

Laws of His Majesty's Province of Upper Canada, passed in the year 1827. York: Robert Stanton, 1827.

8 George IV – Chapter 6

An Act respecting the appointment of Guardians. Passed 17th Feb'y. 1827.

Whereas there are in all the respective Districts of this Province many Infants within the Age of Twenty-one Years, left by the decease of their Fathers, subject to the disabilities of Infancy and destitute of legal Guardians to act in their behalf, and to have the care of their persons and the charge of their Estates: And Whereas, it is expedient to make some further provision than now- exists for the appointment of Guardians in such cases.

Be it therefore enacted, by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, Constituted and Assembled by virtue of, and under the authority of an Act passed in the Parliament of Great Britain, intituled, "*An Act to repeal certain parts of an Act passed in the Fourteenth Year of His Majesty's Reign, intituled 'An Act for making more effectual Provision for the Government of the Province of Quebec, in North America, and to make further Provision for the Government of the said Province;'*" and by the authority of the same, That it shall and may be lawful for the Judge of the Provincial Court of Probate, and the Judges of the Surrogate Courts, in their respective Districts, upon the written application of any Infant, of the Friend or Friends of such Infant, residing within the jurisdiction of the Judge to whom such application shall be made, and not having a Father living, nor a legal Guardian, and after twenty days public notice of such application, and after proof of twenty days notice thereof to the Mother of such Infant, or proof to the satisfaction of such Judge that such Infant, has no Mother living in this Province, to appoint some suitable and discreet Person or Persons to be Guardian or Guardians of such Infant, and to require and take from the Guardian or Guardians so appointed a Bond, in the name of such Infant, in such Penal Sum and with such Securities as the Judge shall direct and approve, having regard to the circumstances of the case, conditioned that the said Guardian or Guardians will faithfully perform the said trust, and that he or they, the said Guardian or Guardians, or his or their respective Executors or Administrators, will, when the said Ward shall become of the full age of Twenty-one years, or whenever the said Guardianship shall be determined, or sooner if thereto required by the Judge, of the said Court, render to his or their said Ward, or to his or her Executors or Administrators, a true and just account of all Goods, Monies, Interest, Rents, Profits, or Property of such Ward, which shall have come into the hands of such Guardian or Guardians, and will thereupon without delay deliver and pay over to the said Ward, or to his or her Executors or Administrators, the Property or the Sum or Balance of Money, which may be in the hands of the said Guardian or Guardians, belonging to such Ward, deducting therefrom and retaining a reasonable Sum for the expences and charges of the said Guardian or Guardians; which Bond shall be recorded by the Register of the said Court in the Books of his Office.

II. And be it further enacted by the authority aforesaid, That the Guardian or Guardians of any Infant so appointed as aforesaid, shall, during the continuance of his or their Guardianship, have authority to act for and in behalf of the said Ward, and to appear in any Court and Prosecute or Defend any Action in his or her name; and shall have the charge and management of his or her Estate, real and personal, and the care of his or her Person and Education, and may, with the approbation, of two of His Majesty's Justices of the Peace, and the consent of such Ward, place and Bind him or her an Apprentice to any lawful Trade, Profession, or Employment; such Apprenticeship, in case of males, not to extend beyond the age of Twenty-one years, and in case of females, not beyond, the age of Eighteen years, or the Marriage of the Ward within that age.

III. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the Judge who shall have appointed any Guardian or Guardians as aforesaid, or the successor of the said Judge, upon reasonable complaint made and sustained, or cause shewn to the satisfaction of the said Judge, to remove such Guardian or Guardians from his or their said Guardianship, and if he shall judge it necessary to appoint another Guardian or Guardians of the said Infant.

IV. And be it further enacted by the authority aforesaid, That in all such cases when the Estate, real or personal, be situate in one District, the right of appointment of Guardians shall belong to the Surrogate Court; and when such Estate, real or personal, is situate in two or more Districts, such appointment shall belong to the Court of Probate, which Court of Probate shall be a Court of Appeal, to which any Party aggrieved or injured by any decision, decree, appointment, or other matter in the Surrogate Court, may apply.

V. And be it further enacted by the authority aforesaid, That in all cases any Party aggrieved by any decision, decree, or appointment, or other matter decided in the said Court of Probate, may appeal therefrom to the Governor, Lieutenant Governor, or Person Administering the Government of this Province in Council, who are hereby authorized to confirm or reverse any such decision, decree, appointment, or other matter, brought before them by such appeal or appeals; any Law or usage to the contrary notwithstanding.

VI. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the Judges and Officers of the Probate and Surrogate Courts to demand and receive the following Fees, and no more, for the services required by this Act:—

Official Principal, or Surrogate Judge

For the appointment of a Guardian, with Seals thereto—Fifteen Shillings. For Auditing a Guardian's Account, when required so to do—Ten Shillings.

For an order for removing a Guardian from his Guardianship—Three Shillings and Four Pence.

Register.

For entering the Appointment of a Guardian—Two Shillings and Six Pence.

For entering an order of the Judge—Two Shillings and Six Pence.

For Drawing and Recording a Bond of Guardianship—Six Shillings and Eight Pence.

For Copies given out of his Office—the same as in cases of Probate.