

29 Vic. No. 8, 1865. *Industrial and Reformatory Schools.*

REFORMATORIES.

An Act to provide for the establishment of Industrial and Reformatory Schools.*

29 Vic. No. 8.
INDUSTRIAL
AND
REFORMATORY
SCHOOLS ACT
OF 1865.
Preamble.

[ASSENTED TO 31ST AUGUST, 1865.]

WHEREAS it is expedient to provide for the care and custody of neglected and convicted children and to prevent the commission of crime by young persons 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. The Act thirteenth Victoria number twenty-one shall be and the same is hereby repealed but such repeal shall not affect any assignment award or order made under the authority of the said Act.

Repeal of 13 Vic.
No. 21.

2. It shall be lawful for the Governor in Council to establish for the purposes of this Act industrial schools and reformatory schools and from time to time as occasion may require to make rules for the conduct management and supervision of such schools and the employment education and correction of the children detained therein.

Industrial and
reformatory
schools to be
established.

3. It shall be lawful for the Governor in Council from time to time to appoint some fit and proper persons to be respectively superintendent and matron of every such school respectively and it shall be the duty of such persons to observe and carry into execution the several provisions of this Act and the rules to be made as aforesaid and also to obey and execute any mandate which may be issued as hereinafter mentioned.

Superintendent
and matron and
their duty.

4. It shall be lawful for the Governor in Council from time to time to appoint such number of fit and proper persons as may be necessary to be teachers officers and servants at every such school and it shall be the duty of every such person to obey all lawful and reasonable orders and directions of the said superintendent and matron respectively in the execution of this Act.

Teachers officers
and servants and
their duty.

5. Every boy and girl under the age of fifteen years shall be deemed to be a "child" within the meaning and for the purposes of this Act and in case there shall be no satisfactory evidence of the age of any such boy or girl the opinion of the court or justice dealing with him or her under the provisions hereinafter contained shall be sufficient proof of his or her age and every person detained (under the provisions hereinafter contained) in any such school as aforesaid shall be deemed to be an "inmate" thereof within the meaning of this Act.

Who to be
deemed
"children" and
"inmates."

6. Every child who answers to any of the descriptions hereinafter mentioned shall be deemed to be a "neglected child" within the meaning and for the purposes of this Act—

What children
to be deemed
"neglected."

(1.) Any child found begging or receiving alms or being in any street or public place for the purpose of begging or receiving alms

(2.) 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 or any visible means of subsistence

* As to the trial of children under the age of twelve years for indictable offences, see "The Justices Act of 1866" (50 Vic. No. 17, s. 192), *supra*, title Justices.

- (3.) Any child who shall reside in any brothel or associate or dwell with any person known or reputed to be a thief prostitute or drunkard or with any person convicted of vagrancy under any Act now or hereafter to be in force
- (4.) Any child who having committed an offence punishable by imprisonment or some less punishment ought nevertheless in the opinion of the justices regard being had to his age and the circumstances of his case to be sent to an industrial school
- (5.) Any child whose parent represents that he wishes him to be sent to an industrial school and gives security to the satisfaction of the justices before whom such child may be brought for payment of the maintenance of such child in such school
- (6.) Any child who at the time of the passing of this Act or at any subsequent period may be or become an inmate of any benevolent asylum or who may be maintained either wholly or in part by public or private charity
- (7.) Any child born of an aboriginal or half-caste mother.

Neglected children may be taken before justices.

7. Every child which shall be found by any constable under circumstances which make such child a neglected child within the definition aforesaid may be immediately apprehended by such constable without any warrant and forthwith taken before some two or more neighboring justices to be dealt with according to this Act.

Neglected children to be detained.

8. Whenever any child shall be brought before any two or more justices and charged with being a neglected child the said justices shall proceed to hear the matter of the said charge and if the same shall be established to the satisfaction of the said justices it shall be lawful for them to direct such child to be sent forthwith to any industrial school to be there detained for not less than one year nor more than seven years and no child except a neglected child within the meaning of this Act shall be sent to or maintained in any industrial school.

Convicted children to be detained.

9. Whenever any child shall be convicted of any offence punishable by law either upon information or summary conviction it shall be lawful for the judge or chairman of the court before which or for any two or more justices by whom such child shall be so convicted either in addition to or in lieu of such sentence as would but for this Act be passed as a punishment for the said offence to direct that such child be sent forthwith to any reformatory school to be there detained for not less than one year nor more than seven years and no child not so convicted as aforesaid shall be sent to or maintained in any reformatory school.

Children in gaols to be detained.

10. If at the time when any reformatory school is established under this Act any child shall be imprisoned under sentence for any offence it shall be lawful for the Governor in Council upon the application of the visiting justice of the gaol wherein such child shall be imprisoned to direct that such child be sent to and detained in any one of the said reformatory schools in like manner as if such child had been committed after the passing of this Act.

Mandate for detention.

First schedule.

11. Whenever any child shall be directed to be detained in any school established under this Act the judge chairman or justices shall issue a mandate in such one of the forms contained in the first schedule to this Act as shall be applicable to the case.

Mandate to be a defence to actions.

12. In every action for anything done in obedience to any such mandate as aforesaid by any person to whom the same may be directed or by any other person by his authority or command it shall be sufficient

1865.

Industrial and Reformatory Schools.

for the defendant to justify under such mandate alone without setting forth the previous proceedings in like manner as any sheriff can and may justify under any writ of execution issued out of the Supreme Court in any civil action and proof of the matters alleged shall be sufficient evidence in support of such plea.

13. Every mandate issued under this Act shall be executed and obeyed by the persons to whom the same is directed and delivered and shall be sufficient authority for the detention of the child therein mentioned according to the exigency of such mandate and the production thereof accompanied by a statement signed by the superintendent or matron of any industrial or reformatory school that the child named in such mandate was duly received into and is at the signing thereof detained in such school or has been otherwise disposed of according to law shall in all proceedings whatsoever be sufficient evidence of the facts by this Act required to be stated in such mandate and of the subsequent detention and identity of the child named therein.

Mandate to be obeyed and to be authority for and evidence of detention.

14. Notwithstanding the provision lastly hereinbefore contained it shall be lawful for the Governor in Council at any time during the detention under the provisions of this Act of any such inmate as aforesaid to release such inmate from the industrial or reformatory school in which he or she may be detained and he or she shall upon the production of such Order in Council be discharged accordingly and to remove any such inmate from any industrial or reformatory school to any other industrial or reformatory school.

Power to discharge child.

15. Notwithstanding anything hereinbefore contained it shall be lawful for the Governor in Council to place any inmate of any industrial or reformatory school on trial with some person to be named in the license hereinafter mentioned who shall be willing to receive and take charge of and qualified to provide for and take care of such inmate and to grant to such inmate a license to reside with the person so to be named therein as aforesaid for any term not exceeding three years unless sooner called upon by the Governor in Council to return to the said school and to require such inmate to return to the said school at any time during the said term unless he or she shall have been previously discharged as aforesaid and any inmate having such license who shall abscond from the person named therein during such term or shall neglect or refuse to return to the said school at the expiration of the said term or when required as aforesaid shall be held to have absconded from the said school.

Children may be put out to service on certain conditions.

16. The parent or step-parent of every such inmate shall (if of sufficient ability so to do) contribute to his or her support while so detained and any constable or the superintendent of the school where such inmate shall be detained 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.

Relatives liable to contribute to support.

17. On the return of such summons two or more justices shall proceed to hear the matter of the said complaint and if the relationship of the defendant and his ability to contribute to the support of such inmate be proved to the satisfaction of such justices they may by an order in the form contained in the second schedule to this Act or to the like effect adjudge the defendant to pay such weekly sum not exceeding ten shillings for the maintenance of such inmate as such justices shall think fit.

Order for payment to be made.

second schedule.

Orders for
payment may be
varied.

18. 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

Third schedule.

Provided always that when any such further inquiry shall have taken place such justices shall make an order in the form contained in the third schedule to this Act or to the like effect.

If weekly sum
not paid parent
may be
apprehended.

19. Whenever after the making of any such order as aforesaid it shall be made appear to any justice by a complaint in writing and upon oath that any weekly sum to be paid in pursuance of such order has not been paid 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 said last-mentioned complaint.

Recovery of
arrears.

20. On the return of the said warrant some justice shall proceed to hear the matter of the said last-mentioned complaint and if the same shall be proved to be true such justice shall proceed to raise levy or enforce payment of the said weekly sums and the warrants thereupon may be in the form contained in the fourth schedule to this Act or to the like effect.

Fourth schedule.

Superintendent
may manage
and let estates
of inmates.

21. The superintendent of every industrial and reformatory school with the consent in writing of the Colonial Secretary shall and may manage and demise for any term not exceeding three years the lands of or to which any inmate of such school is seised possessed or entitled and shall and may make allowances to and arrangements with all or any of the tenants or occupiers for the time being of the said 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.

And may collect
their rents.

22. The superintendent of every industrial and reformatory school with such consent as aforesaid shall and may demand sue for collect and receive all the rents and profits which shall be due to any inmate of such school and shall and may give effectual receipts and discharges for such rents and profits or so much thereof as shall be received and in case of non-payment of the said rents and profits or any of them or any part thereof in the name and on behalf of such inmate may enter into and upon all or any of the lands in respect of which any rents or profits shall be unpaid and for the same rents and profits and the costs and expenses incurred by or incidental to the non-payment thereof may distrain and the distresses then and there found may dispose of in due course of law and may take and use all lawful proceedings and means for recovering and receiving the said rents and profits and for evicting and ejecting defaulting tenants and occupiers from all or any of the said 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.

23. The superintendent of every industrial and reformatory school with such consent as aforesaid shall and may in the name and on behalf of any inmate of such school commence and prosecute at law and in equity all actions suits claims demands and proceedings touching any lands estate interest or rights of any inmate of such school 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.

1865.

Industrial and Reformatory Schools.

- 24.** The superintendent of every industrial and reformatory school with such consent as aforesaid shall and 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 Colonial Secretary shall think fit. And employ agents.
- 25.** All moneys which under or by virtue of this Act shall come to the possession or control of the superintendent of any industrial or reformatory school for or on account or for the use or benefit of any inmate thereof shall after making the deduction hereinafter mentioned be paid into the Government Savings Bank on account of the said inmate. Rents &c. to be paid into the Government Savings Bank.
- 26.** The Governor in Council may direct all expenses lawfully and with the consent in writing of the Colonial Secretary incurred by the superintendent of any industrial or reformatory school in executing the trusts or powers reposed in him by this Act for or on behalf or on account of any inmate thereof 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. After making certain deductions.
- 27.** All members of the Executive Council and all persons authorised by them or any of them in writing all members of the Legislature all judges of courts (whether of record or otherwise) and all justices shall be entitled to visit every such school as aforesaid and shall have admission to the same accordingly. Visitors.
- 28.** Subject to the regulations to be made as hereinbefore mentioned all officiating ministers of religion shall have admission to every industrial and reformatory school and access to such of the inmates thereof as may be members of their respective denominations and may give instruction to them on the days and at the times allotted by such regulations for the religious education of the inmates of their particular denominations respectively. Ministers of religion to have access.
- 29.** Every person who by virtue of the provisions hereinbefore contained is entitled to visit any such school as aforesaid and every minister of religion may inscribe in a book (to be for that purpose provided and kept in such school by the superintendent thereof) any remarks or observations which he may think fit to make touching or concerning such school and the superintendent matron teachers officers servants or inmates thereof or any of them. Visitors' book.
- 30.** If the superintendent or matron of any industrial or reformatory school 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.
- 31.** If any inmate of any industrial or reformatory school shall abscond therefrom or wilfully damage or destroy any real or personal property belonging to any such school or wilfully neglect or refuse to obey or conform to any such regulation as aforesaid such inmate (if a male) shall on conviction thereof before two or more justices be liable at the discretion of such justices to be privately whipped and such inmate may if he has absconded be ordered by the said justices to be sent back to the school and to be there detained until he reaches the age of fifteen years or for such shorter period as the justices think fit. Penalty for absconding.
- 32.** Any person who shall directly or indirectly withdraw from any industrial or reformatory school any inmate thereof or counsel or induce him or her to abscond therefrom before he or she has been regularly Penalty for withdrawing or harboring inmates.

discharged or who knowing any such person to have been withdrawn or to have absconded from any industrial or reformatory school shall harbor or conceal or assist in concealing such person or prevent him or her from returning to such school shall on conviction thereof forfeit and pay any sum not exceeding ten pounds.

Penalty for communicating with persons detained.

33. Any person who without lawful authority or excuse shall hold or attempt to hold any communication with any inmate of any industrial or reformatory school and any person who shall enter any such school 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 school shall on conviction forfeit and pay any sum not exceeding twenty pounds.

Offenders against this Act may be apprehended.

34. 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 neighboring justice to be dealt with according to law.

Forms of proceedings.

35. Every information conviction mandate or warrant under this Act shall be deemed valid and sufficient in which the offence is set forth in the words of this Act and no conviction mandate or warrant shall be held void by reason of any defect therein provided it be alleged in such conviction mandate or warrant that the party had been convicted of such offence.

Infant convict may be assigned.

36. In every case in which any person being under the age of sixteen years has been or shall hereafter be convicted of felony or misdemeanor the Supreme Court of Queensland or any judge thereof may upon the application of any person who may be willing to take charge of such infant and to provide for his or her maintenance and education if such court or judge shall find that the same will be for the benefit of such infant due regard being had to the age of the infant the prevention of crime and to the circumstances habits and character of the parents or testamentary or natural guardian of such infant to assign the care or custody of such infant during his or her minority or any part thereof to such person upon such terms and conditions and subject to such regulations respecting the maintenance education and care of such infant as the said court or judge shall think proper to prescribe and direct and upon any order for that purpose being made and so long as the same shall remain in force the same shall be binding and obligatory upon the father and upon every testamentary or natural guardian of such infant and no person shall be entitled to use or exercise any power or control over such infant which may be inconsistent with such order of the court or a judge

And assignment altered.

Provided always that the Supreme Court may at any time rescind such assignment or from time to time rescind alter or vary any such terms or conditions or such regulations as to the said court may seem fit

And provided also that the court shall and may award such costs as to it may seem fit against any such person who shall make such application as aforesaid if such application shall not appear to the court well founded and such costs shall be payable to any parent who shall oppose such application.

To be kept within jurisdiction of court.

37. In every case it shall be a part of the terms and conditions last aforesaid upon which such care and custody shall be assigned that the infant shall not during the period of such care and custody be sent out of the jurisdiction of the Supreme Court.

No fee to be demanded in such cases.

38. No fee emolument or reward whatsoever shall be demanded or taken by any officer or minister of the Supreme Court for any matter or thing done in the said court or by or before a judge thereof in pursuance

1865. *Industrial and Reformatory Schools.*

of the provisions of the two last preceding sections and upon the making or opposing of any such application it shall be lawful for any judge of the said court to assign counsel learned in the law and to appoint an attorney of the said court to advise and carry on or to oppose such application who are hereby required to do their duties therein without fee or reward. Counsel may be assigned.

39.† It shall be lawful for the Governor with the advice of the Executive Council to sell by auction or otherwise dispose of a certain piece or parcel of land in the parish of North Brisbane heretofore set apart for an industrial school and now by grant from the Crown vested in trustees for the purposes of such school and the Governor with the advice aforesaid may cause the proceeds arising from the sale of such land to be applied in or towards the expenses of erecting or establishing an industrial or reformatory school in some other part of the district of Moreton. Land now vested in trustees for industrial school may be sold and proceeds applied for establishing school under this Act.

40. This Act shall be styled and may be cited as the "*Industrial and Reformatory Schools Act of 1865.*" Short title.

SCHEDULES.

THE FIRST SCHEDULE.

[See section 11.]

(To Wit) To the keeper of the gaol at _____ and to the superintendent of the reformatory school at _____ in the said colony.

WHEREAS at the general [add one of these recitals]—
Gaol delivery now here holden before me the undersigned one of Her Majesty's justices of the Supreme Court. | Sessions of the peace now holden here before me the undersigned chairman of the said court and others Her Majesty's justices of the peace in and for the said colony.

A.B. a boy under the age of fifteen years is convicted [here state the substance of the offence] and is now here sentenced by the said court to be imprisoned in the said gaol for the space of _____
And whereas I have directed the said child to be sent at the earliest opportunity to the said reformatory school for the term of _____ thence next ensuing These are therefore to require you the said keeper to take the said child at the earliest opportunity to the said reformatory school* and to deliver him to the said superintendent thereof and you the said superintendent are hereby required to receive the said child into the said school there to be detained for the said last-mentioned term unless such child shall in the meantime be discharged by due course of law.

Given under my hand and seal at [Brisbane] in the said colony this _____ day of _____

(To Wit) To all constables [or the keeper of the gaol at _____] and to the superintendent of the _____ school at _____ in the said colony.

WHEREAS A.B. a boy under the age of fifteen years has this day been convicted [or brought] before us the undersigned two of Her Majesty's justices of the peace in and for [add one of these recitals]—

[If "convicted"] for that [here state the substance of the offence] and would now here be sentenced by us to be imprisoned in the said gaol for the space of _____	[If "neglected"] and charged with being a neglected child for that she did dwell with a person known to be a thief [as the case may be]	[If "imprisoned"] for that the said A.B. is now imprisoned in the said gaol under a sentence of which six months are unexpired.
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And whereas we have directed the said child to be sent at the earliest opportunity to the said school for the term of _____ thence next ensuing These are to require you the said constable [or keeper] to take the said child at the earliest opportunity to the said school [as in previous form* to the end].

Given under our hands and seals at _____ in the said colony this _____ day of _____

THE SECOND SCHEDULE.

[See section 17.]

(To Wit) Be it remembered that on the _____ day of _____ complaint was made before one of Her Majesty's justices of the peace in and for _____ by M.P. that A.B. of _____ in the said [butcher] was the parent [or step-parent] of E.F. an inmate of the reformatory [or industrial] school 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 according to the usual form] do adjudge the said 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] 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].

† Semble this provision is spent.
* These asterisks are in the Gazette copy.

REGISTRATION (BIRTHS, DEATHS, AND MARRIAGES).

Industrial and Reformatory Schools.—Principal Act. 29 VIC. NO. 8, 1865.

[See section 18.]

THE THIRD SCHEDULE.

(To Wit) Be it remembered that on the _____ day of _____ last
 [proceed as in the second schedule*] and on the _____ day of _____ last
 complaint was made before one of Her Majesty's justices of the peace in and for
 by M.P. a person duly authorised in that behalf that the said A.B. was of suffi-
 cient ability to contribute a larger 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 of
 sufficient ability to contribute a larger weekly sum as aforesaid and do increase the same
 to the weekly sum of _____ in lieu of the weekly sum first hereinbefore mentioned.
 Given under &c.

[See section 20.]

THE FOURTH SCHEDULE.

(To Wit) To [constables &c.]
 WHEREAS on the _____ day of _____ last two of Her Majesty's
 justices of the peace in and for _____ 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 reformatory [or industrial] school 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 to 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 [as in order] [And whereas on the
 day of _____ last two of Her Majesty's justices of the peace in and for
 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
 of _____ that on [Monday] the _____ day of _____ last the sum
 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].

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

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