

Intestate and Insolvent Balances.

No. XVII.

An Act for the appropriation of Unclaimed
Balances in Intestate and Insolvent Estates
and for other purposes therein mentioned.
[5th September, 1853.]

INTESTATE AND
INSOLVENT
BALANCES.

WHEREAS by an Act of Council passed in the thirteenth year of the reign of Her present Majesty numbered forty-four it was amongst other things enacted that in the first week of January in each year all sums which should thereafter be in the hands of the Curator of Intestate Estates to the credit of any Intestate Estate for the term of six years next preceding should subject to a proviso in favor of persons who should thereafter establish claims thereto together with the fees and commissions payable on collections in Intestacy be paid into the hands of the Colonial Treasurer to be by him applied in payment of certain claims on the then late Registrar of the Supreme Court arising out of his collections in Intestates' Estates And whereas it is expected that the said claims on the said late Registrar will shortly be satisfied And whereas no provision has been made for the appropriation of such sums as shall after the satisfaction of such claims be in the hands of the said Colonial Treasurer from payments made to him by the said Curator of Intestate Estates in pursuance of the recited Act And whereas the Assignees of Insolvent Estates have and may hereafter from time to time have in their hands unclaimed dividends and other sums being the amount of balances in such Estates too small to admit of division amongst the creditors and it is expedient to provide for the appropriation thereof to the public uses of the Colony subject to proper provision in favor of claimants who may thereafter establish their claims thereto Be it therefore enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof as follows :—

1. All sums of money which shall at any time hereafter be paid into the hands of the Colonial Treasurer as unclaimed assets in Intestate Estates and as fees and commissions or per centages received by the said Curator of Intestate Estates on collections by him shall after satisfaction of such claims (if any) on the said late Registrar as shall in the course of the year in which such payments respectively to the said Treasurer shall have been made be ordered to be paid in pursuance of the said recited Act be applied to the public uses of the Colony and in support of the Government thereof subject nevertheless to the proviso in the said recited Act contained and hereinbefore referred to.

Unclaimed Balances of Intestate Estates paid to Colonial Treasurer to be applicable to public uses of the Colony subject to proviso sec. 2 of above Act.

2. The several Assignees of Insolvent Estates shall respectively in the first week of January in every year file in the Office of the Chief Commissioner of Insolvent Estates an account of all sums of money which on the thirty-first day of December then preceding shall have been in their hands respectively as such Assignees for three years or upwards arising either from unclaimed or unpaid dividends due to creditors in Insolvent Estates or from balances or other moneys which (owing to whatever cause the non-appropriation may be) shall remain in fact undivided among or unappropriated to the creditors in such Estates which accounts shall severally be verified by the affidavit of the Official Assignee filing the same Provided that nothing contained in this or the next section shall extend to or affect any person who has resigned his office of Assignee and thereupon or previously thereto shall have filed accounts of all such sums and balances and paid the amount thereof into Court.

Assignees to file certain accounts.

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The moneys to be
paid into Treasury.

3. The several Assignees who shall have filed such accounts shall within seven days after filing the same respectively pay the whole amount which shall thereby respectively appear to be in their hands to the Colonial Treasurer and all such sums shall subject to the proviso hereinafter contained for refunding the same to such persons as may thereafter establish claims thereto be applied to the public uses of the Colony and in support of the Government thereof.

Money in hands of
Chief Commissioner
of Insolvent Estates.

1. And whereas divers sums of money have been paid from time to time to the Chief Commissioner of Insolvent Estates by Official Assignees Trustees of Insolvent Estates and other persons and are now in his hands being respectively moneys arising from unclaimed dividends and unappropriated and undivided balances and other sums in Insolvent Estates Be it therefore enacted as follows—So much of the said moneys as shall have been in the hands of such Official Assignees Trustees and others on or before the thirtieth day of September one thousand eight hundred and fifty shall in the first week in January next be paid by the said Chief Commissioner into the hands of the Colonial Treasurer as part of the moneys to be received and appropriated by virtue of this Act and so much of the residue of those moneys as shall on the thirty-first day of December in the year one thousand eight hundred and fifty-four and on the same day in each or any succeeding year have then remained unclaimed or unappropriated for the space of three years shall in the first week of January following be similarly paid by the Chief Commissioner to the Colonial Treasurer to be appropriated in like manner.

Proviso as to pay-
ment of claims satis-
factorily established
after payment of
moneys to Colonial
Treasurer.

5. Provided always that if at any time after any such sums of money belonging to Insolvent Estates shall have been so paid into the Colonial Treasury a claim thereto shall be established to the satisfaction of the Supreme Court such Court shall make an order for the payment thereof and upon any such order being served upon the Colonial Secretary it shall be lawful for the Governor and he is hereby required to issue a Warrant under his hand to the Colonial Treasurer directing him to pay the money mentioned in such order to the party entitled to receive the same in pursuance thereof but no interest shall be paid or be payable on any such sum of money by virtue of any such order or otherwise from the time when the same shall have been paid to the Colonial Treasurer as aforesaid.

Certain expenses
incurred in Intestate
Estates.

6. It shall be lawful for the Curator of Intestate Estates out of the fees and commission receivable on collections of Intestate Estates with the approval of one of the Judges to defray any expense reasonably incurred in the collection or administration of any Intestate Estates or Estate and which there shall appear to be no other available source for defraying.

Release of Assignees
duly accounting.

7. Upon the death resignation or removal of any Assignee of Insolvent Estates now or hereafter appointed it shall be lawful for the Supreme Court upon being satisfied that such Assignee has performed his duties and accounted for all moneys received by him as such Assignee and upon payment by him or his personal representative of any balances or other moneys not previously duly appropriated as the said Court shall direct to order any bond which may have been entered into by such Assignee for the due performance of his duties to be delivered up to be cancelled and the same shall be delivered up accordingly and such Official Assignee shall if alive be discharged from his office but without prejudice in either case to the remedy of any person against him or his estate in respect of any claim by reason of anything done or omitted by such Assignee.