

Legislative Council.

No. , 1903.

A BILL

To insure provision for testator's families.

[MR. HUGHES ;—24 *September*, 1903.]

BE it enacted by the King'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 :—

5 **1.** This Act may be cited as the "Testator's Family Maintenance Act, 1903." Short title.

10 **2.** When, after the passing of this Act, probate is granted to the will of any testator within the State of New South Wales, and it appears to the Court that by the said will the testator has not made adequate provision for the proper maintenance and support of his or her wife, husband, or children, or any of them, the Court may at its discretion

Deceased person's estate liable to order for maintenance of wife, husband, or children.

discretion, on application by or on behalf of the said wife, husband, or children, or any of them, order that such provision, as to the said Court shall under the circumstances of the case seem proper, shall be made out of the estate of the said testator for such wife, husband, or children.

Order may be granted conditionally or refused by court.

3. Where any such application as aforesaid shall be made it shall be in the discretion of the Court to limit such order or to attach any conditions to it as it shall think fit, or to refuse to make any order where in the opinion of the Court the character or conduct of the applicant is such as to disentitle him to the benefit of such an order. 10

Order when made may be varied or rescinded by the Court

4. Where any such order as aforesaid has been made the Court may at any time thereafter on the application of any of the parties interested in the estate vary or rescind such order as the circumstances of the case may from time to time in the opinion of the Court require.

Order may be charged on the estate either wholly or partially.

5. Upon such order being made as aforesaid the court may give 15 such directions as to the time and manner of payment of the provision therein ordered or the method of raising the same as the circumstances of the case may require, and may charge such portion of the testator's estate as it thinks fit, or if necessary the whole of the estate, with the payment thereof, and thereupon the estate or portion thereof so 20 charged shall be held subject to the provisions of the said order.

Limit of time for applications under this Act.

6. No application for an order under this Act shall be heard by the Court unless the applicant shall have filed in the office of the registrar of probates notice of his intention to make such application within six months from the date of the grant of probate of the will 25 in question.

No order under this Act may be mortgaged or assigned.

7. No mortgage or charge, and no assignment of any kind whatsoever of or over such order, or the property charged thereby, shall be of any force, validity, or effect, and upon the Court being satisfied that the person entitled to the benefit of such order has 30 charged or assigned the same it may thereupon if it thinks fit rescind such order forthwith.

Definition of the Court.

8. For the purposes of this Act "the Court" means the Supreme Court of New South Wales or any Judge thereof sitting in the probate jurisdiction of the said Court.