

No. X.

An Act to amend the Law relating to the
Custody of Children, and to provide for
Settlements for the benefit of Children in
certain cases. [14th March, 1894.]

CUSTODY OF
CHILDREN AND
CHILDREN'S SETTLE-
MENTS.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. Where the parent of a child applies to the Supreme Court for a writ or order for the production of the child, or for any order under the Act thirty-ninth Victoria number sixteen, and the Court is of opinion that the parent has abandoned or deserted or neglected the child, or that he has otherwise so conducted himself that the Court should refuse to enforce his right to the custody of the child, or that the tender age of the child or its state of health render it expedient that it should remain with its mother or some other person, the Court may in its discretion decline to issue the writ or make the order.

Power of Court as
to production of
child.

2. If at the time of the application for a writ or order for the production of the child the child is being brought up by another person, or is boarded out by any State or other Board, the Court may, in its discretion, if it orders the child to be given up to the parent, further order as a condition precedent or upon such terms as it may think fit that the parent shall pay to such person, or Board, the whole of the costs properly incurred in bringing up the child, or such portion thereof as shall seem to the Court to be just and reasonable, having regard to all the circumstances of the case.

Power to Court to
order repayment of
costs of bringing up
child.

3. Where a parent has—

- (a) abandoned or deserted or neglected his child; or
- (b) allowed his child to be brought up by another person at that person's expense, or at the expense of any State or other Board, for such a length of time and under such circumstances as to satisfy the Court that the parent neglected his parental duties;

Court in making
order to have regard
to conduct of parent.

the Court shall not make an order for the delivery of the child to the parent, unless the parent has satisfied the Court that, having regard to the welfare of the child, he is a fit person to have the custody of the child.

4. Upon any application by the parent for the production or custody of a child, if the Court is of opinion that the parent ought not to have the custody of the child, and that the child is being brought up in a different religion from that in which the parent has a legal right to require that the child should be brought up, the Court shall have power to make such order as it may think fit to secure that the child be brought up in the religion in which the parent has a legal right to require that the child should be brought up. Nothing in this Act contained shall interfere with or affect the power of the Court to consult the wishes of the child in considering what order ought to be made, or diminish the right which any child now possesses to the exercise of its own free choice.

Power to Court as to
child's religious
education.

5. It shall be lawful for the Court whenever it is satisfied that the parent or person having the custody of a child is unfit to continue to have such custody by reason of cruelty or neglect to the child to order that such child shall be given up to the custody of some near relative

Court may order
custody of children
in certain cases.

(Consolidated Fund) Appropriation.

relative or other person willing to accept such custody, and by such order to impose terms for the child's maintenance chargeable upon the parent. And such order may be varied or revoked from time to time at the discretion of the Court.

Court may appoint trustees for settlements for the benefit of children in certain cases.

6. Whenever a verdict is recovered or a judgment entered for any amount as damages in any action of tort brought by any child by its next friend, it shall be lawful for the Court to order that a settlement of the same shall be made for the benefit of such child, and to appoint a trustee or trustees for such settlement. And the terms of such settlement shall be fixed by the Court, or subject to its approval by some officer of the Court appointed so to do. And this power shall extend to the District Court as well as the Supreme Court.

Definitions of "parent" and "person."

7. For the purposes of this Act the expression "parent" of a child includes the father or mother or any person at law liable to maintain such child or entitled to his custody, and "person" includes any school or institution, and the word "Court" means the Supreme Court and includes any judge thereof sitting in chambers.

Short title.

8. This Act may be cited as the "Custody of Children and Children's Settlements Act of 1894."