

ADMINISTRATOR GENERAL ACT 1849

ACT No. VII. of 1849

[Rep., Act 8 of 1855]

[7th April, 1849.]

Passed by the Hon'ble the President of the Council of India in Council on the 7th April, 1849.

An Act for the appointment of an Administrator General in Bengal.

WHEREAS it is expedient to disconnect the Administration of the Estates of British Subjects dying intestate in the Presidency of Fort William in Bengal from the Office of Ecclesiastical Registrar of the Supreme Court, and to appoint an Administrator General there; It is enacted as follows:

I. Whenever, after the passing of this Act, any British Subject shall die intestate within the Presidency of Fort William in Bengal, or the Territories which are or shall be subordinate to the said Presidency, and on the return of the citation issued from the proper Ecclesiastical Court, no next of Kin shall appear, and make out their claim to the Administration of the Effects of the deceased to the satisfaction of the said Court, and also, whenever the Executor or Executors, appointed by the Will of any British Subject dying therein, shall refuse to prove the Will, the Administrator General created by this Act shall, except in the case hereinafter excepted, apply for, and the said Court shall grant to him, instead of the Ecclesiastical Registrar, such Letters of Administration or *Ad Colligenda Bona* as to such Court shall seem meet; by virtue whereof the said Administrator General shall collect the assets of the deceased, and account for them as herein provided.

II. All Letters of Administration or *Ad Colligenda Bona*, granted to the Ecclesiastical Registrar of the Supreme Court,--and all Probates, granted to such Officer, of Wills, appointing the Ecclesiastical Registrar of the Supreme Court, by that description, or him and his successors, Executors thereof,--and all Estates, Effects and all Books, Papers and Documents belonging to him or in his possession, or under his control by virtue of such Letters or Probates, shall, by this Act, and without other grant, be transferred to the Administrator General by this Act created; who shall be, to all intents and purposes, such Administrator, Ecclesiastical Registrar of the Supreme Court was; and shall have all the same powers as the said Ecclesiastical Registrar might exercise at the time of the passing of this Act, as such Administrator, Executor, or Grantee.

III. The Ecclesiastical Registrar at the time of the passing of this Act shall be the first Administrator General, and upon the passing of this Act shall cease to be Ecclesiastical Registrar; and as such Administrator General shall be entitled to receive or retain all Commissions to which he was entitled as ecclesiastical Registrar at the time of the passing of this Act on any such grants as aforesaid.

IV. On all future vacancies of the Office, the Administrator General shall be appointed by the Governor general of India in Council.

V. After the passing of this Act, the Administrator General shall not be deemed, in that capacity, an Officer of the said Supreme Court, and shall not be otherwise accountable to it than any ordinary Executor, Administrator or grantee of Letters *Ad Colligenda Bona*, as the case may be.

VI. Every Administrator General shall give Security, by bond, to the East India Company, himself for One Lakh of Rupees, for the due execution of his said Office; and shall not be required by the said Supreme Court to enter into any Administration Bond, or give other Security to that Court on the grant of any such Letters as aforesaid.

VII. The Administrator General shall receive, --for the discharge of his duties as such Administrator General, under all such grants of Letters as aforesaid made, after the passing of this Act, or on Probates of Wills, so granted, after the passing of this Act, wherein he is named Executor, by virtue of his Office, -- instead of the Commission heretofore received by the Ecclesiastical Registrar, a Commission calculated after the rate of Three Rupees in every Hundred Rupees, which he shall actually distribute, or which he shall set apart and invest as herein provided, for the benefit of the parties ultimately entitled of the parties ultimately entitled thereto, if the same are not immediately payable; and, out of the said commission of Three Rupees in the Hundred, shall defray the expenses of the necessary Establishment, and all other charges, to which the said Office may be subject.

VIII. No person, other than the Administrator General, shall be entitled to charge any Commission or Agency, as Executor of any Will, of which Probate shall have been granted in the said Presidency after the passing of this Act, or as Administrator of any Effects whereof Administration shall have been granted in the said Presidency after the passing of this Act: but this enactment is not to be deemed to hinder any Executor from having the benefit of any legacy bequeathed to him, either of a specific sum or residuary bequest, or by way of Commission, or in any other manner.

IX. The Assets belonging to the Estates administered by the said Administrator General shall be kept by him in the Treasury of the East India company, or otherwise kept and invested by him, in such manner as the Governor General of India in Council shall from time to time order; which order shall be published in the *Calcutta Gazette*. And shall be full authority, protection and indemnity in all Courts whatsoever for such keeping and investing.

X. The said Administrator General shall enter into Books, to be kept by him for that purpose separate and distinct accounts of each Estate, and of all such sums of Money, Bonds and other Securities for Money, Goods, Effects and Things, as shall come to his hands or to the hands of any person employed by him, or in trust for him under this Act; and likewise of all payments made by him on account of the said Estates and of all debts due by or to the same, specifying the dates of such receipts and payments respectively; which said Books shall be kept in the Administrator General's Office, and shall be open for the inspection of all such persons, practitioners in the said Court and others, as may have occasion to inspect the same, at office hours; paying only such reasonable fee as may be, from time to time, fixed therefore, by the Governor General of India in Council and published in the *Calcutta Gazette*.

XI. The Administrator General shall twice in every year, that is, on the First day of March and on the Tenth day of August, or on the First day on which the said Court shall be sitting after those days, exhibit

and deliver, in open Court, a true Schedule, shewing the gross amount of all sums of Money received or paid by him, on account of each Estate in his charge, and the balances, during the period of six months ending severally on the Thirty-first day of December and Thirtieth day of June next before the day of delivering such Schedule; and a true list of all Bonds or other Securities received on account of each of the said Estates during the same period; and also a true Schedule of all Administrations where of the final balances shall have been paid over to the persons entitled to the same, during the same period the same period,--specifying the amount of such balances, and the persons to whom paid; which Schedules shall be filed of record in the said Court, and shall, within fourteen days afterwards, be published in the *Calcutta Gazette* by the said Administrator General; and copies thereof in triplicate shall be delivered to the Secretary of the said Presidency, and sent by the Governor of the said Presidency to the Court of Directors of the East India Company for publication in the *London Gazette*.

XII. The Governor general of India in Council, shall, from time to time, appoint an Auditor or Auditors to examine the Accounts of the Administrator General at the time of the delivery of the said Schedules, and also at any other time when the Governor General of India in Council shall think fit.

XIII. The Auditor or Auditors shall examine the Schedules and Accounts, and report to the said Governor General of India in Council whether they contain a full and true account of everything which ought to be inserted therein, and whether the Books, by this Act directed to be kept by the Administrator General, are duly and regularly kept, and whether the Assets are duly kept and invested in such manner as is by law prescribed.

XIV. Every Auditor shall have power to summon as well the Administrator General as any other person or persons whose presence he may think necessary, to attend him from time to time; and to examine the Administrator General or other party or parties if he shall think fit on Oath or Solemn Affirmation to be by him administered; and to call for all Books, Papers and Documents which may appear to him to be necessary for the purposes of the said reference: and if the Administrator General, or other person or persons when summoned shall refuse or without reasonable cause neglect to attend, or to produce any Books, Papers or Documents required, or shall attend and refuse to be sworn or make a Solemn Affirmation when by law an Affirmation may be substituted for an Oath, or shall refuse to be examined, the Auditor or Auditors shall certify such neglect or refusal in writing to the Supreme Court of Judicature at Fort William in Bengal; and every person so refusing or neglecting shall thereupon be punishable, in like manner as if such refusal or neglect had been in contempt of the said Supreme Court.

XV. The costs and expenses of preparing and publishing the said Schedules and copies thereof and of every such reference and examination shall be defrayed proportionably by all the Estates, the Accounts of which are then under examination, which costs and proportions shall be ascertained and settled by the Auditor or Auditors, subject to the approval of the Governor General of India in Council, and shall be paid out of the said Estates, accordingly, by the Administrator General.

XVI. If upon any such reference and examination the Auditor or Auditors shall see reason to believe that the said Schedules do not contain a true and correct account of the matters therein, or which ought to be therein contained, he or they shall report accordingly to the Governor General of India in Council specifying the substance of the objections thereto.

XVII. The Governor General of India in Council shall refer every such report, as last aforesaid, to the consideration of the Advocate General of the East India Company in Bengal, who shall thereupon, if he shall think fit, proceed summarily, by petition, for an account against the said Administrator General, or against the late Administrator General, after his removal from office, or against his personal representatives in case of his death, in respect of all or any of the Estates then or formerly under his care as the said Advocate General shall think fit; and shall have power to exhibit interrogatories to the said Administrator General, or other person or persons defendants, who shall be bound to answer the same as fully as if the same had been contained in a Bill filed for the like purpose; and the Court shall have power, on any such petition filed, to examine orally the parties before it and all witnesses, or to refer the Accounts to be taken in the ordinary way.

XVIII. The costs of the reference and examination, and those of the Advocate general, when such are directed to be paid, shall be defrayed either by the defendant or defendants, in case he or they shall be decreed to pay the costs, or out of the Estates ratably as the said Court shall be recovered from the defendant or defendants, the same shall be repaid to the estates by which the same were in the first instant contributed, and the Court shall have power to order the Administrator General, or other person or persons defendants, to receive his or her costs out of the said Estates if it shall think fit.

XIX. The said Court shall have power on such petition to make such original and subsequent orders as upon a Bill filed; and such Orders shall have the same effect, and be executed in the same manner as Decretal Orders. Orders.

XX. Whenever any British Subject shall die within the said Presidency intestate, and Letters of Administration to his or her Effects shall not be taken out for three months after the death, and the Administrator General shall be satisfied that such Effects do not exceed in the whole Five Hundred Rupees, he may, if he shall think fit, grant, --to any person claiming to be entitled to a principal share of the Effects of the deceased, --Certificates under his hand, entitling the claimant to receive the sums or securities for Money therein severally mentioned belonging to the Effects of the deceased, to the value of any sum not exceeding in the whole Five Hundred Rupees.

XXI. The Administrator General shall not be bound to grant any such Certificate, unless he is satisfied of the title of the claimant, and of the value of the Effects of the deceased, either by the Oath or Affidavit of the claimant, or by such other evidence as he shall require.

XXII. Any such Certificate, with a receipt annexed, under hand of the person to whom the Certificate is granted, shall be a full receipt and discharge for payment or delivery to him or her of the Money or Security for Money therein mentioned, with respect to the claim of any other person upon the person paying or creditor of the deceased shall have remedy for recovery thereof against the person receiving the same.

XXIII. The Administrator General shall not be bound to take out Letters of Administration to the Effects of any deceased person on account of whose Estate he shall grant any such Certificate, but may do so, if he shall discover any fraud or misrepresentation made to him, or that the value of the Estate exceeded Five Hundred Rupees.

XXIV. For every such Certificate the Administrator General shall be entitled to charge a fee calculated after the rate of Three Rupees in the Hundred on the amount mentioned in the Certificate.

XXV. Every person who, having been sworn, or having taken a Solemn Affirmation under this Act, shall willfully give false testimony upon any examination authorized by this Act, shall be deemed guilty of perjury, and, if convicted thereof, shall be liable to fine and imprisonment, or to fine or imprisonment, which imprisonment may be at the discretion of the Court, with or without hard labor, and may extend to two years.