereinafter directed, and to account either to the Governor, Lieutenant Governor, or Commander in Chief, or *Minor* when such *Minor* shall arrive at *full Age*, or at such other Time as the said Governor, Lieutenant Governor, or Commander in Chief, upon Complaint to him made, shall see Cause.

And be it further enacted. That all such Persons to whom the Tuition and Custody of such *Heirs* shall be committed, shall first enter into Recognizance, to the Use of the said *Heir*, with good Sureties before the said Governor, Lieutenant Governor, or Commander in Chief, with Condition for the Educating the said *Heirs* in the *Protestant Religion*, and for the Management and Disposal of the Estates of such *Heirs* to their Use and best Advantage, and for the rendering a just Account of the Profits of such Estates, to the said Governor, Lieutenant Governor, or Commander in Chief, when thereto required, or to such *Heirs* when they shall come of *full Age*, and for the not committing any Waste thereupon: And such Disposition of the Custody of such *Heirs* shall be good against all Persons claiming the Custody or Tuition of such *Heirs*; and such Persons to whom the Custody of such *Heirs* shall be disposed as aforesaid, may maintain an Action of *Re- vishment of Ward* or *Trespas*, against any Persons who shall wrongfully take away or detain such *Heirs*, for the Recovery of such *Heirs*, and shall recover Damages in the said Action, for the Use of such *Heirs*.

And be it further enacted, That such Person, to whom the Custody of such *Heirs* shall be so disposed, may take into their Custody, to the Use of such *Heirs*, the Profits of all *Lands*, or *Tenements*, and also the Management of the *Goods* and *Personal Estate* of such *Heirs*, till their respective Age of *Twenty One Years*, or any lesser Time, according to such Disposition, and may bring such Actions in Relation thereunto as such *Heirs* might do, if arrived at *full Age*.

And be it further enacted, That if such Person to whom such Grant shall be made of the Custody of such Children, shall die before he hath yielded an Account unto the said *Heirs*, of the Profits of such *Lands* or *Tenements*, and the Management of such Goods and Chattels, deducting all necessary and just Charges, the *Heirs*, Executors, or Administrators of such *Guardian*, shall be liable, and yield a full Account unto the said *Heir*, his Executors and Administrators, of such Profits, Goods, and Chattels, *Real* and *Personal*, so received by the *Guardian*, for the Bene-

fit of the said Heirs, deducting all necessary and just Charges as aforesaid; so far as they shall have *Assets* from the said *Guardian*, or in his Right at the Time of Demand of Satisfaction for the same; and if the said Children shall die before they shall attain to their Age of *Twenty One Years*, it shall be lawful for the Executors or Administrators of such Children to call the Persons so trusted for the Benefit of them, and the Heirs, Executors, or Administrators, to an Account for the same.

Provided always that this Act shall not extend to discharge any *Apprentice*, from his Apprenticeship, or such poor Children, as may hereafter be bound out by the *Overseers of the Poor*, or such Children as may hereafter be found proper Objects of their Care, as is provided for by Law.

And forasmuch as it often happens, that Children are not born till after the Death of their Fathers, and also have no Provision made for them in their Wills, be it therefore further enacted by the Authority aforesaid, That as often as any Child shall happen to be born after the Death of the Father, without having any Provision made in his *Will*, every such *Posthumous* Child shall have Right and Interest in the Estate of his or her Father in like manner as if he had died *Intestate*, and the same shall accordingly be assigned and set out as the Law directs for the Distribution of the *Estates* of the *Intestates*.

