

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

*House of Representatives,
23rd July, 1895.*

[AS AMENDED BY THE LEGISLATIVE COUNCIL.]

Hon. Mr. Reeves.

ADOPTION OF CHILDREN.

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A BILL INTITULED

AN ACT to consolidate and amend the Law relating to the Adoption of Children. Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is “The Adoption of Children Act, 1895.” Short Title.

2. In this Act, and in all rules made thereunder, if not inconsistent with the context,— Interpretation.

10 “Child” means any boy or girl under the age of fifteen years:
“Clerk of the Court” means the Clerk of the District Court or Magistrate’s Court, as the case may be, at which any application is made under this Act:

15 “Deserted child” means any child who, in the opinion of the Judge dealing with such child under the provisions of this Act, is deserted, and has ceased to be cared for and maintained by its parents, or by such one of them as is living, or by the guardian of such child, or by the mother of such child if the child is illegitimate:

20 “Adopted child” means any child concerning whom an order of adoption has been made as herein provided:

25 “Adopting parent” means any person who is by any such order of adoption, as herein provided, authorised to adopt a child; and in the case of an order being made in favour of a husband and wife on their joint application, shall mean and include both husband and wife:

“Judge” means a District Judge appointed under “The District Courts Act, 1858,” and includes “Magistrate”:

“Magistrate” means a Stipendiary Magistrate appointed under “The Magistrates’ Courts Act, 1893”:

“Prescribed” means prescribed by rules to be made by the Governor under this Act.

By whom female child may be adopted.

3. Upon the application in writing, in the prescribed form, to a Judge by— 5

- (1.) Husband and wife jointly, or by
- (2.) A married woman alone, but with the written consent of her husband, or by
- (3.) Any unmarried woman who is, in the opinion of the Judge, at least *eighteen* years older than the child, or by 10
- (4.) Any unmarried man who is, in the opinion of the Judge, at least *forty* years older than the child,—

an order of adoption of a female child may be made by the Judge in favour of the applicant, in the prescribed form, and subject to the provisions of this Act. 15

By whom male child may be adopted.

4. Upon the application in writing, in the prescribed form, to a Judge by—

- (1.) Husband and wife jointly, or by
- (2.) A married man alone, but with the written consent of his wife, or by 20
- (3.) Any unmarried man who is, in the opinion of the Judge at least *eighteen* years older than the child, or by
- (4.) Any unmarried woman who is, in the opinion of the Judge, at least *forty* years older than the child,— 25

an order of adoption of a male child may be made by the Judge in favour of the applicant, in the prescribed form, and subject to the provisions of this Act.

Consents required previous to adoption of child.

5. Before making such order of adoption, the Judge—

- (1.) May compel the attendance before him of any witness; and for that purpose may sign, issue, and cause to be personally served upon the witness a summons, in the prescribed form; 30
- (2.) Shall take evidence *viva voce* upon oath or by affidavit, to be sworn before any Judge, Magistrate, Solicitor, Registrar, or Deputy Registrar of the Supreme Court, Clerk of the Court, or any Justice of the Peace, in proof of or concerning any fact, matter, or thing required by this Act or by the Judge to be proved; 35
- (3.) Shall be satisfied that the child is under the age of *fifteen* years, that the person proposing to adopt the child is of good repute and a fit and proper person to have the care and custody thereof, and of sufficient ability to bring up, maintain, and educate the child, that the welfare and interests of the child will be promoted by the adoption, and that the consents required by this Act have been duly signed and filed; 40 45

New subsection.

- (4.) Shall be satisfied that the child, if over the age of *twelve* years, consents to the adoption; 50
- 4 (5.) Shall require the consent in writing of the parents, whether living within the colony or beyond the limits thereof, or such one of them as is living at the date of such application, or, if both the parents are dead, then of the legal

guardian of the child, or if one of the parents has deserted the child, then the consent of the other parent;

5 (6.) Shall not require any such consent in the case of a deserted child.

5 6. Except by husband and wife, as hereinbefore mentioned, no child shall be adopted by more than one person.

Child can be adopted by one person only. Adopted child to have legal status of legitimate child.

10 7. When an order of adoption has been made, the adopted child shall, for all purposes civil and criminal, and as regards all legal and equitable liabilities, rights, benefits, privileges, and consequences of the natural relation of parent and child, be deemed in law to be the child born in lawful wedlock of the adopting parent:

Provided always that such adopted child shall not by such adoption—

Exception.

15 (1.) Acquire any right, title, or interest whatsoever in any property which would devolve on any child of the adopting parent by virtue of any deed, will, or instrument whatsoever prior to the date of such order of adoption, unless it is expressly so stated in such deed, will, or instrument;

20 (2.) Be entitled to take property expressly limited to the heirs of the body of the adopting parent, nor property from the lineal or collateral kindred of such parent by right of representation;

25 (3.) Acquire any property vested or to become vested in any child of lawful wedlock of the adopting parent in the case of the intestacy of such last-mentioned child, or otherwise than directly through such adopting parent.

30 8. When an order of adoption has been made, the adopting parent shall for all purposes, civil, criminal, or otherwise howsoever, be deemed in law to be the parent of such adopted child, and be subject to all liabilities affecting such child as if such child had been born to such adopting parent in lawful wedlock; and such order of adoption shall thereby terminate all the rights and legal responsibilities and incidents existing between the child and his or her natural parents, except the right of the child to take property as

35 heir or next of kin of his natural parents directly or by right of representation.

Adopting parent to have legal status of natural parent.

40 9. It shall be lawful for any Judge for the time being exercising jurisdiction within the district where any order of adoption was made, and whether by himself or by any other Judge, in his discretion to vary, reverse, and discharge such order, and also any order made under the Acts hereby repealed, subject to such terms and conditions as he thinks fit.

Order may be reversed or discharged.

45 10. Upon the application in writing of the manager for the time being of any benevolent or other institution, established in connection with any religious denomination, and not maintained by Government subsidy, who is desirous of adopting any deserted child in connection with such institution, the Judge usually exercising jurisdiction in the district wherein such institution is situated, on being satisfied—

Adoption in connection with benevolent or other institutions.

50 (1.) That such child is deserted,

(2.) That such child is of the same religious denomination as that of the institution whose manager makes the application, and

(3.) That such institution is properly conducted, and is capable of properly bringing up such child,—

may make an order authorising the manager for the time being of such institution to adopt such child in connection with such institution, such child retaining his or her own name, and in no manner inheriting or succeeding to any property, real or personal, or otherwise howsoever, of such manager or institution.

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Sections 6, 7, and 8
not to apply thereto.

11. Sections *six*, *seven*, and *eight* hereof shall not apply to the case of any child adopted as provided in section *ten* hereof, except as to the determination of all rights of the child's natural parents, and as to the rights of the child to take property, as respectively stated in section *eight* of this Act: Provided always that such child shall be entitled to the support, maintenance, and advancement afforded by such institution, and all such other rights, benefits, privileges, and advantages appertaining thereto, all which it shall be the duty of the person or body managing or controlling the said institution to provide.

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Name of adopted
child.

12. The order of adoption, except when the same is made under section *ten* hereof, shall confer the name of the adopting parent on the adopted child, in addition to the proper name of the child.

Power to make
rules.

13. The Governor may from time to time make such rules as he thinks fit, prescribing the forms and mode of procedure to be used in exercising the jurisdiction hereby conferred upon any Judge, and prescribing the mode of registering and keeping a proper register of all orders made under this Act, and also prescribing the fees to be paid in respect of such procedure, registration, and otherwise, and generally giving full effect to the provisions of this Act.

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Repeal.

14. The Acts enumerated in the Schedule hereto are hereby repealed, but their repeal shall not in any way affect—

- (1.) The past operation of the said Acts, or either of them; or
- (2.) The validity of any order of adoption or other order made thereunder; or

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- (3.) Any application or proceeding lawfully made, taken, or commenced under the said Acts or either of them before the commencement of this Act; and the same shall severally be as valid and may be continued, completed, and enforced as if they had been commenced under the authority of this Act:

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Saving.

Provided that all rules made under any Act hereby repealed, and in force at the commencement of this Act, shall remain in force until new rules are made under this Act.

Schedule.

SCHEDULE.

1881.—No. 9. "The Adoption of Children Act, 1881."

1885.—No. 9. "The Adoption of Children Act 1881 Amendment Act, 1885."