



1848.

No. 8.

ORDINANCE enacted by the Governor of South Australia, with the advice and consent of the Legislative Council thereof.

To Provide by Apprenticeship for the Protection, Guardianship, and Advancement in Life of Emigrant Orphan Children, and of other Poor Children maintained at the Public Expense.

[10th November, 1848,]

WHEREAS it is meet that provision should be made for the protection and guardianship of Emigrant Orphans, and of all other poor Children maintained at the Public Expense, and for the advancement in life of such Orphans and Children : Preamble.

BE IT THEREFORE ENACTED BY THE GOVERNOR OF SOUTH AUSTRALIA, with the advice and consent of THE LEGISLATIVE COUNCIL thereof:—THAT the Committee nominated by the Governor by Notice bearing date the Twenty-second, and published in *The South Australian Government Gazette* the Twenty-fourth days of August Board to be constituted by the Governor.

August last, or such other Persons as the Governor may from time to time by Notice published as aforesaid in this behalf appoint, shall constitute a Board, to be called "The Children Apprenticeship Board," whereof any Three Members shall be a quorum, and shall and are hereby authorised and empowered to act in the execution of this Ordinance, according to such instructions as may from time to time be directed to them by the Governor.

Board empowered to bind Children to such Trades or Occupations as they may approve.

II. AND BE IT ENACTED, that it shall be lawful for the said Board to bind any of the Male or Female Orphans, or other Children who may from time to time be sent out from any part of the United Kingdom to this Province at the Public expense, or at the expense of Parishes or Charitable Institutions; and also any of such other poor Children as shall from time to time be supported in whole, or in part by Alms at the Public expense, when they shall have respectively arrived at fit and proper ages to be Apprentices to such Masters or Mistresses, and such Trades or Occupations as shall be approved of by the Board, until they shall come to the age of nineteen years, or any lesser age, at the discretion of the Board; and such binding shall be as effectual, to all intents and purposes, as if any such Child were of full age, and by Indenture had bound him or herself: PROVIDED, HOWEVER, that in case any such Female Apprentice shall, previous to the expiration of the said Apprenticeship, marry, then her Apprenticeship shall cease and determine.

Proviso.

Indentures to be executed by the Board, and by the Person taking the Apprentice, and to specify the terms of the Apprenticeship.

III. AND BE IT ENACTED, that when any such Child shall be bound Apprentice pursuant to this Ordinance, Indentures of Apprenticeship shall be executed by the Board, of the one part, and by the Master or Mistress to whom such Child shall be bound Apprentice as aforesaid, of the other part; and shall contain a Covenant on the part and behalf of such Master or Mistress, that during the said Term of Apprenticeship the said Master or Mistress shall and will provide such Apprentice with sufficient and suitable Food, Bedding, Lodging, and the means of Washing; and, if requested by such Apprentice, with Clothing, Medical Attendance, and Medicine, and all other things necessary and fit for an Apprentice; and shall and will properly and humanely treat the said Apprentice, and pay particular attention to his or her Morals; and in regard to religious instruction, permit the superintendence of some Clergyman of his or her own Religion, and the attendance of such Apprentice at Divine Service, when practicable, at least once on every Sunday: AND ALSO, that such Master or Mistress shall and will pay to the said Apprentice, Wages at such times, at such rates, and in such manner as shall be fixed by the Board, subject to deduction of such sums paid for Clothing, Medical Attendance, Medicine, and other Necessaries

Necessaries supplied at the request of the Apprentice, as shall be allowed by the Board; and such Indentures shall also contain such other lawful Covenants and Provisoes as are usually inserted in the Indentures of Parish Apprentices in England, or as shall be approved of by the Board.

IV. AND BE IT ENACTED, that it shall be lawful for the Board to provide in the said Indentures, that after such Apprentice shall have served Two Years of his or her Term, such proportion of the Wages to become due to the Apprentice as may be fixed by the Board generally, or in each particular case, shall be deposited by the Master or Mistress in the Savings Bank of South Australia, on account of such Apprentice; and every such Deposit shall be deemed and allowed as a Payment to such Apprentice.

Deposits in Savings Bank.

V. AND BE IT ENACTED, that it shall and may be lawful for any Master or Mistress of such Apprentice as aforesaid, by and with the consent of the Board, by any Instrument in writing under their hands, to assign such Apprentice to any fit and proper Person who is willing to take such Apprentice, for the residue of the term mentioned in such Indenture of Apprenticeship: PROVIDED ALWAYS, that such Persons to whom such Apprentice is intended to be assigned shall, at the same time, by writing under his or her hand, stating the said Indenture of Apprenticeship and the Assignment aforesaid, declare his or her acceptance of such Apprentice, and acknowledge himself or herself, and his or her Executors and Administrators, to be bound by the Agreements and Covenants mentioned on the part of the said Master or Mistress to be done and performed; and in such case such Apprentice shall be deemed and taken to be the Apprentice of such subsequent Master or Mistress to whom such assignment shall be made, to all intents and purposes whatsoever.

Any Master or Mistress may, with consent of the Board, assign such Apprentice to any other fit and proper Person.

Proviso.

VI. AND BE IT ENACTED, that it shall not be lawful for any such Person or Persons to whom such Child or Children shall be Apprenticed or Assigned as aforesaid, to put away or transfer any such Apprentice to another, or in any way discharge or dismiss from his or her Service, any such Apprentice, without such consent as aforesaid, under the penalty of Ten Pounds.

No Person to whom any Child shall be Apprenticed or Assigned shall dismiss or discharge such Child from his or her service, without consent, under a Penalty of £10.

VII. AND BE IT ENACTED, that it shall and may be lawful to and for any One or more Justices of the Peace of the said Province, upon any complaint or application by, or on behalf of any such Apprentice as aforesaid, touching or concerning any misusage, refusal of sufficient and suitable Food, Bedding, and Lodging, the means of Washing, or other Necessaries as aforesaid, or touching

One or more Justices may hear complaints made by Apprentices against their Masters or Mistresses, and impose a fine not exceeding £10, or may discharge such Apprentice, as they see fit.

or

or concerning any cruelty, or other ill-treatment of or towards such Apprentice by his or her Master or Mistress, to summon such Master or Mistress to appear before such Justice or Justices at a reasonable time to be named in such Summons; and such Justice or Justices shall and may hear and determine the matter of such Complaint; and upon proof of any such ill-treatment as aforesaid, duly made upon Oath to his or their satisfaction (whether the Master or Mistress be present or not, if the service of such Summons shall also be proved), the said Justice or Justices may impose any reasonable fine or fines, not exceeding the sum of Ten Pounds, upon such Master or Mistress, as a punishment for any such ill-treatment as aforesaid; or such Justice or Justices may, if they see proper, discharge such Apprentice, by Warrant and Certificate under their hands and seals, from such Apprenticeship.

Justices may also hear complaints against Apprentices for misbehaviour, &c., and may punish the offender.

VIII. AND BE IT ENACTED, that it shall and may be lawful to and for such Justice or Justices of the Peace, upon application or complaint made on Oath by any Master or Mistress against any such Apprentice, touching or concerning any misdemeanour, miscarriage, or misbehaviour in such his or her service, to hear and determine the same, and to punish the Offender by commitment to the nearest Gaol or House of Correction there to be kept in confinement on Bread and Water for any time not exceeding Fourteen days; and such Justice or Justices respectively shall and may, in his or their discretion, and as the justice of the case may require, either with or without such punishment, discharge such Apprentice from his or her Apprenticeship, in the like form and manner as hereinbefore directed: PROVIDED HOWEVER, that in all cases where any Justice or Justices of the Peace shall discharge any Apprentice from his or her Apprenticeship, under the provisions of this Ordinance, such Justice or Justices shall forthwith intimate his decision to the Board, who shall further dispose of such Apprentice as to the said Board shall seem meet.

Proviso.

Board or other Persons duly appointed to visit and report.

IX. AND BE IT ENACTED, that it shall be lawful for the Board, or such other Persons as the Governor may from time to time, by notice published in *The South Australian Government Gazette* in that behalf appoint, to visit every such Apprentice, and ascertain whether the terms of the said Indentures have been fulfilled; and from time to time make such Reports to the Colonial Secretary as may be required by Order of the Governor, or as may be necessary, regarding the attention paid to the Moral or Religious welfare, and to the treatment of the Apprentices; and for such purposes, every such Master or Mistress shall personally produce any such Apprentice, on the request of such Visitor, or show sufficient cause for his or her absence.

X. AND

X. AND BE IT ENACTED, that the said Board shall, by virtue of this Ordinance, be the Legal Guardians of all such Orphans or other Children as aforesaid, until such Orphans or other Children shall attain the age of nineteen years; and the said Board shall have and exercise the same powers as any Guardian of Infants lawfully appointed, according to the order and course observed in England.

Board to be the Legal Guardians of such Children.

XI. AND BE IT ENACTED, that where any Indenture shall have been made by, or any Work or Business shall be entrusted to the Management or Superintendence of the Agent, Overseer, or Manager of any Master or Mistress; and also where Two or more Persons shall carry on Business as Partners, in every such case respectively the like proceedings shall and may be had and made by or against such Agent, Overseer, Manager, or any one or more of such Partners, and shall be as effectual for all the purposes of this Ordinance as if the same had been had and made by or against the Principal or all the Partners: PROVIDED that where any such proceeding shall be had against an Agent, Overseer, or Manager in respect of any cause of Complaint, not being for the personal misconduct of such Agent, Overseer, or Manager, all sums of Money paid or satisfied by such Agent, Overseer, or Manager, by virtue of any Adjudication made in pursuance hereof, shall be recoverable by him against the Master or Mistress from whom the same is adjudged to be due, or shall be allowed to him out of any Money at the time of payment, or afterwards in his hands belonging to such Master or Mistress.

Partners and Agents to be considered Principals.

Proviso.

XII. AND BE IT ENACTED, that where any Married Woman or Infant under the age of Twenty-one years shall have cause of Complaint in any of the cases provided for by this Ordinance, such Complaint may be lodged, and all farther proceedings thereupon had, by and in the name of the Husband of such Married Woman; and of the Father or any of the Kindred, or any near Friend of such Infant; or in the case of any of the Emigrant Orphans or Children Apprentices, bound by Indentures under this Ordinance, of any Person nominated by the Board, or by such Apprentice; and all such proceedings shall be as effectual, valid, and binding as if such Married Woman was sole, and such Infants were of full age, and pursued by themselves the remedies provided by this Ordinance.

As to Married Women and Infants.

XIII. AND BE IT ENACTED, that any Indentures to be executed in pursuance of this Ordinance shall be good and sufficient in the form or to the effect of the form of the Schedule hereto annexed, and the same shall not be void or voidable for any mere defect of form.

Form of Indentures.

XIV. AND

Indentures to be in original, and certified copy thereof to be evidence.

XIV. AND BE IT ENACTED, that such Indentures may be executed in Original only, without Duplicate or Counterpart, and shall as soon as practicable be Deposited at the Office of the Honorary Secretary of the Board, or such other Officer as the Governor from time to time may in this behalf appoint; and such Secretary or other Officer shall receive and retain the same in secure custody, and allow inspection thereof to any party interested, and on the payment of One Shilling, and on proof to his satisfaction of the signatures of the parties thereto, or of the attesting Witness, shall grant to any person interested therein an office copy of such Indentures, certified as a true copy under his hand, which office copies so certified shall be sufficient evidence of such Indentures, in like manner as if the original were produced and proved according to Law.

Recovery of Penalties and Monies.

XV. AND BE IT ENACTED, that all Penalties and Sums of Money incurred and payable under this Ordinance, may be sued for and recovered in a Summary way; and all Convictions and Judgments of such Justices may be had and made, and shall be subject to Appeal, in manner provided by the Laws of the Province for the time being for regulating Summary Proceedings before Justices of the Peace.

No *Certiorari*.

XVI. AND BE IT ENACTED, that no Conviction, Order, Warrant, or other matter made or purporting to be made by virtue of this Ordinance, shall be quashed for want of Form, or removed by *Certiorari* or otherwise into the Supreme Court; and no Warrant of Commitment shall be held void by reason of any defect therein: PROVIDED that it be therein alleged that the party has been Convicted, and that there be a good and valid Conviction to sustain the same.

Proviso.

Application of Penalties.

XVII. AND BE IT ENACTED, that all Penalties and Sums of Money recovered under this Ordinance shall be paid to the Colonial Treasurer on behalf of HER MAJESTY, Her Heirs and Successors, and applied to the Public uses of the Province, and support of the Government thereof.

Repeal in part of 6th Victoria, No. 11, and other Ordinances so far as relates to Apprenticing of Children subject to this Ordinance.

XVIII. AND BE IT ENACTED, that so much of an Ordinance of the Governor of South Australia, with the advice and consent of the Legislative Council thereof, bearing date the Fourteenth day of February, One Thousand Eight Hundred and Forty-three, intituled "An Act to provide for the Maintenance and Relief of Deserted Wives and Children, and other Destitute Persons, and to make the Property of Husbands and near Relatives, to whose assistance they have a natural claim in certain circumstances, available for their Support;" as also so much of an Ordinance bearing date the Twenty-third day of July, One Thousand Eight Hundred and Forty-seven,

Forty-seven, "To amend the Laws relating to Masters and Servants," and so much of any other Ordinance or Law as relates to the Apprenticing of any Children subject to the provisions of this Ordinance, and to the determination of disputes and complaints relating thereto, or in respect thereof, shall be and the same are hereby repealed: PROVIDED ALWAYS, that nothing herein contained shall be construed to alter or affect an Ordinance bearing date the Twenty-eighth day of August, One Thousand Eight Hundred and Forty-four, "To provide for the Protection, Maintenance, and Upbringing of Orphans and other Destitute Children of the Aborigines." Proviso.

XIX. AND BE IT ENACTED, that this Ordinance shall commence and take effect from and after the passing thereof. Commencement.

H. E. F. YOUNG,
Lieutenant-Governor.

*Passed the Legislative Council, this Tenth
day of November, One Thousand Eight
Hundred and Forty-eight.*

W. L. O'HALLORAN,
Clerk of Council.

SCHEDULE REFERRED TO.

THIS INDENTURE, made the _____ day of _____ in the year of our Lord _____ (pursuant to an Ordinance enacted by the Governor of South Australia, with the advice and consent of the Legislative Council thereof, bearing date _____ (1))

WITNESSETH that _____ (2) being three and a quorum of the Children Apprenticeship Board constituted by the said Ordinance, by virtue and in exercise of the powers in them vested—HAVE put placed and bound and by these presents do put place and bind _____ (3) aged _____ years or thereabouts being an Orphan a native of _____ and an emigrant to South Australia under the superintendence of Her Majesty's Government by the ship _____ arrived the _____ day of _____, or being _____ as and to be an apprentice to _____ (4) with _____ (5) to dwell and live from the day of the date of these presents until the _____ (6) (or until the time of her marriage which first shall happen) during all which term the said apprentice _____ (7) said _____ (8) faithfully shall serve in all lawful businesses according to _____ (7) power skill and ability and honestly orderly and obediently in all things demean and behave _____ (9) towards _____ (7) said _____ (8)

In consideration whereof the said _____ (8) for _____ (9 and 7) executors and administrators doth by these presents covenant promise and agree to and with the said Board and every of them and their and every of their successors for the time being and their assigns that _____ (10) the said _____ (8) during all the time aforesaid the said apprentice in the _____ (11) shall and will teach and instruct or cause to be taught and instructed in the best way and manner that _____ (10) can and shall and will find provide and allow unto the said apprentice sufficient and suitable food bedding lodging and washing or the means of washing and (at the request of the said apprentice clothing medical attendance and medicine) and all other things necessary and fit for an apprentice: And also shall and will properly and humanely treat the said apprentice and pay particular attention to _____ (7) morals and in regard to religious instruction permit the superintendence of some clergyman of _____ (7) own religion and the attendance of such Apprentice at Divine Service when practicable at least once on every Sunday: And also shall and will pay to the said apprentice by equal quarterly payments on the last days of March June September and December respectively in every year during the said term wages at the following rates per annum that is to say _____ (12)

Provided always that it shall be lawful for the said _____ (8) to deduct from the said wages from time to time such amounts as shall have been reasonably expended at the request of the said apprentice in procuring clothes medical attendance or other necessaries: Provided also that the said _____ (8) shall on or before _____ (14) pay into the Savings Bank of South Australia in the name of such apprentice the yearly sum _____ (13) for each and every year during the last _____ years of the said apprenticeship to be receivable by such apprentice with the interest at the determination of these presents: Provided also, that it shall and may be lawful for the said _____ (8) by indorsement on these presents or by any other instrument in writing by and with the consent of the said Board or their successors or a quorum thereof under their hands

hands to assign such apprentice to any fit or proper person willing to take such apprentice for the residue of the said term: Provided also, that such person to whom such apprentice is assigned shall at the same time by indorsement on these presents or by writing under (7) hand stating the said apprenticeship and the assignment and consent aforesaid, declare (7) acceptance of such apprentice and acknowledge (9 and 7) executors and administrators to be bound by the agreements and covenants hereinbefore contained on the part of the (8) to be done and performed: Provided also, that the covenants and agreements on the part of the (8) to be done and performed under these presents shall continue and be in force for no longer time than for one calendar month next after the death of the said (8) in case (10) shall happen to die during the continuance of such apprenticeship and in such event it shall be lawful for the said Board to assign the said apprentice for the residue of the said term in like manner as hereinbefore mentioned: Provided also that these presents shall in respect of the manner of fulfilment and performance hereof be subject to the approval and control of the said Board and shall in all respects be subject to the provisions of the before mentioned Ordinance and of any other law hereafter to be in force within the Province so far as applicable hereto. In witness, &c.

- (1) Date and title of Ordinance.
- (2) Names and additions of the Members of the Board executing the Indenture.
- (3) Name of the apprentice.
- (4) Name of the master or mistress.
- (5) "Him" or "her."
- (6) Date of the determination of the apprenticeship; if a male, strike out the words in parenthesis.
- (7) "His" or "her"
- (8) "Master" or "mistress."
- (9) "Himself" or "herself."
- (10) "He" or "she."
- (11) The trade or occupation.
- (12) The rate of wages fixed by the Board as applicable to the case.
- (13) Sums fixed by the Board.
- (14) Time of Deposit into Savings Bank.