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VICTORIÆ REGINÆ.

A.D. 1881.

No. 210.

An Act to repeal “The Destitute Persons Relief and Industrial and Reformatory Schools Act, 1872,” and to make other provisions in lieu thereof :

[Assented to, November 18th, 1881.]

WHEREAS it is expedient to repeal “The Destitute Persons Relief and Industrial and Reformatory Schools Act, 1872,” and to make other provisions in lieu thereof—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows :

1. This Act may be cited as “The Destitute Persons Act, 1881.” Short title of Act.

2. “The Destitute Persons Relief and Industrial and Reformatory Schools Act, 1872,” is hereby repealed : Repeal. Provided always that no Acts or Ordinances by the said last-mentioned Act repealed shall be hereby revived ; and that no things done, appointments made, contracts entered into, orders or mandates made, offences committed, and penalties incurred, shall, by reason of such repeal, become invalidated or condoned ; and that all orders, mandates, convictions, or other proceedings, acts, and deeds made, taken, pending, or executed under and by virtue of the said hereby repealed Act shall and may be supported and maintained by virtue thereof ; and also that all proceedings that may have been commenced before this Act shall come into operation, may be continued and completed under the said repealed Act.

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Interpretation.

3. In the construction of this Act, unless inconsistent with the context or subject-matter, the following words shall have the meanings hereby assigned to them respectively, that is to say—

“ Judge ” shall mean any Judge of the Supreme Court of the said province :

“ Justices ” shall mean any two or more Justices of the Peace for the said province, and shall also mean any Special Magistrate of the said province :

“ The “ Board ” shall mean the Destitute Board hereinafter mentioned :

“ Child,” except in Part I. of this Act, shall mean any boy under the age of sixteen years, or any girl under the age of eighteen years; and, in the absence of positive evidence as to age, shall mean under the apparent ages of sixteen and eighteen years respectively :

“ Inmate ” shall mean any destitute child, neglected child, or convicted child admitted into or detained in any Industrial or Reformatory School, or who shall be elsewhere under the control of the Board ; and also any child born in, or person admitted into, any establishment under the control of the Board ; and also all illegitimate children under the control of the Board ; and also any person admitted into any Destitute Asylum, or institution, or place under the control of the Board :

“ Destitute Child ” shall mean any child who shall have no sufficient means of subsistence apparent to the Board or any two Justices of the Peace, or whose parents or other relatives who, by this Act are made chargeable with the support and maintenance of such child, are in indigent circumstances and unable to support such child, or who, at the time of coming into operation of this Act, shall be an inmate of any Destitute Asylum, Industrial or Reformatory School, or other institution or place, under the control of the Board :

“ Neglected Child ” shall mean—

- i. Any child found begging or receiving alms, or being in any street or public place for the purpose of begging or receiving alms :
- ii. Any child who shall be found wandering about or frequenting any street, thoroughfare, tavern, or place of public resort, or sleeping in the open air, and who shall not have any home or settled place of abode :
- iii. Any child who shall reside in any reputed brothel, or with any known or reputed prostitute, whether such prostitute shall be the parent of such child or not :
- iv. Any child who shall associate or dwell with any person not being the parent of the child, known or reputed to be a thief or drunkard, or with any such person convicted of vagrancy :

v. Any

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- v. Any child who, having been convicted of an offence punishable by imprisonment, or some less punishment, ought, nevertheless, in the opinion of the Justices, regard being had to the circumstances of his case, to be sent to an Industrial or to a Reformatory School :
- vi. Any child whose parent represents that he is unable to control such child, and that he wishes him to be sent to an Industrial or Reformatory School :
- vii. Any illegitimate child whose mother or friends are not, in the opinion of the Board, in a position to maintain such child :

“Convicted Child” shall mean any child who shall be convicted of any offence punishable by imprisonment

4. This Act shall be divided into five parts, as follows—

Act divided into parts.

PART I.—The Maintenance of Indigent Poor by their Relations:

PART II.—The Destitute Board ; its duties and functions :

PART III.—Industrial and Reformatory Schools ; including placing out the children with foster-parents, and binding their inmates as apprentices :

PART IV.—The Supervision of all Illegitimate Children born in Establishments under the control of the Destitute Board, and of all other children nursed by foster-mothers, with provisions and powers for licensing all such foster-mothers :

PART V.—Protection of Officers, and General Matters.

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THE MAINTENANCE OF INDIGENT POOR BY THEIR RELATIVES.

5. The father, grandfather, mother, and grandmother, and the children and grandchildren of every poor and destitute person who is not able to support himself, shall, at his and their own costs and charges, according to his and their several abilities, relieve and maintain every such destitute person, and in default of so doing shall be subject to the provisions hereinafter contained.

Destitute persons to be maintained by relatives.

6. Every husband whose wife shall have a child or children at the time of his marriage, whether such child or children shall be legitimate or illegitimate, shall be liable to maintain such child or children as a part of his family, until such child or children shall respectively attain the ages, if a boy, of sixteen years, and if a girl, of eighteen years, and such child or children shall, for the purposes of this Act, be deemed to constitute part of such husband's family.

Husband to maintain wife's children.

7. Upon application or complaint made by or on behalf of any destitute person, any Justice of the Peace for the said province may issue

On application of destitute persons Justices to issue summons.

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issue a summons requiring the relative or relatives therein named to appear before any Justices, at a time and place to be named in such summons, to show cause why he or they should not relieve and maintain, or contribute to the relief and maintenance, of such destitute person.

Two Justices to hear such application in a summary way, and to make order thereon.

8. The place appointed for hearing such summons shall be as near as can conveniently be found to the locality in which such destitute person shall be residing, at the time when such summons shall be issued, and at the time and place appointed for hearing such summons, any two Justices may hear and determine the matter of such complaint in a summary way, and upon such hearing, the Justices shall inquire as to the person or persons who, by this Act are bound to maintain his or their destitute relatives, and as to his or their means and ability; and, if they shall see fit, may adjourn the further hearing of the said application and complaint, and appoint a time, and the same or some other place for hearing the said adjourned summons, and may summon and require any other such person or persons who have not been summoned to appear at the day appointed for the adjourned hearing, and may, at the original or any adjourned hearing, dismiss the said application, either entirely or as regards such one or more person or persons so summoned as they may consider not of sufficient ability to maintain or contribute to maintenance of such destitute person; and, in case they shall find any person or persons so able, shall fix such a moderate sum or rate as in their discretion ought to be allowed for the maintenance of such destitute person, and the periods at which the same is to be payable, and shall appoint a person to whom and a place where such payment shall be made; and in case two or more persons shall be found so able, the Justices shall assess the several proportions upon the said persons according to their respective abilities, and thereupon shall make an order in writing, directing the payment of the said rate or sum or sums so assessed accordingly.

Husband or father deserting wife or children may be summoned.

9. When any husband unlawfully deserts his wife, or leaves her without adequate means of support, or where any wife, who has been deserted by her husband, or any mother who is a widow, deserts her children or leaves them or any of them without adequate means of support; or where any father deserts his children, whether illegitimate or born in wedlock, or his wife's children, as referred to in section 6, or leaves them or any of them, without adequate means of support, any Justice of the Peace may, upon application or complaint thereof made by or on behalf of such wife or children, issue a summons to such husband, wife, widow, or father, to show cause why he or she should not support his wife or his or her children, and such Justice, if a Special Magistrate, may, in his discretion, issue his warrant for the apprehension of such husband, wife, widow, or father in the first instance.

Such complaint to be heard by Justices in a summary way, and

10. Upon the day appointed for the hearing, any Justices may hear and determine the matter of such complaint in a summary way;

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way; and if they be satisfied that the wife or the children, as the case may be, are in fact without adequate means of support, and that the husband, or the mother as aforesaid, or the father is able to maintain her or them, or to contribute to her or their maintenance, such Justices shall make an order in writing, directing him or her to pay either weekly or monthly, at their discretion, and to such person and in such manner, for her or their use, as such Justices may think fit, such moderate sum or allowance as they may consider proper.

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order to be made thereon.

11. Any Justices, on the complaint of any person liable upon or entitled to the benefit of any order for the periodical payment of any sum of money as aforesaid, and during the period such order continues in force, may make further inquiry as to the ability of the person upon whom such order shall have been made, and increase or lessen, or entirely remit the amount so ordered to be paid.

Justices may, during currency of order, make further order to increase, lessen, or entirely remit amount ordered to be paid.

12. If it shall be made to appear to any Justices that any person endeavors to evade compliance with any order hereinbefore authorised to be made, or if any such person shall wilfully make default in any payment, such Justices may require such person, either immediately or at some adjournment, to find such good and sufficient surety or security, to the satisfaction of the Justices then present, or present at any adjourned hearing, that he or she will comply with such order of maintenance, or that he or she will not desert or leave without adequate means of support, his said wife, or his or her children; and such Justices may, in default of such surety or security being found, commit such person to gaol for any period not exceeding six months, if such order be not sooner complied with: Provided that it shall be lawful for any Justices to determine upon the sufficiency of any proposed surety or security, and to whom and in what manner the same shall be made; and any one Justice of the Peace, upon being satisfied that the same has been duly made and perfected, may order the discharge of such person from gaol or custody.

Justices may require security for compliance with order, and in default may commit to gaol.

13. The wife of any husband shall be competent and compellable to give evidence for or against her husband in all matters and complaints under this Act; and any husband shall be a competent witness on his own behalf.

Wife and husband competent and compellable to give evidence.

14. The provisions of this Act shall extend to and may be made use of by and on behalf of illegitimate children, as against the father or mother of such children: Provided that no man shall be taken to be the father of any illegitimate child upon the oath of the mother only: Provided also that no man shall be adjudged to be the father of an illegitimate child upon the evidence of the mother, unless such evidence be corroborated in some material particular by other and independent testimony: And provided also, that if it shall be shown that, at the time such child was begotten, the mother was a common prostitute, no order shall be made hereunder, as against the alleged father of such child.

Provision as to illegitimate children.

15. In

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Mother of bastard may be ordered to contribute.

15. In any case where it shall appear to the Justices that the mother of any child, whether legitimate or illegitimate, is able to contribute to its support, it shall be lawful for them to direct that she shall so contribute as well as the father, in such proportions respectively and in such manner as such Justices shall think fit; and if in any case it shall appear that the mother only is of such ability, it shall be lawful for the Justices to make an order in respect of her alone.

Proceedings for enforcing orders.

16. It shall be lawful for any Justices from time to time to make such orders in writing for better securing the payment and regulating the receipt of any allowance under this Act, or for insuring the due application of such allowance to the *bonâ fide* purposes of maintenance, or for causing any child or children to be properly brought up and educated.

PART II.**PART II.****ESTABLISHMENT OF DESTITUTE BOARD: ITS DUTIES AND FUNCTIONS.**

Appointment of Destitute Board.

17. It shall be lawful for the Governor to appoint a Chairman and five other persons to form a Board of Advice, to be called "The Destitute Board," to carry this Act into execution, and from time to time, at pleasure, to remove any member of the Board for the time being, and upon every vacancy in the Board to appoint some other fit person to the said office; and until such new appointment it shall be lawful for the surviving or continuing member or members to act as if no such vacancy had occurred.

Duties of Chairman.

18. The lastly hereinbefore mentioned Chairman of the Board shall be, and he is hereby charged with the due administration of all and singular the powers and authorities hereby vested in the Board, and he shall administer the said powers and authorities, subject to the advice and control of the Board, and pursuant to the regulations of the Public Service of the said province.

Vacancies.

19. Whenever any member of the Board shall die, resign, permanently remove from the said province, take the benefit of any Act for the relief of persons unable to pay their creditors in full, or be absent from six consecutive meetings of the Board without the consent of the Board, the seat of such member shall thereupon become vacant.

Questions at Board meetings to be decided by open voting.

20. At all meetings of the Board the determination of all questions brought before the Board shall be decided by open voting by the majority present; and if there be an equal division of votes upon any question the Chairman, or any member acting as Chairman at such meeting, shall, in addition to his own vote as member of the Board, have a second or casting-vote.

21. Any

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21. Any three members of the Board shall be competent to act in the execution of the powers vested in the Board: Provided that, in the event of the absence of the regular Chairman, the members of the Board then present may appoint a Chairman for the occasion.

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Quorum of Board.

22. The Board may, subject to the approval of the Governor, by order, appoint a superintendent of each asylum, school, or place under their control; and the Board may also, subject to the like approval, remove such superintendent.

Appointment of superintendents.

23. The Board may also from time to time, by resolution of the Board, appoint such fit and proper persons to be teachers, officers, and servants, as may be allowed by the Governor, and may, by resolution of the Board, remove such teachers, officers, and servants, and appoint others in their stead.

Appointment of officers.

24. The Board shall, subject to the regulations of the Public Service, have the administration of all funds voted by Parliament for the relief of the destitute poor, and all funds which may be given or left to them by benevolent persons, and shall have the care and management of asylums, institutions, or places for the reception and relief of destitute persons, and of all children born in any establishment under the control of the Board, and of all other illegitimate children nursed by any foster-mother outside of such establishments, with power also, as hereinafter is provided, to grant licences to any suitable persons to act as foster-mothers; and shall also have the control and supervision of schools, as hereinafter mentioned, for the education, employment, and training up of destitute, neglected, and convicted children, and the licensing out and apprenticing children as provided by this Act, and shall have the ordering of the persons and property of such destitute persons and children so long as they shall be inmates of any asylum, institution, place, or school so under the control of the Board.

Functions and duties of Board.

25. The Board shall have a seal, and shall cause to be sealed or stamped therewith all orders and mandates made by them in pursuance of this Act, and all such orders and mandates, or copies thereof, purporting to be sealed or stamped with the seal of the Board, and to be signed by the Chairman of the Board, shall be received as evidence of the facts therein stated, and that the said orders and mandates were duly made by the Board, without any further proof thereof, unless the contrary be shown.

Board to have a seal.

26. The Governor, may from time to time appoint such persons as he may approve, to carry into effect the provisions of this Act in outlying districts of the said province, who shall be styled "representing officers;" and may remove such persons from time to time, and appoint others in their place or stead.

Representing officers.

27. The Superintendent of the Asylum and the representing and visiting officers, and all other officers and servants employed in the

Superintendent of Asylum subject to Chairman.

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the several institutions under the control of the Board, shall, in all things, be subject to the direction and control of the Chairman of the Board.

Board to make rules and regulations.

28. The Board may from time to time make rules and regulations for the purposes hereinafter mentioned, and such rules and regulations, when approved by the Governor, shall have the force of law; and a copy of such rules and regulations, published in the *Government Gazette*, shall be received in evidence and judicially noticed, and shall, until the contrary be shown, be deemed sufficient evidence that such rules and regulations were duly made and approved, and are of force and effect—

- I. For the inquiry into and ascertaining the proper objects of relief:
- II. For the admission of persons into any asylum, being wayfarers, wanderers, and other casual poor:
- III. For the affording out of any asylum, by their officers, of temporary relief in cases of emergency or urgent necessity:
- IV. For the burial of destitute persons, and the remuneration therefor:
- V. For the maintenance of order, discipline, decency, health, and cleanliness amongst the inmates of any asylum, school, or place under their control:
- VI. For the infliction of punishment on offenders against the said rules and regulations, nevertheless subject to the provisions of this Act:
- VII. For obtaining orders for maintenance upon persons who are by law liable to support their destitute relatives, and for obtaining reimbursement of sums paid for relief afforded to indigent persons, and expenses incurred in connection with providing transport, medical assistance, and burials for such indigent persons, from persons liable to pay the same:
- VIII. For the employment of the permanent or casual inmates of any asylum, and for prescribing taskwork or other labor to be done by persons relieved in any asylum, and for separating into classes and keeping separate in any asylum the inmates thereof:
- IX. For the prosecution of offenders against this Act, or the rules and regulations made in pursuance thereof:
- X. For prescribing the forms of indentures of apprenticeship, and of licences for adoption of children, or placing children out for service, and for the assignment or transfer of any such indentures or licences respectively:
- XI. For the keeping records of the proceedings of the Board,
and

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and of the officers thereof, and accounts of the receipt and application of all moneys, distinguishing cases of emergency from relief ordered by the Board :

- XII. For prescribing the duties of the several officers of the Board, and for keeping proper records, books, accounts, and vouchers :
- XIII. For causing all children apprenticed or licensed to reside with any person to be duly visited by some person authorised by the Board at least once in every four months :
- XIV. For regulating the proceedings and prescribing the duties of representing and relieving officers :
- XV. For the employment and control of any woman who may be an inmate of the Lying-in Home or wards at any institution under the control of the Board, and for the better care and rearing of their infants, and of all infants placed out with foster parents, as provided for in Part IV. of this Act :

Provided that until any rules and regulations shall be made under the authority hereof, and in so far as such rules and regulations, when made, shall not repeal or vary the same, the rules and regulations made under the said "Destitute Persons Relief and Industrial and Reformatory Schools Act, 1872," and published in the *Government Gazette* of the fourteenth day of May, one thousand eight hundred and seventy-three, or any subsequent modifications or alterations of the said rules and regulations, shall continue in force, and shall be of the like effect as if the same had been made under the provisions of this Act: Provided that any such rules and regulations hereafter to be made shall be laid before both Houses of Parliament within fourteen days after the making thereof, if Parliament be then sitting ; or, if Parliament be not then sitting, within fourteen days after the commencement of the then next Session of Parliament.

29. It shall be the duty of the Board to determine the proper objects of relief, and the nature and amount thereof, to cause accurate minutes and accounts to be kept, and a summary or report of the receipts and expenditure of the Board to be laid before Parliament at least once in every year.

Board to determine objects of relief, and to keep accounts, &c.

30. The Board shall cause a record to be kept, showing full particulars of the age, date of reception, parentage, nationality, sex, period of detention, and religion so far as known, of all children and other inmates who shall be dealt with by the Board under this Act, and of all dispositions of and dealings with such children or inmates.

Record of children to be kept.

31. All relief given by the Board under the provisions of this Act to or on account of any wife, or to or on account of any child or children under the ages of sixteen or eighteen years respectively, as before named, shall be considered as given to the husband of such wife

Relief given to wife or children to be considered as given to husband, or father, or u.other.

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wife, or to the father of such child or children, if he be alive, and if not, then to the mother, as the case may be: Provided that if it appear to the Board that the husband of any wife is out of the said province, or in custody of law, or is lunatic or idiot, all relief given to such wife or her child or children under the ages aforesaid, shall, notwithstanding her coverture, be given to such wife in the same manner and subject to the same conditions as if she were a widow; but nothing herein contained shall limit the liability of the husband or father, as the case may be, for such past relief.

Cost of past maintenance may be recovered.

32. In any case in which relief has been afforded to any person, or to the wife and child of any person, and such person, or the father, grandfather, mother, grandmother, husband, child, children, or grandchildren of such person shall at any time within six years thereafter be of sufficient ability to repay and reimburse the amount or cost of such relief, or part thereof, it shall be lawful for any Justices, upon the information or complaint of an officer of the Board, to inquire into the matter in a summary way, and if they shall be of opinion that such person, or the father, or other relative as aforesaid, is of sufficient ability to repay the whole or part of the amount or cost of such relief, they may order such person or father, or other relative as aforesaid, to pay to such officer such sum of money either in one sum or by instalments as in their judgment such person, father, or other relative as aforesaid can reasonably afford and ought to contribute towards the past relief of such person.

Onus of proof.

33. Upon any trial of any complaint made by or with the authority of the Board for the recovery from any relatives of any sum of money under this Act, the onus of proving that the person complained of is not a relative, or that such relative is not of sufficient means, or that any inmate is of sufficient means, shall lie upon the defendant, who shall be competent and compellable to give evidence touching the matter of such complaint: Provided, however, that this section shall not apply to any information laid under section 14.

Power to charge and sell lands and equitable interests.

34. If any such person, or father, or other relative against whom any order shall have been made shall be possessed of any estate or interest, whether legal or equitable, in any lands, whether freehold or leasehold, it shall be lawful for the Chairman of the Board to make application, in writing (such application to be accompanied by a copy of the said order, verified by the seal of the Board), to the Master of the Supreme Court requiring such master to register such order as hereinafter mentioned, and upon the receipt of such application and verified copy of such order as aforesaid, such master shall forthwith register such order as a judgment in the said Supreme Court as in an action wherein the said Chairman of the Board is plaintiff, and the person against whom such order shall have been made is defendant, and upon such registration the said Chairman of the Board as such plaintiff shall have all the rights and remedies of a judgment creditor in the said Supreme Court as regards the issue and levying of any writs of execution or orders for attachment, and shall be entitled to recover his costs of and incidental to any such application and judgment, and for all proceedings taken and had under