

American Legal History – Russell

"An Act to provide for the Adoption of Children," Acts and Resolves passed by the General Court of Massachusetts, Chap. 324, (1851).

BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:

Sect. 1. Any inhabitant of this Commonwealth may petition the judge of probate, in the county wherein he or she may reside, for leave to adopt a child not his or her own by birth.

Sect. 2. If both or either of the parents of such child shall be living, they or the survivor of them, as the case may be, shall consent in writing to such adoption: if neither parent be living, such consent may be given by the legal guardian of such child; if there be no legal guardian, no father nor mother, the next of kin of such child within the State may give such consent; and if there be no such next of kin, the judge of probate may appoint some discreet and suitable person to act in the proceedings as the next friend of such child, and give or withhold such consent.

Sect. 3. If the child be of the age of fourteen years or upwards, the adoption shall not be made without his or her consent. .

sect. 4. No petition by a person having a lawful wife shall be allowed unless such wife shall join therein, and no woman having a lawful husband shall be competent to present and prosecute such petition.

Sect. 5. If, upon such petition, so presented and consented to as aforesaid, the judge of probate shall be satisfied of the identity and relations of the persons, and that the petitioner, or, in case of husband and wife, the petitioners, are of sufficient ability to bring

up the child, and furnish suitable nurture and education, having reference to the degree and condition of its parents, and that it is fit and proper that such adoption should take effect, he shall make a decree setting forth the said facts, and ordering that, from and after the date of the decree, such child should be deemed and taken, to all legal intents and purposes, the child of the petitioner or petitioners.

Sect. 6. A child so adopted, as aforesaid, shall be deemed, for the purposes of inheritance and succession by such child, custody of the person and right of obedience by such parent or parents by adoption, and all other legal consequences and incidents of the

natural relation of parents and children, the same to all intents and purposes as if such child had been born in lawful wedlock of such parents or parent by adoption, saving only that such child shall not be deemed capable of taking property expressly limited to the heirs of the body or bodies of such petitioner or petitioners.

Sect. 7. The natural parent or parents of such child shall be deprived, by such decree of adoption, of all legal rights whatsoever as respects such child; and such child shall be freed from all legal obligations of maintenance and obedience, as respects such natural parent or parents.

Sect. 8. Any petitioner, or any child which is the subject of such a petition, by any next friend, may claim and prosecute an appeal to the supreme judicial court from such decree of the judge of probate, in like manner and with the like effect as such appeals

may now be claimed and prosecuted in cases of wills, saying only that in no case shall any bond be required of, nor any costs awarded against, such child or its next friend so appealing. [*Approved by the Governor, May 24, 1851.*]

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