

PUBLIC LAWS

OF THE

STATE OF ILLINOIS,

PASSED BY THE

TWENTY-FIFTH GENERAL ASSEMBLY,

CONVENED JANUARY 7, 1867.

MINORS.

AN ACT to provide for the adoption of minors.

In force Apr. 22,
1867.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That any person desirous of adopting a child, so as to render it capable of inheriting his or her estate, may present a petition to the circuit or county court of his or her residence, setting forth the name, age and sex of such child; and if such person desires the name changed, stating the new

Manner of proceeding.

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name, also the name of the father, or, if he be dead, or has abandoned his family, the mother, and if she be dead, the guardian, if any, and the consent of such father or mother to the act of adoption. And if the child has no father or mother, then the consent of no person shall be necessary to said adoption. It shall be the duty of the court, upon being satisfied of the truth of the facts stated in the petition, and of the fact that such father, mother or guardian has notice of such application, and being further satisfied that such adoption will be to the interest of the child, to make an order declaring said child to be the adopted child of such person, and capable of inheriting his or her estate, and also what shall be the name of such child; and thenceforward the relation between such person and the adopted child shall be, as to their legal rights and liabilities, the same as if the relation of parent and child existed between them, except that the adopted father or mother shall never inherit from the child; but to all other persons the adopted child shall stand related as if no such act of adoption had been taken.

Guardians.

§ 2. It shall be the privilege of the guardian, or any other person, related by blood to such child, if there be no father or mother, to file objections to such applications; and the court, after hearing the same, shall determine, in its discretion, whether or not the same constitute a good reason for refusing the application, and if so, such application shall be refused.

APPROVED February 22, 1867.

The Law in Illinois Pertaining to the Adoption of Children

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THE LAW IN ILLINOIS PERTAINING TO THE ADOPTION OF CHILDREN

ANN GOGGIN LUTTERBECK

INTRODUCTION

THE FAMILY is the bulwark of a democratic society, and this aspect of our social philosophy probably has a greater influence on our practices of adoption than any other single factor. Those family units, otherwise incomplete for the lack of children, by the practice of adoption are able to form complete family units by substituting adoptive parents for the natural parents. The relationship comes to us from the Roman law, being wholly unknown to the common law. The English Parliament did not recognize it until 1926 when a statute was passed providing for "The Adoption of Children."¹

Because originally the statutes passed in the United States were in derogation of the common law, they were strictly construed; but with the increased interest in adoption and the advancement of social agencies restricted to placing children for adoption, a more liberal construction of the statutes has resulted. Today in Illinois, by statutory provision, the adoption statute is to be liberally construed.²

Some questions about adoption are best answered by a social agency, and there is no attempt in this paper to explore the functions of such agencies nor their interrelationship with lawyers handling adoption matters. The paper is limited to legal aspects of adoption, and more particularly the law of Illinois.

From the date of the first statute in Illinois in 1867,³ there has been a constant improvement in the statute to further protect all three parties to an adoption proceeding; the child, the adopting parents and the natural parents.

There are today approximately 900,000 childless families seeking to adopt an estimated 90,000 children available for adoption.⁴ Unfortu-

¹ Breckenridge, *The Family and the State* (Chicago, 1934), p. 356.

² Ill. Rev. Stat. (1955) c. 4, § 7, par. 3.

³ *Ibid.*, at § 1, par. 1.

⁴ Elson, *Lawyers and Adoption: The Lawyer's Responsibility in Perspective*, 41 A.B.A.J. 1125 (1955).

MRS. LUTTERBECK is a member of the Illinois Bar. This article is based on a thesis submitted in partial fulfillment of the requirements for the degree of Master of Laws in the Graduate College of the University of Illinois, 1957. Mrs. Lutterbeck received her J.D. from De Paul University in 1949.