

43 VIC. No. 16, 1879.

Orphanages Act.

ORPHANAGES.

An Act to make better provision for the Establishment and Management of Asylums for Orphans and Deserted and Neglected Children. 43 VIC. No. 16, THE ORPHANAGES ACT OF 1879.

[ASSENTED TO 2ND OCTOBER, 1879.]

WHEREAS divers Orphanages or Asylums for the reception and care of orphans and deserted and neglected children have been established in the Colony of Queensland and are now maintained in the whole or in part at the public expense Preamble.

And whereas it is desirable to make provision for the better management of such institutions and for the establishment of other institutions of a like nature

Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled and by the authority of the same as follows—

1. In the construction of this Act the following words shall have the meanings set opposite to them respectively that is to say— Interpretation.

“Minister”—The Secretary for Public Instruction or other minister who for the time being shall be charged with the administration of Orphanages

“Public Orphanage”—Any institution or asylum for the reception and care of orphans or deserted or neglected children established under this Act

“Licensed Orphanage”—Any institution or asylum for the purpose aforesaid declared to be a Licensed Orphanage under this Act.

“Orphanage”—Any Public Orphanage or Licensed Orphanage

“Inmate”—Any child admitted to or supported at or in connection with any Orphanage

“Regulations”—Regulations made under this Act.

2. It shall be lawful for the Governor in Council to establish for the purposes of this Act one or more Public Orphanages or Asylums for the reception and care of orphans or deserted or neglected children Orphanages may be established.

The following Orphanages already established in the said colony that is to say—

The Diamantina Orphanage at Brisbane

The Orphanage at Rockhampton and

The Orphanage at Townsville

shall be deemed to be Public Orphanages under this Act.

3. The Governor in Council may from time to time appoint fit and proper persons to be superintendents and matrons of any Public Orphanages and it shall be the duty of such persons to observe and carry into execution the several provisions of this Act and the Regulations. Superintendents and matrons and their duty.

4. The Minister may from time to time appoint fit and proper persons to be teachers officers and servants at any Public Orphanage and it shall be the duty of every such person to obey all lawful and reasonable orders and directions of the superintendent and matron respectively in the execution of this Act. Teachers officers and servants and their duty.

5. The Governor in Council may place any Public Orphanage under the charge of a committee of management consisting of not less than three persons subject to such control of the Minister as shall be prescribed in the order by which the committee are appointed or by any regulations made under this Act. Orphanages may be placed under charge of committee.

Orphanages established by private benevolence may be licensed.

6. Whenever any Institution or Asylum for the reception and care of orphans or deserted or neglected children shall have been heretofore or shall be hereafter established by private benevolence it shall be lawful for the Governor in Council to grant a license to such Institution as a Licensed Orphanage under this Act and thereupon the following consequences shall ensue—

- (1.) The managers of such Orphanage shall subject to such control of the Minister as shall from time to time be prescribed by the Governor in Council have the whole management and supervision thereof and the appointment of all teachers officers and servants thereof
- (2.) All moneys out of the sum voted by Parliament for Orphanages that shall be appropriated in virtue of an Order of the Governor in Council for the purpose of any such Orphanage shall be entrusted to such managers. Provided that a detailed account of the expenditure thereof shall from time to time and whenever required be furnished to the Minister and that the expenditure shall be subject to the provisions of "*The Audit Act of 1874*" *
- (3.) In other respects such Licensed Orphanage and the inmates thereof shall be subject to all the provisions of this Act respecting Public Orphanages and their inmates

Any license granted under this section may be withdrawn upon six months' notice.

Destitute children may be admitted to Orphanages.

7. Any child under the age of twelve years who shall be found in the colony without father and mother or who shall be deserted by its father and mother or whose father and mother shall be unable to support it and any child found in a state of destitution or without any means of support may be sent to an Orphanage upon such authority and subject to such conditions as may be prescribed by the regulations

Provided that in case any doubt shall arise as to the age of any child and there shall be no satisfactory evidence of the age of such child the opinion of the court or justices before whom the question may arise shall be sufficient proof of the age of such child

Any inmate may be removed by order of the Minister from one Orphanage to another and by the like order may be discharged from any Orphanage.

Children admitted to Orphanages not to be discharged.

8. Any child admitted to any Orphanage under this Act shall not be released or discharged or removed therefrom except under the provisions of this Act until he or she shall have attained the full age of twelve years nor shall any child be permitted to remain in any Orphanage at the public expense after he shall have attained the age of thirteen years without the leave of the Minister nor in any case after he shall have attained the age of sixteen years.

Maximum age of inmates.

Relatives liable to contribute to support.

9. The parent or step-parent of every inmate of an Orphanage shall (if of sufficient ability so to do) contribute to his support while he continues an inmate thereof and any constable or the superintendent of the Orphanage or the Inspector of Orphanages or other person duly authorised by the Governor in Council may apply to a justice for a summons to be served on the alleged parent or step-parent of such person for the purpose of obtaining such contribution.

Order for payment to be made.

10. On the return of such summons two or more justices shall proceed to hear the matter of the complaint and if the relationship of the

* 38 Vic. No. 12, *supra*, title Audit.

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defendant and his ability to contribute to the support of such inmate be proved to the satisfaction of the justices they may by an order in the form contained in the first schedule to this Act or to the like effect First schedule. adjudge the defendant to pay such weekly sum not exceeding ten shillings for the maintenance of such inmate as such justices shall think fit.

11. It shall be lawful for any two justices on the complaint of any such parent or step-parent or of any person authorised as aforesaid at any time while the first or any subsequent order continues in force to make further inquiry into such parent's or step-parent's ability to contribute as aforesaid and to remit or lessen the amount of the weekly payment that shall have been adjudged by the last preceding order or to increase the same if they see cause so to do so that the amount shall not in any case exceed the weekly sum hereinbefore mentioned Orders for payment may be varied.

When any such further inquiry shall have taken place the justices shall make an order in the form contained in the second schedule to this Act or to the like effect. Second schedule.

12. Whenever after the making of any such order as aforesaid it shall be made to appear to any justice by a complaint in writing and upon oath that any weekly sum to be paid in pursuance thereof has not been paid or that any parent or step-parent named in such order is about to leave the colony or remove from his usual place of residence without having first notified his intention to the clerk of petty sessions officiating at the court at which the order was made or without having made due provision for the payment of such weekly sum such justice may by warrant under his hand and seal cause such parent or step-parent to be brought before him or some other justice to answer the complaint. If weekly sum not paid parent may be apprehended.

13. On the return of such warrant the justice shall proceed to hear the matter of the complaint and if the same shall be proved to be true shall proceed to levy or enforce payment of the said weekly sums by distress or imprisonment for any period not exceeding three months and the warrants thereupon may be in the form contained in the third schedule to this Act or to the like effect. Recovery of arrears. Third schedule.

14. Every undertaking entered into by any parent or step-parent for the payment of any sum of money towards the maintenance of any inmate of an Orphanage shall be deemed to be equivalent to an order made by two justices under the provisions of this Act and every person who shall have entered into any such undertaking shall be liable to the provisions of the two last preceding sections in the same manner and to the same extent as if he had been ordered by two justices to pay the sums mentioned in such undertaking at the times and places therein mentioned. Undertaking for payment equivalent to orders by justices.

15. All contributions and enforced payments under this Act towards the support of an inmate of an Orphanage shall be paid into the Consolidated Revenue. Contributions and enforced payments to be paid into Revenue.

16. The Minister may manage and demise for any term not exceeding three years the lands of or to which any inmate of an Orphanage is seized possessed or entitled and may make allowances to and arrangements with all or any of the tenants or occupiers for the time being of such lands and accept surrenders of leases and tenancies as fully and effectually as such inmate if of the full age of twenty-one years could do. Minister may manage and let estates of inmates.

17. The Minister may in the name and on behalf of any inmate of an Orphanage demand sue for collect and receive all the rents and profits which may be due to such inmate and may give effectual receipts and discharges for such rents and profits or so much thereof as shall be And may collect their rents.

received and in case of non-payment thereof or of any part thereof may in the name and on behalf of such inmate enter into or upon all or any of the lands in respect of which any rents or profits shall be unpaid and may distrain for such rents and profits and the costs and expenses incurred by or incidental to the non-payment thereof and may dispose of the distresses in due course of law and may take and use all lawful proceedings and means for recovering and receiving the rents and profits and for evicting and ejecting defaulting tenants and occupiers from all or any of such lands and determining the tenancy or occupation thereof and for obtaining recovering and retaining possession of all or any of the lands held or occupied by such defaulters.

And bring actions.

18. The Minister may in the name and on behalf of any inmate of an Orphanage commence and prosecute all actions suits claims demands and proceedings touching any lands estate interest or rights of such inmate or of his tenants therein or thereto or touching any matter or thing whatsoever in which any such inmate or his real or personal estate or effects may be in any way interested affected or concerned.

And employ agents.

19. The Minister may appoint and remove at his pleasure any attorney or agent under him in respect of all or any of the matters aforesaid upon such terms and for such remuneration as the Minister shall think fit.

Rents &c. to be paid into the Government Savings Bank.

20. All moneys which under or by virtue of this Act shall come to the possession or control of the Minister for or on account or for the use or benefit of any inmate of an orphanage shall after making the deduction hereinafter mentioned be paid into the Government Savings Bank or otherwise invested on account of such inmate.

After making certain deductions.

21. The Governor in Council may direct all expenses lawfully incurred by the Minister in executing the trusts or powers conferred on him by this Act for or on behalf or on account of any inmate of an Orphanage and also any weekly sum not exceeding ten shillings for the maintenance of such inmate to be deducted from the moneys to be received as aforesaid.

Ministers of religion to have access.

22. Subject to the regulations all officiating ministers of religion shall have admission to every Orphanage any of the inmates whereof are members of their respective religious denominations and shall have access to such inmates as are of such religious denominations and may give instruction to them on the days and at the times allotted by the Minister or committee of management for the religious instruction of the inmates who are of such denominations respectively.

Inmates may be allowed to lodge out of the Orphanage.

23. The Minister may permit any inmate of any Orphanage under this Act to lodge at the dwelling of any trustworthy and respectable person not being the holder of a publican's license or the keeper of a common lodging or boarding house so that the child be taught trained clothed and fed as if he were lodging in the Orphanage itself.

Inmates may be placed out to board.

24. The Minister may at any time after the admission of a child to an Orphanage by license under his hand permit him to live with any trustworthy and respectable person not being the holder of a publican's license or the keeper of a common lodging or boarding house willing to receive and take charge of him. But such child shall nevertheless be deemed to be an inmate of the Orphanage.

Any license so granted shall not be in force for more than six months but may at any time before the expiration of those six months be

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renewed for a further period not exceeding six months to commence from the expiration of the previous period of six months and so from time to time so long as the child remains an inmate of the orphanage.

25. Any such license may also be revoked at any time by the Minister by writing under his hand and thereupon the child to whom the license related may be required by the Minister by writing under his hand to return to the Orphanage. Boarding license may be revoked.

A child escaping from the person with whom he is placed under a license or refusing to return to the Orphanage on the revocation of his license or at the expiration of the time allowed thereby shall be deemed to have escaped from the Orphanage.

26. The Minister may notwithstanding the dissent of the parent or step-parent of any inmate of an Orphanage make any contract of hiring on behalf of such inmate and may in like manner bind any such inmate apprentice to any trade calling or service and every such contract or binding shall be valid and effectual for all purposes Provided that no such contract or binding shall be for a longer period than five years Children may be hired or bound apprentices.

The Minister may with the consent of the employer of any such inmate so hired or bound cancel the contract or indenture of apprenticeship Upon the cancellation or other determination of any such contract or apprenticeship the child so hired or bound shall if he be under the age of sixteen years be deemed again to become an inmate of the Orphanage of which he was last an inmate.

27. If the superintendent or matron of any Orphanage or any teacher officer or servant thereof shall negligently or wilfully permit any inmate thereof to escape therefrom every such offender shall on conviction thereof forfeit and pay any sum not exceeding twenty pounds. Penalty for permitting escape.

28. If any male inmate of any Orphanage shall wilfully damage or destroy any real or personal property belonging to the Orphanage or any person with whom he is placed under a license or wilfully neglect or refuse to obey or conform to any of the regulations such inmate shall on conviction thereof before two or more justices be liable at the discretion of such justices to be privately whipped Penalty for misconduct or escaping.

If any inmate of any Orphanage shall escape therefrom he or she shall upon conviction thereof before two or more justices be ordered by such justices to be sent back to the Orphanage and to be there detained until he or she reaches the age of twelve years or for such shorter period as the justices think fit.

29. Any person who shall directly or indirectly withdraw any inmate of an Orphanage from such Orphanage or from the charge of any person with whom such inmate is permitted to live or shall counsel or induce any such inmate to escape from such Orphanage or from such charge or who knowing any such inmate to have been withdrawn or to have escaped from any Orphanage or from such charge shall harbour or conceal or assist in concealing such inmate or prevent him or her from returning to such Orphanage or to such charge shall on conviction thereof forfeit and pay any sum not exceeding ten pounds. Penalty for withdrawing or harbouring inmates.

30. Any person who without lawful authority or excuse shall enter any Orphanage or any building yard or ground belonging thereto and shall not depart therefrom when required so to do by the superintendent matron or other officer or servant of such Orphanage shall on conviction forfeit and pay any sum not exceeding twenty pounds. Penalty for refusing to depart from Orphanage premises.

Offenders
against this Act
may be
apprehended.

31. For the more effectual prosecution of all offences against this Act any person found committing any such offence may be immediately apprehended without a warrant by any constable and forthwith taken before some neighbouring justice to be dealt with according to law.

Existing
inmates of
Orphanages.

32. Any child who shall at the expiration of one month from the passing of this Act be an inmate of any Orphanage shall be deemed to have been duly admitted to such Orphanage under the provisions of this Act.

Regulations.

33. The Governor in Council may from time to time make and promulgate regulations not being contrary to the provisions of this Act for the effectual execution of the provisions of this Act and the objects thereof and respecting any matters or things necessary to give effect to such objects.

All such regulations shall be proclaimed in the *Gazette* and when so proclaimed shall have the force of law and shall be judicially noticed by all courts.

Repeal of 5 Wm.
IV. c. 3.*
15 Vic. c. 2.*
[Schedule IV.]
Short title.

34. The Acts mentioned in the fourth schedule to this Act shall be and the same are hereby repealed.

35. This Act shall be styled and may be cited as "*The Orphanages Act of 1879.*"

SCHEDULES.

[See section 10.]

THE FIRST SCHEDULE.

Be it remembered that on the _____ day _____ complaint was made before one of Her Majesty's justices of the peace in and for the Colony of Queensland by M.P. a person duly authorised in that behalf that A.B. of _____ in the said colony [*butcher*] was the parent [*or step-parent*] of E.F. an inmate of the [Public or Licensed] Orphanage at _____ in the said colony and was of sufficient ability to contribute to the support of the said inmate and now at this day &c. [*state the appearance or non-appearance of the defendant according to the usual form*] do adjudge the same A.B. to be the parent [*or step-parent*] of the said child and of such ability as aforesaid And we do further adjudge the said A.B. to pay to the clerk of petty sessions here for the time being the sum of _____ for costs forthwith And we do further adjudge the said A.B. to pay to the said clerk the sum of _____ on [*Monday*] next and the same amount on every succeeding [*Monday*] until _____ and if the said weekly sum be not paid as aforesaid or if the said costs be not paid forthwith [*proceed as in common orders*].

[See section 11.]

THE SECOND SCHEDULE.

Be it remembered that on the _____ day of _____ 18 [*recite the first order*] and on the _____ day of _____ last complaint was made before one of Her Majesty's justices of the peace in and for the Colony of Queensland by M.P. [a person duly authorised in that behalf] that the said A.B. was of sufficient ability to contribute a larger sum [*or was not of sufficient ability to contribute so large a sum*] to the support of the said E.F. and now at this day &c. [*state the appearance or non-appearance as usual*] do adjudge the said A.B. to be [not] of sufficient ability to contribute a larger weekly [*or such*] sum as aforesaid and do increase [*or reduce*] the same to the weekly sum of _____ in lieu of the weekly sum first hereinbefore mentioned.

[See section 13.]

THE THIRD SCHEDULE.

To [*constables &c.*]
Whereas on the _____ day of _____ last two of Her Majesty's justices of the peace in and for the Colony of Queensland did by an order under their hands and seals adjudge A.B. of _____ [*butcher*] to be the parent [*or step-parent*] of E.F. an inmate of the [Public or Licensed] Orphanage at _____ in the said colony and also to be of sufficient ability to contribute to the support of the said inmate and by the same order did adjudge the said A.B. to pay to the clerk of petty sessions at _____ in the said colony for the time being the sum of _____ for costs And they did further adjudge the said A.B. to pay the said clerk the sum of _____ on [*Monday*] then next and the same amount on every succeeding [*Monday*] and did order that if the said weekly sum should not be paid [*&c. as in order*] [And whereas on the _____ day of _____ last two of Her Majesty's justices of the peace in

* These are Colonial Acts.

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and for the said colony did by an order under their hands and seals lessen [or increase] the said weekly sum to the weekly sum of [] And whereas it has been this day duly proved before me the undersigned one of Her Majesty's justices of the peace in and for that on [Monday] the [] day of [] last the sum of [] was due and payable by virtue of the said order for [ten] weeks ending on that day and then last elapsed and is still in arrear These are therefore [proceed as in ordinary warrant of distress or commitment].

[See section 34.]

THE FOURTH SCHEDULE.

YEAR AND NUMBER OF ACT.	TITLE OF ACT.
5 Wm. IV. c. 3*	An Act for Apprenticing the Children of the Male and Female Orphan Schools and other poor Children in the Colony of New South Wales.
15 Vic. c. 2*	An Act to make further provision for the Apprenticing of the Children in the Male and Female Orphan Schools and other poor Children.

OYSTERS.

See FISHERIES.

PACIFIC ISLAND LABOURERS.†

- Pacific Island Labourers Act of 1880* 44 Vic. No. 17
 - Pacific Island Labourers Act of 1880 Amendment Act of 1884* 47 ,, ,, 12
 - Pacific Island Labourers Act of 1889 Amendment Act of 1885* 49 ,, ,, 17
 - (Pacific Island Labourers Acts 1880-1885 Amendment Act of 1886)* 50 ,, ,, 6.
- These Acts may together be cited as "The Pacific Island Labourers Acts, 1880-1886."*

An Act to make provision for Regulating and Controlling the Introduction and Treatment of Labourers from the Pacific Islands.

44 Vic. No. 17.
THE
PACIFIC ISLAND
LABOURERS ACT
of 1880.

[ASSENTED 18TH NOVEMBER, 1880.]

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 Queensland in Parliament assembled, and by the authority of the same, as follows:—

Preamble.

PART I.‡

PART I.—
PRELIMINARY.

Preliminary.

1. "*The Polynesian Labourers Act of 1868*"§ is hereby repealed, but nothing herein contained shall affect any act or thing lawfully done, or commenced, or contracted to be done, under the authority of the said Act.

Repeal of
"*Polynesian
Labourers Act
of 1868.*"

* These are Colonial Acts.

† For further provisions upon this subject, see 35 & 36 Vic. c. 19 and 38 & 39 Vic. c. 51, vol. of Imperial Statutes.

‡ This Act is divided into Parts, as follows:—

Part I.—Preliminary, ss. 1 to 6.
Part II.—The Introduction of Pacific Islanders, ss. 7 to 13.
Part III.—The Employment of Pacific Islanders in Colony, ss. 14 to 23.
Part IV.—The Care and Treatment of Labourers when Sick, ss. 24 to 32.
Part V.—Miscellaneous Provisions, ss. 33 to 43.

§ 31 Vic. No. 47.

The statutes of Queensland passed during the year... [electronic resource]

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