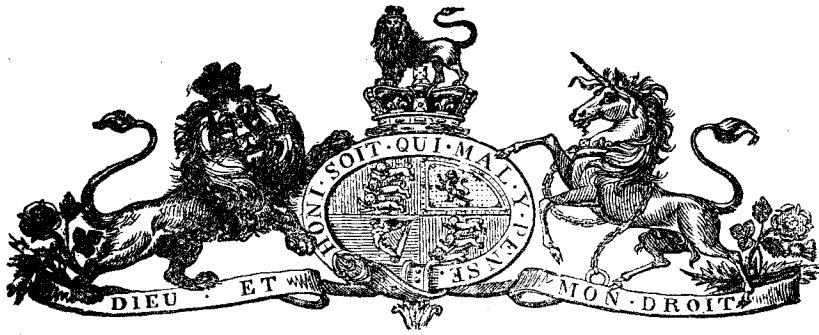


T A S M A N I A.

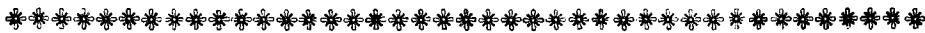


1893.

ANNO QUINQUAGESIMO-SEPTIMO

VICTORIÆ REGINÆ,

No. 4.



AN ACT to provide for the Recognition in A.D. 1893.
Tasmania of Probates and Letters of Ad-
ministration granted in the *United Kingdom*
or any of the *Australasian Colonies*.

[29 September, 1893.]

BE it enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

1 This Act may for all purposes be cited as the “The Probate Short title.
(Foreign) Act, 1893.”

2 “The Intercolonial Probate Act” is hereby repealed, but such Repeal.
repeal shall not affect anything done or any duty or fee due or payable, 42 Vict. No. 26.
or paid, or any bond or security given under the said Act, before this
Act comes into operation.

3 In this Act, and for the purpose of all proceedings thereunder, the Interpretation.
following terms shall, unless inconsistent with the subject-matter or
context, have the meanings hereinafter respectively assigned to them
(that is to say) :—

“*Australasian Colonies*” shall mean all Colonies for the time being “Australasian
Colonies.”
on the mainland of *Australia*, and shall also include the
Colonies of *New Zealand* and *Fiji*, and any other British

Probate (Foreign).

A.D. 1893.

"Letters of administration."

"Person."

"Probate."

"Registrar."

"United Kingdom."

Probates and administrations granted in *United Kingdom* or any *Australasian* Colony to be of like force as if granted in *Tasmania* on copy being filed and sealed.

Colonies or possessions in *Australasia*, now existing or hereafter to be created, which the Governor in Council may from time to time declare to be *Australasian* Colonies within the meaning of this Act.

"Letters of administration" shall include "exemplification of letters of administration," or such other formal evidence of the letters of administration purporting to be under the Seal of a Court of competent jurisdiction as shall in the opinion of a Judge of a Supreme Court of *Tasmania* be deemed sufficient.

"Person" shall include companies incorporated by Act of Parliament.

"Probate" shall include "exemplification of probate," or such other formal document purporting to be under the Seal of a Court of competent jurisdiction as shall in the opinion of a Judge of the Supreme Court of *Tasmania* be deemed sufficient.

"Registrar" shall mean the Registrar of the Supreme Court of *Tasmania*.

"United Kingdom" shall include the *Channel Islands*.

4 When probate of the will or letters of administration to the estate of any deceased person who has left any property, whether real or personal, within the Colony of *Tasmania*, has or have been granted by any Court of competent jurisdiction in the *United Kingdom* or any of the *Australasian* Colonies—

The executor or administrator therein named, whether he be within the jurisdiction of the Supreme Court of *Tasmania* or not, may either personally or by some proctor on his behalf, produce the same to the Registrar, and deposit a verified copy thereof in his office; or

Any person duly authorised by power of attorney under the hand and seal of such executor or administrator may, either personally or by some proctor on his behalf, produce such probate or letters of administration and power of attorney accompanied by an affidavit that such power of attorney has not been revoked to the Registrar, and may deposit verified copies thereof in his office.

When such documents have been produced and verified copies thereof deposited as aforesaid by or on behalf of such executor or administrator or person so authorised by power of attorney, such probate or letters of administration shall be sealed with the Seal of the Supreme Court of *Tasmania*, and shall have the like force and effect and the same operation in *Tasmania* as if it or they had been originally granted in *Tasmania*; and every such executor of any such will and administrator of any such estate and person authorised by power of attorney as aforesaid shall perform the same duties and shall have the same rights, and every such executor and administrator and person authorised by power of attorney as aforesaid, and the estate of every such deceased person shall be subject to the same liabilities and obligations, as if such probate or letters of administration had been originally granted by the Supreme Court of *Tasmania*.

Intention to apply for Seal of Court to be advertised, and after Fourteen days affidavit to be made.

5 The Seal of the Supreme Court shall not be affixed to any such probate or letters of administration until after the publication of an advertisement by such executor, administrator, or person authorised by power of attorney, or by some proctor on his behalf, in *The Hobart*

Probate (Foreign).

Gazette, in one newspaper published in *Hobart* and one newspaper published in *Launceston*, of the intention of such executor, administrator, or person to apply for such Seal to be duly affixed, nor until an affidavit has been filed stating that such advertisement was duly published at least Fourteen days before the making of such affidavit, and that no caveat has been lodged up to the morning of making the application. A.D. 1893.

6 Any person may lodge with the Registrar a caveat against the sealing of any such probate or letters of administration, and such caveat shall have the same effect and shall be dealt with in the same manner as if it were a caveat against the granting of probate or of letters of administration. Caveat may be lodged.

7 The Seal of the Supreme Court of *Tasmania* shall not be affixed to any such probate of the will or letters of administration until such statements of the estate of such deceased person are filed, and until all such probate, stamp, and other duties (if any) have been paid as would have been payable if such probate or letters of administration had been originally granted by the Supreme Court of *Tasmania*. Seal not to be affixed till duty is paid.

No such letters of administration shall be so sealed until such affidavits have been filed and such bond has been entered into as would have been required if such letters had been originally granted by the said Supreme Court: And as to administration, till affidavits made and bond entered into.

Provided that, notwithstanding any law or rule to the contrary, any such statement may be made and verified by the executor or administrator (as the case may be), or by some person on his behalf, and any such bond may be entered into by such administrator outside *Tasmania* before any Commissioner of the Supreme Court of *Tasmania* for taking affidavits.

8 The Supreme Court of *Tasmania* or any Judge thereof may, if they or he see fit, on the application of any creditor of the estate of any deceased person, require that adequate security be given for the payment of debts due from such estate to creditors residing in *Tasmania* before the Seal of the Supreme Court of *Tasmania* is affixed to the probate of the will or letters of administration to the estate of such deceased person as hereinbefore provided. Security for payment of debts may be required.

9 Upon the sealing of any such probate or letters of administration to the estate of any deceased person as aforesaid, every such executor or administrator therein named, or person by such executor or administrator duly authorised by power of attorney, under his hand and seal (as the case may be), shall be and be deemed to be for every purpose the executor or administrator of the estate of such deceased person within the jurisdiction of the Supreme Court of *Tasmania*. Executor or administrator or attorney to become executor or administrator as to property within jurisdiction.

10 The Judges of the Supreme Court of *Tasmania* shall from time to time make such Rules as may appear necessary for regulating the duties of the Registrar under this Act, and generally for regulating the procedure under this Act, and for carrying the same into effect, and may at any time repeal, amend, or alter any such Rules as to them may seem fit. Power to make Rules of Practice.

All Rules to be made under this Act shall be published in the *Gazette*, and shall be laid before both Houses of Parliament within

Probate (Foreign).

A.D. 1893.

Fourteen days after their being promulgated, or if Parliament be not then sitting, within the like time after Parliament shall thereafter assemble for the despatch of business.

Application of Act to probates, &c., already granted.

11 This Act shall, subject to the provisions hereof, apply to probates and letters of administration granted in the *United Kingdom* or any of the *Australasian Colonies*, either before or after the passing of this Act.

Application of Act may be extended by Governor in Council.

12—(1.) The Governor in Council may, on being satisfied that the Legislature of any British Possession has made adequate provision for the recognition in that possession of probates and letters of administration granted by the Supreme Court of *Tasmania*, by proclamation declare that this Act shall, subject to any exceptions and modifications specified in the proclamation, apply to that possession, and thereupon, while such proclamation is in force, this Act shall apply accordingly.

(2.) The Governor in Council may from time to time revoke or alter any proclamation made under this Act.

(3.) Every proclamation made under this Act shall be published in the *Gazette*, and a copy of the same shall be laid upon the Table of both Houses of Parliament as soon as may be after it is made.