I certify that this Public Bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

W. S. MOWLE, Clerk of the Legislative Assembly.

Legislative Assembly Chamber, Sydney, 22 November, 1923.

New South Wales.



ANNO QUARTO DECIMO

GEORGII V REGIS.

Act No. 21, 1923.

An Act to amend and consolidate certain Acts relating to children. [Assented to, 30th November, 1923.

B^E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Child Welfare Act, Short title 1923," and shall come into operation on a date to be and comproclaimed by the Governor in the Gazette.

2.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

> R. B. WALKER, Chairman of Committees of the Legislative Assembly.

Parts of Act. 2. This Act is divided into Parts as follows :-

PART I.—PRELIMINARY—ss. 3-5.

PART II.—AUTHORITIES CHARGED WITH AD-MINISTRATION OF ACT—88. 6-8.

PART III.—BOARDING-OUT OF CHILDREN — ss. 9-15.

PART IV.—Institutions—ss. 16-28.

PART V.—PLACES USED FOR RECEPTION OF CHILDREN—88. 29-36.

PART VI.—LYING-IN HOMES—ss. 37-40.

PART VII.—PROTECTION OF CHILDREN—ss. 41-47.

PART VIII.—STREET TRADING LICENSE — ss. 48, 49.

PART IX.—COMMITTAL OF NEGLECTED OR UN-CONTROLLABLE CHILDREN OR JUVENILE OFFENDERS—ss. 50-68.

PART X.—Affiliation Proceedings—ss. 69-95.

PART XI.—CHILDREN'S COURTS—88. 96-102.

PART XII.—REGULATIONS—s. 103.

PART XIII.—GENERAL AND SUPPLEMENTAL— 88. 104-122.

PART XIV.—Adoption of Children—ss. 123-129.

PART I.

PRELIMINARY.

Repeal and savings.

3. (1) The Acts mentioned in the Schedule hereto are to the extent therein expressed hereby repealed.

(2) All persons appointed under any Act hereby repealed and holding office at the commencement of this Act shall be deemed to have been appointed hereunder.

(3) All schools declared to be public industrial schools under any Act hereby repealed shall continue to be such schools subject to the provisions of this Act relating to institutions constituted thereunder.

(4) The provisions of this Act shall apply to all children apprenticed or boarded-out under any Act hereby repealed as if such children had been apprenticed

or boarded-out under this Act.

- (5) All proclamations, regulations, rules and licenses issued or made under the authority of any Act hereby repealed and in force at the commencement of this Act shall, in so far as they are not inconsistent with this Act, be deemed to have been made or issued thereunder, and references in any such regulations to the provisions of the Acts repealed shall be construed as references to the corresponding provisions of this Act.
- 4. The powers and authorities of the State Children's State Relief Board, which is hereby dissolved, are vested in Children Relief Board. the Minister.
- 5. In this Act, unless the context otherwise Interpretarequires,—
 - "Age" means, in the absence of positive evidence as to age, the apparent age.
 - "Apprentice" means any boarded-out child under

articles of indenture.

- "Asylum" includes the Benevolent Asylum, every asylum for destitute children, or industrial asylum, and every charitable institution supported wholly or in part by grants from the Consolidated Revenue.
- "Boarded-out" means placed in the care of some person for the purpose of being nursed or maintained by such person or in such person's home.
- "Child" means boy or girl under sixteen years of age, and in Part IV and Part IX means boy or girl under eighteen years of age.

"Committee" means advisory committee appointed under this Act.

"Court" means Children's Court, and includes a magistrate or justices exercising the jurisdiction of a children's court. "Institution"

"Institution" means institution established under this Act, and includes special school for truants established under the Public Instruction (Amendment) Act, 1916.

"Justice" means justice of the peace.

"Juvenile offender" means child who has committed an offence.

"Local authority" means council of a municipality or shire and includes the governing body of a local government area, constituted or to be constituted.

"Lying-in home" means house in which more than one woman is received for confinement with or without payment of money.

"Magistrate" means stipendiary or police magistrate.

"Maintenance" includes clothing, support, training, and education.

"Medical practitioner" means legally qualified medical practitioner.

"Minister" means Minister of Public Instruction.

"Near relative" means, except as regards an illegitimate child, father, mother, step-father, or step-mother of the child; and as regards an illegitimate child—the mother and the person admitting himself to be or adjudged by a competent court to be the father of such child, and the husband of the mother of such child if born before their marriage.

"Neglected child" means child-

(a) who is in a brothel, or lodges, lives, resides, or wanders about with reputed thieves or with persons who have no visible lawful means of support, or with common prostitutes, whether such reputed thieves, persons or prostitutes are the parents of such child or not; or

(b) who has no visible lawful means of support or has no fixed place of abode; or

(c) who begs in any public place, or habitually wanders about public places in no ostensible occupation, or sleeps in the open air in any public place; or (d)

(d) who without reasonable excuse is not provided with sufficient and proper food, nursing, clothing, medical aid or lodging, or who is ill-treated or exposed by his parent:

Provided that such neglect, ill-treatment, or exposure has resulted or appears likely to result in any permanent or serious injury to

the child; or

(e) who takes part in any public exhibition or performance whereby the life or limb of such child is endangered; or

(f) who, not being duly licensed for that purpose,

is engaged in street trading; or

- (g) whose parents are habitual drunkards, or if one of these be dead, insane, unknown, undergoing imprisonment, or absent from the State, whose other parent is an habitual drunkard; or
- (h) who, being a female, solicits men or otherwise behaves in an indecent manner, or habitually wanders at night without lawful cause in a public place; or

(i) who is in any place where opium or any

preparation thereof is smoked; or

(j) who is living under such conditions as indicate that the child is lapsing or likely to lapse into a career of vice and crime; or

(k) who in the opinion of the court is under incompetent or improper guardianship.

"Offence" includes any matter punishable sum-

marily or by indictment.

"Officer" includes any person acting under the instructions of the Minister, but does not include any special or other magistrate appointed for the judicial administration of this Act.

"Parent" when used in relation to a child, includes a step-parent, guardian, any person cohabiting with a parent of the child, and any person who is by law liable to maintain the child.

"Placed out" means placed in employment without

being apprenticed.

" Preliminary

- "Preliminary expenses" means the expenses of the maintenance of the mother during a period of one month immediately preceding the birth of her child, reasonable medical and nursing expenses attendant upon the confinement of the mother, and the expenses of the maintenance of the mother and child for three months immediately succeeding its birth.
- "Prescribed" means prescribed by this Act or by any regulations made hereunder.
- "Proclamation" means proclamation in the Gazette.
- "Public place" means place to which the public have the right of access, or which the public are allowed to use, and includes a vessel or vehicle, and any part of premises licensed under Part III of the Liquor Act, 1912, which is open to the public.
- "Secretary" means the head of the department appointed to administer this Act.
- "Shelter" includes a place of safety within the meaning of section forty-four.
- "Still-born child" means a child born dead after the commencement of the sixth month of pregnancy.

"Street" includes any highway or other public place, whether a thoroughfare or not.

"Street trading" includes the hawking of newspapers, matches, flowers and other articles, playing, singing, or performing for profit, shoeblacking, and any other like occupation carried on in any public place. But this definition does not include playing, singing, or performing at an occasional entertainment, the proceeds of which are wholly applied for the benefit of any school or of any church or charity.

"Superintendent" includes manager or person in

charge.

"Uncontrollable,"

"Uncontrollable," as applied to a child, means child whom his parents cannot control.

"Ward" means child who, under the provisions of this Act, has been received into an asylum or institution, adopted or apprenticed, or boardedout, or placed out.

PART II.

AUTHORITIES CHARGED WITH ADMINISTRATION OF ACT.

6. The Governor may, upon the recommendation of Appointment the Public Service Board, appoint a secretary and such of officers. officers as are necessary for the administration of this Act.

7. Such secretary and officers shall receive such Payment of remuneration and allowances as shall be fixed by the officers. Public Service Board, and shall be subject to the provisions of the Public Service Acts during their tenure of office.

8. (1) The Governor may from time to time appoint Advisory such persons as he thinks fit to form an advisory committees. committee, or advisory committees.

(2) Such committee or committees shall exercise such powers and duties as may be prescribed.

PART III.

BOARDING-OUT OF CHILDREN.

9. In all matters appertaining to the boarding-out of Authority of children under this Act, the Minister or person authorised Minister. by him shall be the authority to admit a child to State control and pay guardians such rates as may be prescribed, to direct the removal of such children, to apprentice any child boarded-out or placed out, at or before the end of his term of residence, to any person approved by the Minister, to approve of persons applying for the custody of children and to arrange the terms of such custody, and to direct the restoration of any child to his parent or guardian upon such terms as the Minister may think proper.

Boarding-out of child.

10. The secretary may, and shall when so directed, remove any child from an asylum and cause him to be boarded-out, as hereinafter provided, for any period not extending beyond the time when such ward shall attain the age of fourteen years.

Removal of

11. The secretary whenever directed by the Minister ward from an may remove any ward from an institution, and cause him to be boarded-out.

Extension of period of supervision.

12. The Minister may cause to be visited and inspected all children for two years after their official period of boarding-out, placing-out, or apprenticeship has terminated, and during such period of two years may cause such children to be removed from their existing guardians or custodians.

Deduction from payments to guardian.

13. The Minister may deduct from the payments due to any guardian such amount as may be deemed equivalent to the loss occasioned by the neglect of such guardian to keep outfits up to regulation standard.

Children may be boardedout to mothers.

14. The Minister may in his discretion board out her own children to any widow, deserted wife, or wife whose husband is incapacitated through mental or bodily infirmity or is in gaol, or to the mother of an illegitimate child.

Cottage homes.

15. The Minister may place invalid or sick children under his control in cottage-homes in approved localities.

PART IV.

Institutions.

Governor institutions.

- 16. The Governor may, by proclamation, establish and constitute, as institutions under this Act-
 - (a) shelters for the reception and temporary detention and maintenance of children;
 - (b) industrial schools for the reception, detention, and maintenance of children committed to such institutions;
 - (c) homes for children committed to an institution, but whose cases call for segregation or special treatment.

17. Every institution shall be controlled and admin-Minister to istered under the direction of the Minister, and shall once control of at least in every three months, be visited and inspected institutions. by a person appointed by the Minister.

18. (1) An order duly endorsed committing a child Order to be to an institution, or removing a child from one institu-forwarded to superintion to another, shall be forwarded to the superintendent, tendent. and shall be sufficient warrant for the detention of the child.

(2) The production of—

(a) such order so endorsed; or

Certain orders and copies to be

(b) a copy of such order so endorsed with a memo-evidence. randum purporting to be signed by the superintendent of any such institution, stating that the child named in such order was duly received into, and is at the time of signing thereof detained in such institution, or has been otherwise disposed of according to law; or

(c) any order made under this Act, or a copy thereof purporting to be signed by the clerk of the court at which the same was made and

certified to be a correct copy,

shall, without proof of the signature of the person purporting to have signed the same, be evidence in all courts and proceedings—

(d) of the due making and signing of any such order, memorandum, or certificate; and

(e) of the committal, detention, and identity of the child, and of the identity of the parent named in any such order, memorandum, or certificate.

19. All children committed to or inmates of an Children in institution shall, subject to the directions of the Minister, to be under be in the custody and under the control of the superin-control of tendent of the institution until they attain the age of tendent. eighteen years, or are discharged, removed from the institution, apprenticed, or placed out:

Provided that a child committed to an institution on being charged with an indictable offence shall be detained in such institution until the expiration of the period named in the order of committal, or until he is lawfully discharged, removed from the institution, apprenticed, or placed out 20.

Powers and duties of Minister.

20. The Minister, with respect to any child who has been committed to or is an inmate of any institution—

- (a) shall determine the particular institution in which the child shall be placed and detained, provided that no child may remain in a shelter for more than one month, except by permission of the Minister;
- (b) may remove a child from one institution to another;
- (c) may remove any child from an institution and place him in an asylum, or may board him out.

Child may be institution.

21. The Minister may, on due cause being shown, removed to an take a boarded-out child or a child who has been placed in an asylum, and place him in an institution.

Religious teaching.

22. (1) Every child, an inmate of any institution, shall, so far as religious teaching is concerned, be placed under the guidance and control of clergymen of the persuasion to which the parents of such child belong, or in which such child has been brought up.

(2) In the event of such parents or their religious persuasion not being known, and of the child not having been brought up in any religious persuasion, then as far

as religious teaching is concerned-

(a) such child shall, if of or over the age of twelve years, be placed under the guidance and control of the clergymen of such persuasion as the Minister may direct, unless such child states some persuasion in which he desires to be educated:

(b) such child shall, if under the age of twelve years, be placed under the guidance and control of the clergymen of such persuasion as the Minister may direct, but may on attaining the age of twelve years select the persuasion in

which he desires to be educated:

(e) provided that if at any time the religious persuasion of any such child or of his parents become known to the Minister, he shall at once order the child to be placed under the guidance and control, as far as religious teaching is concerned, of clergymen of such persuasion.

23.

- 23. (1) The secretary may, subject to the approval Child may be of the Minister, by indenture bind or cause to be bound apprenticed. any child under his care and control, in accordance with and subject to the provisions of the Apprentices Act, 1901.
- (2) The secretary also, subject to the approval Child may be of the Minister, may, under an approved form of agree- placed-out. ment, place a child out in suitable employment in cases where apprenticeship conditions are not applicable.
- (3) Any child so apprenticed or placed-out shall Punishment be liable to be proceeded against and punished for for misconduct. absconding, or for other misconduct, in the same way as any child apprenticed by his father with such child's consent.
- 24. Upon complaint made by the secretary to the Minister may Minister that any person to whom any such child has apprentice. been apprenticed or placed-out is not performing the ship or conditions of such indenture or agreement, or is unfit to agreement. have the further care or control of such child, the Minister may call upon such person to answer such complaint, and on proof thereof to his satisfaction the Minister may order such apprenticeship or agreement to be put an end to, and may direct the child to be sent back to an institution.

- 25. The Governor may discharge any child from an Discharge of institution and restore him to the custody of his parent child by Governor. or other suitable person on such terms and conditions as to him may seem desirable, or as may be prescribed.
- **26.** (1) If it appears to a court on complaint by or cost of on behalf of the Minister that any near relative is of maintenance of ward may ability to maintain or to contribute to the maintenance be recovered of a ward, the court may order such near relative to from near relatives. pay to the Minister a reasonable sum, in instalments or otherwise, as the court directs for or towards—
 - (a) the past maintenance of such ward, whether such ward be alive or not at the time of the application;
 - (b) the future maintenance of such ward.

(2) A like order against a near relative may, with his consent, be made on the committal of a ward to an institution by the court so committing him.

(3) Such order, when made against a father or mother, may include the cost of bringing such parent back to the place where the order is made from any other place where he or she may for the time being reside.

- (4) Where an order under this section is made in respect of a person against whom an order has been made in respect of the child under Part X of this Act, the court may rescind or amend the last-mentioned order so as to secure that the said person do not pay twice for the maintenance of the same child.
- (5) Any order made under this section may be enforced, appealed from, quashed, confirmed, or varied, in the same manner in all respects as orders made under Part X of this Act. And the court may issue a warrant for the arrest of any person absconding from the State with a view to evade compliance with any order under this section.

Offences in respect of children.

27. Any person who-

- (a) ill-treats, terrorises, overworks, or injures any child committed to or an inmate of an institution;
- (b) counsels, or causes or attempts to cause, any such child to be withdrawn or to abscond from any institution or from the charge of any person with or to whom such child is boarded-out, placed out or apprenticed;

(c) knowing any such child to have so withdrawn or to have so absconded, harbours or conceals such child or prevents him from returning to such institution or person;

(d) having the charge of any such child-

(i) illegally discharges or dismisses or attempts to discharge or dismiss him from an institution;

(ii) neglects such child:

(iii) does not well and truly observe, perform, and keep all the covenants, conditions, and agreements contained in any indenture or agreement

agreement entered into by him respecting any child and which by such indenture or agreement he has bound himself or agreed to observe, perform or keep,

shall be liable to a penalty not exceeding one hundred pounds or to be imprisoned for a period not exceeding

six months or both.

28. If any child committed to or an inmate of any Child institution be absent therefrom without the leave of deserting the superintendent, any constable the superintendent, any constable may apprehend and apprehended. convey such child to such institution to be delivered into the custody of the superintendent thereof.

PART V.

PLACES USED FOR RECEPTION OF CHILDREN.

29. The person in charge of any place established or Licensing of used for the reception and care of one or more children place used for under the age of seven years, apart from their mothers, children. shall make application to the Minister in the prescribed form and manner for a license in respect of such place.

The Minister shall thereupon cause inquiry to be made respecting such application and a report to be furnished by an officer.

The Minister upon receiving such report may grant or refuse to grant to the person in charge a license in respect of such place.

Every license granted shall be granted subject to such

conditions and requirements as are prescribed.

30. For the purpose of making any inquiry and officer may report as aforesaid respecting any place, or for the inspect place. purpose of ensuring that the prescribed conditions and requirements are complied with and fulfilled in respect of any licensed place, any officer may, at any time, enter the place and inspect it and the children who are inmates thereof, and the person in charge of the place shall, during the course of such inspection, afford all reasonable facilities for such inspection.

In making such inspection the officer may, if he thinks fit, be accompanied by a medical practitioner or a police officer, or by both.

Any person who delays, hinders, or obstructs any officer in making such inspection shall be liable to a penalty not exceeding twenty-five pounds:

Provided that the Minister may at any time, by writing under his hand, order that the provisions of this section shall not apply in any particular case where he is satisfied that it is undesirable or unnecessary that it should apply. Any court may, in any particular case, suspend the operation of the provisions of this section for a period of eight days to enable such order to be obtained.

Where conditions of license not observed.

31. Where, on any inspection of a licensed place, the officer finds that any of the prescribed conditions or requirements are not complied with or fulfilled, the cancellicense, secretary may give directions to the person in charge to ensure a compliance with and fulfilment of such conditions or requirements, failing which the license of such place may be cancelled by the Minister, and any children or inmates of such place may be removed therefrom and placed in such place as the Minister may approve.

Penalties on person in charge of unlicensed place.

32. Where any place is established or used for the reception and care of one or more children under the age of seven years apart from their mothers, and is not licensed under the provisions of this Act, the person in charge of such place shall be liable to a penalty not exceeding twenty-five pounds, and any children who are inmates of such place may be removed therefrom and placed in such care as the Minister may approve of: Provided that nothing in this Part shall apply when bona fide blood relationship or guardianship approved by the Minister exists between the said children and the persons by whom they are cared for.

Regulating reception of children under seven years.

33. (1) No person shall, without a written order of a court specifying the terms on which the child may be received, receive into his care, charge, or custody any child under the age of seven years to rear, nurse.

or otherwise maintain, apart from its mother, in consideration of the payment to such person of any sum of money or other valuable consideration otherwise than by way of periodical instalments; and no such instalment shall be paid for more than four weeks in advance, nor exceed the sum of thirty shillings per week. Any person receiving or agreeing to receive payment for the rearing, nursing, or maintenance of any child contrary to this section shall be guilty of an offence.

- (2) This section shall not apply to any person being the legal or natural guardian of such child; nor to the manager or officers of any institution supported wholly or in part by public subscription, or bona fide by private charity where such institution is open to State inspection, or controlled by the State; nor to any person exempted for the time being from the operation of this section by the Minister.
- (3) The secretary shall, if required, receive from anyone wishing to place a child in the care of such person a sum of money from which he shall make to the caretaker of such child such payments as are permitted under this Act.
- (4) Every court when giving an order under this section shall in each case report to the secretary that it has given such order.
- 34. (1) Every person who receives into his care, Registration charge, or custody any child under the age of seven of reception years to rear, nurse, or otherwise maintain the same for payment under this Part shall register or cause to be registered the particulars in the form prescribed, at the office of the district registrar of births, deaths, and marriages, appointed under the provisions of the Act No. 17,1899, for the district in which such person then resides, within seven days from the date of such child's reception if such office is within a distance of two miles from his place of abode, or within fourteen days if such office is not within two miles as aforesaid, and such registrar shall furnish such particulars to the secretary.
- (2) Any person who fails to comply with the provisions of this section shall be guilty of an offence.

35.

Change of address to be registered.

- 35. (1) No person who has in his care, charge, or custody any child in accordance with the provisions of this Part shall change his place of abode, or relinquish the care, charge, or custody of such child without forthwith notifying such change or relinquishment to the district registrar as aforesaid, and such registrar shall register the same in the form prescribed, and shall at once report such particulars to the secretary. When such change of abode is made to a place out of the district of such registrar he shall forward a copy of such registration of removal to the registrar of the district to which the child is removed, and upon receipt of such copy the said registrar shall enter the particulars therein set forth in a book provided for that purpose.
- (2) Any person who fails to comply with the provisions of this section shall be guilty of an offence.

Notice to be given of death of child.

- **36.** (1) Every person having charge of a child registered under this Part shall, immediately after the death of any such child, if such death occurs elsewhere than in the city of Sydney, or any municipality included in the suburbs thereof, give or cause to be given notice of such death to the officer in charge of the nearest police station, and such officer shall make inquiry and report to the coroner for the district, or if the exigencies of the case so require to a justice, whether an inquest or magisterial inquiry respecting the cause of death is necessary, and in addition to such notice such person shall by registered letter report such death to the secretary.
- (2) When the death of any such child occurs in the city of Sydney, or any municipality included in the suburbs thereof, such notice shall be given to the secretary, who may cause an inquest or inquiry to be held.
- (3) The body of a child registered under this Part shall not be buried without the production of a certificate under the hand of the coroner or the justice who held the inquiry, or of a stipendiary or police magistrate, authorising such burial, or of a medical practitioner who has attended such child during its last illness, certifying the cause of death, and also that such cause was in no way consequent on the neglect or ill-treatment of such child. (4)

(4) Any person having charge of a child registered as aforesaid who neglects, refuses, or omits to give notice of the death of such child in accordance with the provisions of this section shall be guilty of an offence.

(5) Where the death occurs at a greater distance than fifteen miles from the nearest police station, satisfactory evidence that the omission to give such notice was not the result of wilful neglect on the part of the person in charge of such registered child shall entitle such person to the dismissal of the charge.

PART VI.

LYING-IN HOMES.

37. Every person in charge of a lying-in home shall Keepers of furnish records in the form prescribed, and forward the lying-in homes to same to the registrar for the district in which such person furnish resides, within a period of twenty-four hours from the records. occurrence of each birth in such home, and any such person who fails to comply with the provisions herein contained, or wilfully falsifies such records, shall be guilty of an offence.

38. No person in charge of a lying-in home shall Removal of permit any child to be taken from such home unless in child from the charge of the methor of such shill it. the charge of the mother of such child, without first home. obtaining the written consent of the secretary or a person authorised by him. Any such person who violates the provisions of this section shall be guilty of an offence.

39. Any person in charge of a lying-in home shall Registration be responsible for the registration, in accordance with of births by householder. the provisions of the Act No. 17, 1899, of all births occurring in such house; and any such person who omits, neglects, or refuses to register the birth of any such child, shall be liable to the punishment provided by that Act.

Still-born child not to be interred without a certificate.

40. (1) When a woman is delivered in a lying-in home of a still-born child, no interment of such child shall take place without its being authorised by the certificate of a medical practitioner, magistrate, or constable of police, who has made personal inquiry into the circumstances.

(2) Any person interring any such still-born child without first obtaining such certificate shall be

guilty of an offence.

(3) But any such still-born child, born in a lying-in home situated more than fifteen miles from the nearest such practitioner, magistrate, or constable of police, may be interred without such authority, but the birth of the child so buried shall be reported within seven days from the date of the burial, by the person who interred the body, to the nearest police officer, who shall forthwith make a full inquiry into the circumstances of the case, with the view of taking further action if necessary; and if the person who so buried the body shall fail to report as required, he shall be guilty of an offence.

PART VII.

PROTECTION OF CHILDREN.

Employment dangerous

41. (1) Any person who causes or allows any child under the age of fourteen years to take part in any public performances exhibition or performance whereby, in the opinion of a court, the life or limbs of such child is or are endangered, and the parent or any person having the custody of such child who aids or abets such first-mentioned person therein, shall be guilty of an offence.

(2) Where in the course of a public exhibition or performance which in its nature is dangerous to the life or limb of a child under such age as aforesaid taking

part

part therein, any accident causing actual bodily harm occurs to such child, the employer of such child, whether its parent or not, shall be guilty of an offence; and if such employer is not the parent of such child, the court before which such employer is convicted may award as compensation a sum not exceeding one hundred pounds, to be paid by such employer to the child or to some person named by the court on behalf of the child for the bodily harm so occasioned.

42. (1) Any person who—

(a) causes or procures, or having the custody or child to solicit alms charge thereof, allows any child under the age or perform. of sixteen years to be in any place for the purpose of begging or receiving alms, or inducing the giving of alms, whether under the

pretence of singing, playing, performing, offering anything for sale or otherwise; or

(b) causes or procures, or having the custody or charge thereof, allows any child under the age of sixteen years to be in any place or in any premises licensed according to law for public entertainments, for the purpose of singing, playing, or performing for profit, or offering anything for sale between ten o'clock at night and six o'clock in the morning; or

(c) causes or procures, or who, having the custody or charge thereof, allows any child under the age of ten years to be at any time in any place, or in any premises licensed according to law for public entertainments, or in any circus or other place of public amusement to which the public are admitted by payment, for the purpose of singing, playing, or performing for profit, or offering anything for sale,

shall be guilty of an offence:

Provided that in the case of any entertainment or series of entertainments to take place in premises licensed according to law for public entertainments, or in any circus or other place of public amusement as aforesaid, where it is shown to the satisfaction of the Minister that proper provision has been made to secure the

health and kind treatment of any children proposed to be employed thereat, the Minister may, notwithstanding anything in this Act, grant a license for such time and during such hours and subject to such restrictions and conditions as he may think fit, for any child exceeding seven years of age, of whose fitness to take part in such entertainment or series of entertainments without injury the Minister is satisfied, to take part in such entertainment or series of entertainments, and such license may at any time be varied, added to, or rescinded by the said Minister upon sufficient cause being shown; and such license shall be sufficient protection to all persons acting under or in accordance with the same.

(2) The Minister may appoint any person to see that the restrictions and conditions of any license under this section are duly complied with; and such person shall have power to enter, inspect, and examine any place of public entertainment at which the employment of a child is for the time being licensed under this section.

(3) This section shall not apply in the case of any occasional entertainment, the proceeds of which are wholly applied for the benefit of any school or to any

charitable object.

Custody or charge defined.

43. For the purposes of the last two preceding sections any person who is the parent of a child, or any person to whose charge a child is committed by its parent, or any person having actual possession or control of a child, shall be deemed to have the custody or charge thereof.

Removal of child to a place of safety.

44. Any constable or any officer appointed under this Act may take any child under eighteen years of age in respect of whom there is reason to believe that an offence under this Act has been committed to a place of safety, and a child so taken to a place of safety, and also any child under eighteen years of age who seeks refuge in a place of safety, may be there detained until the child can be brought before a court.

Care of child pending trial of offender.

45. Where it appears to a court or any justice that an offence under this Act has been committed in the case of any child under eighteen years of age brought before such

court

court or justice, and that the health or safety of the child will be endangered unless an order is made under this section, the court or justice may, without prejudice to any power under this Act, make such order as circumstances require for the care and detention of the child until a reasonable time has elapsed for the bringing and disposing of any charge against the person who it appears has committed the offence; and an order under this section may be enforced, notwithstanding that any person claims the custody of the child.

46. (1) Any constable may take into custody without Arrests warrant any person who commits, or who is reasonably warrant. suspected by such constable to have committed, an offence under this Act, if the name and residence of such person are unknown to such constable and cannot be

ascertained by him.

(2) Where such an arrest is made, the inspector or constable in charge of the station to which such person is conveyed shall, unless in his belief the release of such person on bail would tend to defeat the ends of justice, or to cause injury or danger to the child in respect of whom the offence is alleged to have been committed, release the person arrested on his entering into such a recognizance, with or without sureties, as may in his judgment be required to secure the attendance of such person upon the hearing of the charge.

47. Whenever steps have been taken under any of Disposal of the last three preceding sections to secure the safety or child by well-being of a child, and the person charged with committing an offence in respect of such child has been convicted, such child may be disposed of as the court so convicting may direct.

PART VIII.

STREET TRADING LICENSE.

Issue of licenses.

48. (1) A written license authorising a male child of or over the age of twelve years to engage, subject to the regulations, in a specified description of street trading may be issued—

(a) by the Minister or by any officer acting under

his authority; or

(b) in respect of its district by a local authority or some officer of such authority appointed in that behalf with the approval of the Minister.

(2) Such license shall be delivered to the child with a badge to be worn by him as prescribed during

such trading.

(3) Such license shall not be issued unless it is shown that the moral or material welfare of the child

will not suffer by such trading.

(4) Every license shall be granted for a term of six months, but may be renewed from time to time, and may at any time be cancelled by the Minister or by the authority which has issued it. No charge shall be made for any license or badge.

Penalty for employing child in street trading in contravention of Act. 49. If any person employs a child in street trading—

(a) who is not duly licensed under this Act; or
(b) who, although so licensed, is employed by him in trading of a description not authorised by the license,

he shall be liable to a penalty not exceeding five pounds, or in case of a second or subsequent offence to a penalty not exceeding ten pounds.

PART IX.

COMMITTAL OF NEGLECTED OR UNCONTROLLABLE CHILDREN OR JUVENILE OFFENDERS.

50. Any justice may, upon oath being made before Warrant for him by an officer or other person appointed by the apprehension. Minister in that behalf that, having made due inquiry, he believes any child to be a neglected or uncontrollable child,—

(a) issue his summons for the appearance of such

child before a court; or

(b) in the first instance, issue his warrant directing such child to be apprehended.

51. A constable or any person authorised by the Apprehen-Minister in that behalf may, although the warrant is not at the time in his possession, apprehend any child for whose apprehension a warrant has been issued under

52 (1) If it appears to

52. (1) If it appears to any justice on information Warrant to laid before him on oath by any credible person, that search for there is reasonable cause to suspect that a child is in a suspected in place which is a brothel, or where opium or any place where preparation thereof is smoked, such justice may issue opium is his warrant authorising any person named therein to search in such place for any child, and to take such child to a shelter to be dealt with under this Act.

(2) Any person authorised by warrant under this section to search for a child may enter (if need be by force) into any house, building, or other place specified in the warrant, and may remove such child

therefrom.

(3) Every such warrant shall be addressed to and executed by some constable of police, who shall be accompanied by the person making the information (if such person so desire), unless the justice issuing the warrant otherwise directs.

(4) It shall not be necessary in the information

or warrant to name the child.

53. Any person authorised by the Minister in that Apprehension behalf, or any constable of police may without warrant of child in brothel, &c. apprehend

apprehend a child who is in a place which is a brothel or where opium or any preparation thereof is smoked, or who he has reason to believe is a neglected or uncontrollable child.

Where child in brothel or

54. Where a child is found in a brothel or in a place where opium or any preparation thereof is smoked, keeper guilty the keeper or person in charge or apparently in charge of an offence. of such brothelms of an offence. of such brothel or place shall be guilty of an offence.

Child placed

55. Any child apprehended as a neglected or unconin shelter and trollable child or juvenile offender shall be taken to a before court. shelter and as soon as practicable thereafter shall be brought before the court by the superintendent of the shelter.

Application to commit uncontrollable child to institution.

56. Any person having the actual care and custody of a child may apply to a court to commit the child to an institution upon the ground that the child is an uncontrollable child. Such child may be detained at a shelter pending the determination of the court.

Procedure of court.

57. Where any child is brought before a court as a neglected or uncontrollable child or juvenile offender, or where an application is made under the last preceding section, the court may, if a parent of the child is present, thereupon hear and determine the matter.

If a parent of the child is not present, the court in its discretion may hear and determine the matter or require the parent to be present and remand the child for the purpose of securing the attendance of the parent if practicable.

If the parent refuses to attend without reasonable excuse, the court may issue a warrant to bring him before the court at the hearing, but the parent may be admitted to bail on entering into recognizances, with or without sureties, to attend at the court at the hearing of the matter.

Power of court on the hearing.

- **58.** If on the hearing the court finds that a child is a neglected or uncontrollable child or juvenile offender it may—
 - (a) release the child on probation upon such terms and conditions and for such period of time as the court may think fit; or

(b) commit the child for such period of time as the court may think fit to the care of some person who is willing to undertake such care;

(c) commit the child to an institution:

Provided that no order of committal of an uncontrollable child on the application of a near relative shall be made unless—

(a) he proves that he has not by neglect lost control of the child; and

(b) security is given to the satisfaction of the court for the making of such payment as, in the opinion of the court, the applicant is able to afford towards the maintenance of such child.

59. Where a child is summarily convicted of an Power with offence for which the penalty is punishment by imprison-respect to child liable to ment, or imprisonment in default of payment of a fine, be summarily convicted. the court may—

(a) release the child on probation upon such terms and conditions and for such period of time as the court may think fit; or

(b) commit the child for such period of time as the court may think fit to the care of some person who is willing to undertake such care;

(c) commit the child to an institution; or (d) sentence the child according to law.

If the court sentences a child it shall forthwith transmit to the Minister a copy of the proceedings and a statement of the reasons for passing sentence.

The Minister may, with the concurrence of the Attorney-General, order the removal to an institution of the child so sentenced.

60. (1) Where a child is summarily convicted before Court may a court of an offence in respect of which a penalty, order parent damages, or costs are imposed, and there is reason to penalty, believe that his parent has contributed to the commission costs in of the offence by wilful default or by habitually neglect-certain cases. ing to exercise due care of the child, the court may, on information, issue a summons against such parent, charging him with so contributing to the commission of the offence. (2)

- (2) If the court is satisfied that the parent has contributed to the commission by the child of the offence by wilful default, or by habitually neglecting to exercise due care of him, the court may order that the penalty, damages, or costs shall be paid by the parent instead of by the child, and may also order the parent to give security for the good behaviour of the child.
- (3) Any sums so imposed and ordered to be paid may be recovered from the parent in the same manner as sums ordered by justices to be paid may be recovered under the Justices Act, 1902.
- (4) Proceedings in the nature of an appeal may be taken by the parent, under Part V of the Justices Act, 1902, from any order made against him in pursuance of this section.

Power with offences.

61. (1) Where a child is charged before a court respect to child charged with an indictable offence other than homicide or rape, with certain and is not dealt with summarily, the court may-

> (a) release the child on probation upon such terms and conditions and for such period of time as

the court may think fit; or

(b) commit the child for such period of time as the court may think fit to the care of some person who is willing to undertake such care; or

(c) commit the child to an institution; or

(d) commit the child to take his trial according to law.

If the court commits a child to take his trial it shall forthwith transmit to the Minister a copy of the proceedings and a statement of the reasons for its decision.

(2) When a court has committed a child to take his trial for an indictable offence, the Minister may commit the child to an institution, if the Attorney-General shall have entered a nolle prosequi in regard to proceedings against the child:

Provided that the Minister may exercise his powers under this section only if the child or his parent consents, or if evidence on behalf of the child has been

given before the court.

62. Where a child is charged before a court with any Court to hear offence, or is brought before a court as a neglected or evidence on uncontrollable child, the court, before making any order child. or committal, shall give the child or his parent an opportunity to call evidence, and shall hear any evidence that may be tendered by or on behalf of the child.

63. When a child has been dealt with under para- As to sections graph (a) or (b) of section fifty-eight or fifty-nine, or ^{58, 59, or 61}. paragraph (a) or (b) of subsection one of section sixty-one, the following provisions shall apply:—

(1) Subject to the directions of the Minister, the child shall be in the custody and under the control of the person to whose care he has

been committed.

(2) The child and the premises wherein he resides, or whereto he has been committed, shall be subject to inspection by officers appointed in that behalf.

(3) Any person having the care of a child as aforesaid who neglects or ill-treats such child shall be liable to a penalty of five pounds, and the child may be removed from his custody and control by the Minister.

64. If a child who has been released upon probation As to breach breaks the terms or conditions of the release, he may be of terms of apprehended and brought before a court.

If it shall appear that such breach has occurred, the court may deal with him under the provisions of this Act, in the same manner as if he had not been released upon probation.

65. Where a child upon his trial has pleaded guilty Child control or has been convicted of an indictable offence, the indictable judge may, in addition to any other sentence for the offence may offence, commit the child at the expiration of such institution. sentence to an institution, or may, instead of any other sentence, commit the child forthwith to an institution.

66. A court or a judge in committing a child to an Form of institution shall do so in general terms, but may recommend to the Minister that the child be sent to an institution of a particular class.

67.

Child may be placed in shelter.

67. A child on being committed to an institution may, in the discretion of the court or judge, be placed in a shelter pending the Minister's decision as to his destination.

Name of institution to on the order of committal the name of the institution be endorsed and the place where the child is to be detained.

PART X.

AFFILIATION PROCEEDINGS.

Proceedings begun before birth.

Single woman with child may take proceedings against father.

See Imperial Act 35 & 36 Vic., c. 65, s. 3. man who has made no adequate provision for the payment of preliminary expenses of and incidental to and immediately succeeding the birth of the child, or the expenses of the future maintenance of the child, she, or with her consent the secretary, or any other reputable person on her behalf, may make complaint in writing on oath to a magistrate or court that she is with child by the said man, and that he has made no adequate provision for the payment of the expenses aforesaid; and shall when making such complaint produce evidence on oath, either oral or on affidavit, in corroboration in some material particular of the allegation as to the paternity of the child.

The magistrate or court may thereupon summon the man to appear before the court to answer such complaint; or, if the circumstances seem to require it, may issue a warrant for his apprehension.

70.

70. The court shall hear and determine so much of Court may such complaint as relates to the paternity of the child, require defendant to pay preliminand may-

(a) order the defendant to deposit with the court ary expenses. a sum not exceeding thirty pounds for pre-No. 762, ss. 3, liminary expenses: and liminary expenses; and

No. 1,684, (b) further order the defendant to enter into a ss. 2, 3; recognizance with or without a surety or sureties Imperial Act, for such amount as the court determines, as a vic., c. 65, security that within four months from the s. 4. birth of the child, and on such day as any court, at any time not later than three months from the said birth, determines, and of which at least fourteen days' notice shall be given to the defendant by or on behalf of the complainant, the defendant will appear and show cause why he should not make such adequate provision as the court determines for the payment of the expenses of the maintenance and education of the child after it has reached the age of three months. Every such order See S.A. Act shall specify a date not later than six months 702, s. 7. thereafter when the order shall lapse if the child has not been born, and if upon such date the child has not been born the order shall lapse and the defendant and his surety or sureties shall be deemed to be released from their recognizances, and the unexpended portion of any moneys paid by the defendant as preliminary expenses shall be repaid to him:

Provided that if the mother has been delivered of a still-born child within the date specified, the court may direct that the whole or such portion of the amount deposited, as it thinks

fit, be paid out to her.

The court shall not make an order under this section See S.A. Act against the defendant unless it be proved by the evidence 702, s. 6. of some medical practitioner or by the certificate of some medical practitioner admitted as such evidence with the consent of the defendant that the woman is quick with child, and unless her evidence be corroborated

in some material particular, or if the court be satisfied that at the time the child was begotten the mother was a common prostitute.

In default of compliance with any order as aforesaid, the court may commit the defendant to prison for any term not exceeding twelve months: Provided that upon compliance with such order, at any time during such term of imprisonment, the defendant shall be released from prison.

Forfeiture of recognizance where defendant does not appear.

71. If upon the day on which the defendant is bound to show cause as aforesaid, or upon any later day to which the proceedings are adjourned he does not appear, and it is proved to the satisfaction of the court that the child has been born, and that the order binding the defendant to show cause has not lapsed, the recognizances entered into by the defendant and sureties before the birth shall be forfeited, and such recognizance shall be dealt with as a forfeited recognizance in the manner provided by the Fines and Forfeited Recognizances Recovery Act, 1902; the moneys so secured shall be applicable for the benefit of the mother and child, and the court may proceed in the case ex parte and make an order for the payment by the defendant of a sum for the maintenance and education of the child.

Order after birth where dees appear.

72. If upon the day or later day mentioned in the the defendant last preceding section the defendant appears, and it is proved to the satisfaction of the court that the child has been born, and that the order binding the defendant to show cause has not lapsed, the court shall make an order for the payment by the defendant of a sum for the maintenance and education of the child.

Proceedings begun after birth.

73. In any case where the father of an illegitimate Complaint may be made against child has left it without means of support, the mother illiegitimate child for leaving of the child, or the secretary or any other reputable person it without means on behalf of the child, may make complaint on oath to (See Local Act, a magistrate or court; and shall, when making such complaint, produce evidence on oath, either oral or on affidavit, in corroboration in some material particular of

any allegation in such complaint as to the paternity of the child; and upon such complaint being made, the magistrate or court may summon the defendant to appear before the court to answer such complaint, or if the circumstances seem to require it, may issue a warrant

for his apprehension.

In any case where the mother of an illegitimate child has left it without means of support, the secretary or any reputable person on behalf of the infant may make complaint in writing on oath to a magistrate or court, and upon such complaint being made the magistrate or court may summon the defendant to appear before the court to answer such complaint, or, if the circumstances seem to require it, may issue a warrant for her apprehension.

74. The court shall hear and determine the com- Court shall plaint, and may make an order for the payment by the hear and determine defendant of a sum for the maintenance and education complaint

of the child.

make order

In any order made under this section against the for father of an illegitimate child, the court may further maintenance. order that the preliminary expenses to an amount not exceeding thirty pounds shall be paid by the defendant, and for the purposes of this and the preceding section any defendant who has failed to pay an adequate sum for preliminary expenses shall be deemed to have left the child without means of support.

75. Where any complaint has been made under this Women may Part by a woman for expenses in respect of a child of in certain which she is about to be or has been delivered, she may, compelled to at the hearing of the complaint, be compelled to give evidence; and where complaint has been made by an officer or other reputable person on behalf of a woman for such expenses, she may, at the hearing of the complaint, be compelled to give evidence if it has first been proved to the satisfaction of the court that she has made an allegation as to the paternity of the child. The admissions of a woman in giving evidence under this section shall not be used against her in any criminal prosecution, except for perjury committed while so giving evidence. 76.

Court may order payment of funeral expenses of mother and child.

(See 35 & 36 Vic., c. 65, s. 4.)

76. (1) Where after the fifth month of pregnancy any illegitimate child has been still-born or having been born alive has died before attaining the age of sixteen years, and where the mother of any such child has died during parturition or in consequence of parturition and the father of such child has not paid an adequate sum—

(a) for preliminary expenses;

(b) for funeral expenses of such mother or child; any reputable person may make complaint in writing on oath to any magistrate or court that the defendant has failed to pay the same, and shall when making such complaint produce evidence upon oath either oral or on affidavit in corroboration in some material particular of the allegation as to the paternity of the child.

(2) Such magistrate or court may thereupon summon the defendant to appear before the court to answer such complaint; or if the circumstances seem to require it, may issue a warrant for his apprehension.

(3) The court shall hear and determine the complaint and may make an order for payment by the

defendant of a sum—

(a) not exceeding thirty pounds for preliminary expenses;

(b) a reasonable sum for the expenses of the funeral:

Provided that no order for preliminary expenses shall be made under this section unless the complaint be made within twelve months of the birth of such child, and no order for funeral expenses shall be made unless complaint be made within twelve months of the death of such mother or child.

Any complaint under this section may include all or

any of the expenses mentioned therein.

(4) The provisions of section ninety-three of this Act shall apply to proceedings under this section as if the proceedings were in respect of the maintenance of an illegitimate child:

Provided that where the defendant has been adjudged by any court of competent jurisdiction to be father of any such child this subsection shall not apply, and no further proof of paternity shall be required.

77.

- 77. In any order under this Part the court may Court may further order the payment of such costs by such persons order payas it thinks fit.
- 78. If it appears to the court that both the father Mother also and mother of an illegitimate child are able to to contribute to to expenses of contribute to any of the expenses mentioned in the maintenance. preceding sections of this Part, the court, in making any wives and order, may direct the payment of such expenses by both Children Act, No. 17, 1901, the father and mother in such proportions and in such \$8.7: N.Z. Act, \$8 Vic. No. 22, manner as it thinks fit; and if it appears to the court . 10.) that the mother only is able to so contribute, it may direct the payment by her alone.
- 79. Every order adjudging any sum to be paid for Period for the maintenance of a child may be made to take which orders effect from a date not earlier than three months ance may be immediately preceding the date of the order, or, if a made previous order has been made, from the date when the Act, 35 & 36 last preceding order ceased to have effect, and shall be Vic., c. 65, of full force and validity until the child has, if a male, Act, 58 Vic. attained the age of fourteen years, or has, if a female, No. 22, s. 9.) attained the age of sixteen years, or until the death of such child if such death occurs within the respective periods above mentioned:

Provided that the court may in the order direct that the payments to be made under it in respect of a male child shall continue until the child attains the age of sixteen years, in which case such order shall be in force

until that period:

Provided also that for the purpose of recovering money previously due under an order it shall always remain of

full force and validity.

80. When an order is made under this Part for the Security for payment of any expenses other than preliminary expenses payment of amount may the court may, immediately after pronouncing its deci- be ordered. sion, or at any time during the currency of the order Deserted Wives and on notice being given to the defendant, require the Children Act, defendant to enter into a recognizance with or without No. 17, 1901, sureties for the due performance for a period not s. 8. exceeding twelve months of such order, and in default of the defendant's immediately entering into such recognizance with the required sureties if any, the court

may commit the defendant to prison, there to remain for any term not exceeding twelve months or until such recognizance has been entered into or the said order complied with for the period specified in the recognizance.

The court, on due proof that the conditions of such recognizance have not been complied with by the defendant may ex parte forfeit such recognizance, which shall thereupon be dealt with as a forfeited recognizance in the manner provided for by the Fines and Forfeited Recognizances Recovery Act, 1902.

Further orders may be made as to mode of payment of expenses.

Deserted Wives and Children Act, No. 17, 1901, s. 10.

81. Where an order has been made under this Part for the payment of expenses, or of moneys secured under recognizances, the court may, in a summary way and with or without any application for that purpose, make such orders in writing as it thinks necessary for better securing the payment and regulating the receipt of the expenses or moneys ordered to be paid, or for investing and applying the proceeds of the goods or rents ordered and directed to be sold or collected, or for ensuring the due appropriation of such expenses or moneys or for causing the child in respect of whom the order was made to be properly brought up and educated.

Seizure of defendant's goods.

Ibid. s. 9.

82. In any order under this Part the court may, by the said order, or at any time during the currency of such order, authorise and direct some person forthwith to seize and sell the defendant's goods and to demand and to receive his rents, or any moneys to which he is entitled or about to become entitled, or such portions of the said goods or rents or moneys as the court thinks fit, and to appropriate the proceeds towards the payment of the moneys ordered in such manner as it from time to time directs, and if it appears on oath that the defendent has theretofore usually resided in New South Wales and has left the said State, the like order may be made and authority given by such court although no summons or warrant has been issued.

A copy of the orders provided for in sections eightyone and eighty-two, certified to by the clerk of the
court, shall be served on any person affected thereby.
Any person who disobeys or neglects to comply with any
such order served on him shall be guilty of an offence
under this Act.

33.

83. On complaint on oath being made to the court Disobedience or magistrate that any person has disobeyed or has not of order may be punished. complied with any order made under this Part such court or magistrate may summon such person or issue his warrant for the apprehension of such person to answer such complaint. The court may at any time in a summary way inquire into any such disobedience or non-compliance with any such order, and may enforce compliance, or may punish non-compliance with such order by the committal of the offender until such order has been complied with, and until the payment of any costs incidental to the hearing of the said complaint which may be awarded by the court.

84. The court from time to time may, upon applica- Court may tion made by or on behalf of the mother or child or by vary order. or on behalf of the father, and upon notice given in such manner as the court shall direct to all parties to be affected thereby, vary any order made under this Part. On the determination of such application the court may award costs to the successful party.

A man adjudged to be the father of a child may apply to the court for leave to apply to have the order varied on the ground that evidence material to the question of the paternity of the child was not available to or known of by him at the date of the adjudication, and the court may on hearing the evidence grant or refuse such leave. Except in pursuance of leave so granted the question of the paternity of the child shall not be raised on an application to vary an order.

85. (1) Every summons or notice shall be served by Service of a constable or other person upon the person to whom it summons or notice. is directed by delivering it to him personally, or if he cannot be conveniently met with, then by leaving it with some person for him at his last or most usual place of abode.

(2) Service of a summons or notice in manner aforesaid may be proved by the oath of the constable or other person who served it, or by affidavit, or otherwise.

Court may proceed ex parte.

86. (1) If a defendant against whom a summons has been issued under this Part does not appear in accordance therewith the court, upon proof of the service of the summons, may issue a warrant for his apprehension, or may proceed in the case ex parte.

(2) In every case where a warrant has been issued, and the defendant cannot, after strict inquiry and search, be found to be taken thereon, the court may

in like manner proceed in the case ex parte.

Warrant may issue in certain cases.

87. Any magistrate or court on being satisfied by complaint on oath that any defendant has removed or is about to remove out of New South Wales or to remote parts thereof to defeat any of the provisions of this Part or any order made hereunder may issue a warrant for the apprehension of such defendant to be dealt with according to law:

Provided that in lieu of issuing such warrant the magistrate or court may issue a summons requiring such defendant to appear before the court to answer such complaint. Upon the appearance of such defendant he may at the discretion of the court be ordered to enter into a recognizance with sureties for the due performance for a period not exceeding twelve months of such order. And in default of defendant immediately entering into such recognizance with the required sureties, the court may commit the defendant to prison, there to remain for any term not exceeding twelve months or until such recognizance has been entered into or the said order complied with.

The court on due proof that the conditions of such recognizance have not been complied with by the defendant may ex parte forfeit such recognizance, which shall thereupon be dealt with as a forfeited recognizance in the manner provided by the Fines and Forfeited

Recognizances Recovery Act of 1902.

88. (1) Every person who wilfully refuses or breaches of Actindictable neglects to comply with an order made against him when offender under this Part, and goes or attempts or makes South Wales, preparation to go beyond New South Wales, or to (See N.Z., 1894, reside or is resident either permanently or temporarily No. 22, 8, 17; Vic., 1901, No. beyond New South Wales, shall be deemed to be guilty 1,787, 8, 4.) of

of an indictable offence, punishable by imprisonment with hard labour for a term not exceeding twelve months.

- (2) No person convicted of an offence against this section shall be liable to any other penalty or punishment for such offence.
- 89. A committal to prison or conviction of an Committal to offence under this Part shall not prevent the making or prison not to operation of any order for the payment of money or the making or operation of any act by such person which may be lawfully operation of orders.
- 90. Whenever the Legislature of any British possession beyond the limits of the United Kingdom of
 Great Britain and Ireland, the Channel Islands, and
 the Isle of Man, and other than New South Wales,
 arrested in
 makes provision whereby the offence of desertion of New South
 children, and going to reside beyond the limits of such
 possession, is constituted an offence whether punishable 1901, No.
 on indictment or otherwise by imprisonment for a term 1,737, s. 5;
 N.Z. Act,
 of twelve months or more, then and in every such case 58 Vic. No.
 every person accused of such offence and coming to
 22, s. 23.)
 New South Wales may be there arrested and dealt with
 under and pursuant to the provisions of the Act of the
 Imperial Parliament of Great Britain and Ireland,
 44 & 45 Vic.,
 c. 69;
 intituled the Fugitive Offenders Act, 1881, or any 7 V.S. 321.
 Act amending the same,
- **91.** Every person aggrieved by an order of a court Appeal to or by the dismissal of a complaint under this Part quarter may appeal to a court of quarter sessions against such district court. order in the manner provided by the Justices Act, 1902, in respect of appeals to courts of quarter sessions:

Provided that where an order is made by the court at any place, and a district court is held nearer to that place than a court of quarter sessions, such appeal may be made to such district court in the same manner as an appeal may be made to a court of quarter sessions under the said Act:

Provided also that where an order is made before birth respecting the paternity of a child, and the party aggrieved by the order gives notice of intention to appeal

to a court of quarter sessions or district court, as the case may be, and desires that the appeal shall not be heard before the birth of the child, such party shall state his or her desire in the notice, and in such case the appeal shall be heard at the first court of quarter sessions or district court, as the case may be, held after a period of one month from the birth has elapsed, or at any court of quarter sessions or district court succeeding such first held court and to which the hearing is postponed, but no appeal shall in such case be heard earlier than such first held court:

Provided also that at the request of either party the child shall be produced in court. Where an appeal respecting the paternity of a child is to be heard after the birth of the child, no order shall be made under sections seventy-one and seventy-two of this Act until and unless such appeal has been heard and determined:

Provided also that where any order has been made ex parte under subsection two of section eighty-six of this Act the defendant may appeal as in this section provided, at any time within one month of the time when the fact of such order having been made came to knowledge, the onus of proving such time to lie upon the defendant.

quashed, &c.

92. Where an order of court has been quashed, or an order of dismissal of a complaint has been confirmed by a court of competent jurisdiction on appeal as provided by section ninety-one, fresh proceedings may by leave of a court be brought at any time under sections sixty-nine, seventy-three, or seventy-six in respect of the same cause of complaint or subject-matter.

Evidence necessary for

- 93. Where any proceedings are taken under this Act, in respect of the maintenance of an illegitimate maintenance. child, of which the defendant is alleged to be the father, no order shall be made—
 - (a) upon the evidence of the mother, unless her evidence be corroborated in some material particular; or
 - (b) if the court is satisfied that at the time the child was begotten the mother was a common prostitute.

94.

sixty-three, Application 94. Sections sixty-one, sixty-two, sixty-four, sixty-five, sixty-six, sixty-eight, sixty-nine, Act, No. 27, seventy, seventy-one, seventy-four, seventy-five, seventy-1902. six, seventy-seven, seventy-eight, seventy-nine, eighty, eighty-one, eighty-two, eighty-three, eighty-four, eightyfive, eighty-seven, eighty-nine, ninety, ninety-two, ninety-three, ninety-four, ninety-five, ninety-six, ninetyseven, ninety-eight, ninety-nine, one hundred and one, one hundred and two, one hundred and three, one hundred and four, one hundred and five, one hundred and six, one hundred and seven, one hundred and eight, one hundred and nine, one hundred and ten, one hundred and eleven, one hundred and twelve, one hundred and thirteen, one hundred and fourteen, one hundred and fifteen, one hundred and sixteen, one hundred and seventeen, one hundred and eighteen, one hundred and nineteen, one hundred and twenty, one hundred and twenty-one, one hundred and fifty-two, and one hundred and fifty-three of the Justices Act, 1902, shall mutatis mutandis apply to this Part of this Act, so far as such sections are not inconsistent with such Part or the Deserted Wives and Children Amending Act, 1913: Provided that subsection two of section eighty-two shall not affect the provision relating to periodical payments under such Part, or to amounts ordered to be paid under sections seventy, seventy-four, and seventy-six of this Part.

95. A court for the purpose of dealing with pro- Powers of ceedings under sections sixty-nine, seventy-three, and secs. 69, 73, seventy-six of this Act shall have all the powers of a and 76. justice or justices under section sixty-one, sixty-six, and seventy-one of the Justices Act, 1902, and the provisions of sections sixty-two, sixty-three, and sixty-four of that Act shall mutatis mutandis apply to the forms, service, and proof of service of any summons or warrant issued by the court under this Act.

PART XI.

CHILDREN'S COURTS.

with children.

96. (1) The Governor shall by proclamation estabmay establish special courts to be called children's courts. for dealing

Every such court shall consist of a special may establish special courts and special courts.

Every such court shall consist of a special magistrate and shall have jurisdiction within the area named in a proclamation.

(2) In places not within any such area the jurisdiction of a court shall be exercised by a special magistrate, or any two justices.

(3) Such special magistrate shall possess the qualifications required for the office of police or stipendiary magistrate under the Public Service Act, 1902.

Powers of urt.

97. Within the area so named a court and the magistrate constituting such court—

(a) shall exercise the powers and authorities which are possessed by special, stipendiary or police magistrates, courts of petty sessions, or justices in respect of children and of offences committed by or against children;

(b) shall exercise the powers and authorities of a justice or justices to hear and determine complaints under the Deserted Wives and Children Act, 1901;

(c) shall hear and determine complaints, informations, and applications under this Act.

Jurisdiction of other courts to cease.

98. On and after the establishing of a court, the jurisdiction of every court of petty sessions in respect of the matters as to which the court has jurisdiction, except those matters in which a justice or justices has or have jurisdiction under the Deserted Wives and Children Act, 1901, shall cease to be exercised within the area proclaimed:

Provided that nothing in this section shall abridge or prejudice the ministerial powers of magistrates or justices in cases of committal for trial, or their powers to take any information or issue any summons, or grant, issue, or endorse any warrant, or admit to bail:

Provided

Provided also that no conviction, order, judgment, or proceeding made or given by or had before a court of petty sessions in contravention of this section shall be invalidated or affected by reason only of such contravention.

99. A court shall be held—

Children's

- (a) where practicable, in the proximity of a shelter; courts not held in
- (b) in some building or room approved of in that courts. behalf by the Minister: Provided that if a court room or police office is so approved of, the hearing shall not take place at an hour when the ordinary court business is being transacted.

100. (1) At any hearing or trial by a court under Exclusion of this Act, the court may order that any persons not hearing. directly interested in the case shall be excluded from the court-room or place of hearing or trial.

- (2) Upon and during the hearing of any complaint made under Part X of this Act, no person shall be or be permitted to be present in court except the following—
 - (a) the adjudicating magistrate, the secretary, or an officer deputed by him, the officers of the court, and a member of the police force;

(b) the complainant and the defendant, and their respective barristers and solicitors;

- (c) the mother or sister, or other relative or friend of the complainant, if desired by such complainant;
- (d) any person whilst being examined as a witness;
- (e) the mother or sister or female friend of any female witness, if desired by such witness whilst being examined,

unless the court shall, in the interests of justice, permit any other person to be present.

(3) The provisions of the last preceding subsection shall apply, mutatis mutandis, to the hearing of an appeal under section ninety-one of this Act.

101.

Appeal from children's court.

101. Proceedings in the nature of appeal to the Supreme Court or a judge thereof, or to a Court of Quarter Sessions or a District Court, from any determination, conviction, or order of a court may be taken by a child or by a parent on behalf and in the name of his child under Part V of the Justices Act, 1902. The provisions of the said Part applicable to justices in the exercise of their summary jurisdiction shall apply to a court:

Provided that in place of the release of the appellant from custody upon entering into recognizances or depositing any money with the court, he may be committed by the court from which the appeal is made to a shelter pending the determination of the appeal:

Provided also that this section shall not apply to an

order committing a child to take his trial.

The judge hearing the appeal may order that any person not directly interested in the case shall be excluded from the court-room.

Application
of Justices
Act.

102. The Justices Act, 1902, so far as it is not inconsistent with this Act shall apply to this Act with the exception of Part X.

PART XII.

REGULATIONS.

dovernor may make regulations.

103. (1) The Governor may make regulations for carrying out the objects and purposes of this Act.

(2) Such regulations may provide for the payment of fees and may impose a penalty not exceeding thirty pounds for any breach thereof. Any such penalty may be enforced by and recovered before a court.

(3) Such regulations shall—

(i) be published in the Gazette;

(ii) take effect from the date of publication or from a later date to be specified in such regulations; and (iii)

(iii) be laid before both Houses of Parliament within fourteen days after publication if Parliament is in session, and if not, then within fourteen days after the commencement of the next session. If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

PART XIII.

GENERAL AND SUPPLEMENTAL.

104. (1) Every person charged with committing offences. an offence against the provisions of this Act may be prosecuted before a court.

(2) Every person guilty of an offence against the provisions of this Act shall be liable, upon conviction before a court, unless some other penalty or punishment is expressly provided, to a penalty not exceeding one hundred pounds, or to imprisonment for a period not exceeding twelve months, or to both penalty and imprisonment.

105. If it be made to appear to any magistrate, when on information laid before him on oath, that there is information on oath, reason to believe that any person is offending against warrant may the provisions of this Act in any house or place, be issued or that any of the provisions of this Act are being premises. infringed in any house or place, such magistrate may issue his warrant authorising an officer to search any house or place therein named, at any hour of the day, or at any hour of the night not later than ten o'clock, for the purpose of ascertaining whether there is or has been therein or thereon an infringement of the provisions of this Act.

Such

Such officer may, if he thinks it necessary, be accompanied by a medical practitioner, or by a police officer, or by both.

Power of search and safety.

106. (1) Whenever it appears to any magistrate, arrest, and to or to any justice, on information made before him place child in on oath by any person who, in the opinion of the magistrate or justice, is bona fide acting in the interest of any child, that there is reasonable cause to suspect that such child, being a child under the age of eighteen years, has been or is being ill-treated or neglected in a manner likely to cause the child unnecessary suffering, or to be injurious to its health, such magistrate or justice may issue a warrant authorising any officer or constable of police named therein to search for such child; and if it is found to have been or is then being ill-treated or neglected in manner aforesaid, to take it to and detain it in a place of safety until it can be brought before a court; and the court before whom the child is brought may commit the child to the custody of some person named by the court, or make such other order as to the custody of the child as the court may think fit.

(2) The magistrate or justice issuing such warrant may, by the same warrant, cause any person accused of any offence in respect of the child to be apprehended, and proceedings to be taken for punishing

such person according to law.

(3) Any person authorised by warrant under this section to search for any child, and to take it to and detain it in a place of safety, may enter (if need be by force) any house, building, or other place specified in the warrant, and may remove the child therefrom.

(4) Every warrant issued under this section shall be addressed to and executed by an officer of police, who shall be accompanied by the person giving the information, if such person so desire, unless the magistrate or justice otherwise directs; and the person to whom the warrant is addressed may be accompanied by a medical practitioner.

(5) It shall not be necessary in any information or warrant issued under this section to name any par-

ticular child.

- 107. (1) If a Children's Court has reason to child believe that a child, male or female, is suffering from believed to be venereal disease, the court may at any time, either before venereal or after committal of such child, order an examination to disease. be made of such child by a medical practitioner, either male or female.
- (2) In the event of the medical practitioner reporting that any child is so suffering, the court shall forthwith notify the Commissioner in writing, who may thereupon deal with such child as provided in Act No. 46, 1918.
- 108. (1) No child shall be apprenticed, boarded-out, Application or placed out under the provisions of this Act, unless of Act No. 46, the child has been—

 wards.

(a) examined by a medical practitioner; and

- (b) certified by such medical practitioner as being free from venereal disease, or no longer liable to convey infection.
- (2) Such certificate shall be obtained at the expense of the Child Welfare Department, and retained by it
- (3) Any person contravening this section shall be liable to a penalty not exceeding twenty pounds.
- 109. (1) Where a person is charged with commit-Information ting an offence under this Act in respect of two or more or summons. children the same information or summons may charge the offence in respect of all or any of them, but the person charged shall not be liable to a separate penalty in respect of each child unless upon separate informations or summonses.
- (2) The same information or summons may also charge the offences of assault, ill-treatment, neglect, abandonment or exposure, together or separately, but when charged together the person charged shall not be liable to separate penalties.

(3) Where an offence charged is a continuous offence, it shall not be necessary to specify in the information or summons the date of the acts constituting the offence.

110. (1) Where in any proceeding against any Evidence in person for an offence under this Act the child in respect certain cases.

of

of whom the offence is charged to have been committed, or any other child of tender years who is tendered as a witness, does not in the opinion of the court understand the nature of an oath, the evidence of such child may be received though not given upon oath if in the opinion of the court such child is possessed of sufficient intelligence to justify the reception of the evidence, and understands the duty of speaking the truth. And the evidence of such child, though not given on oath, but otherwise taken and reduced into writing as a deposition, shall be deemed to be a deposition to all intents and purposes.

A person shall not be convicted of the offence charged unless the testimony admitted by virtue of this section, and given on behalf of the prosecution, is corroborated by some other material evidence in support thereof

implicating the accused.

Any child whose evidence is received as aforesaid, and who wilfully gives false evidence, shall be guilty of a misdemeanour, but no prosecution shall be instituted under this section without the leave of the court before

which such evidence was given.

- (2) Where a justice is satisfied by the evidence of a medical practitioner that the attendance before a court of any child in respect of whom an offence under this Act is alleged to have been committed would be injurious or dangerous to its health, the justice may take in writing the statement of such child in pursuance of section four hundred and six of the Crimes Act, 1900, as if the child were dangerously ill, and in the opinion of the medical practitioner, not likely to recover.
- (3) Where in any proceedings with relation to an offence under this Act the court is satisfied by the evidence of a medical practitioner that the attendance before the court of any child in respect of whom an offence is alleged to have been committed would be injurious or dangerous to its health, any deposition taken under section four hundred and six of the Crimes Act, 1900, or any statement of the child taken under this section, may be read in evidence, and shall have effect in like manner as if it were proved that the child

were so ill as to be unable to travel, or (in the case of any such statement) that there was no reasonable probability that the child would ever be able to travel or give evidence; but the same proviso shall apply as in the case of the reception of evidence under the first subsection.

- (4) Where in any proceedings with relation to an offence under this Act the court is satisfied by the evidence of a medical practitioner that the attendance for the purpose of giving evidence before the court of any child in respect of whom the offence is alleged to have been committed would be injurious or dangerous to its health, and is further satisfied that the evidence of the child is not essential to the just hearing of the case, the case may be proceeded with and determined in the absence of the child.
- 111. If any person makes any false representation, Forgery of or forges any certificate, or makes use of any forged certificate, certificate knowing it to be forged, with intent to obtain the registration either of such person or of any other person under this Act, or falsifies any register kept in pursuance of this Act, or furnishes false particulars of any matter which is required to be entered in such register, such person shall be guilty of an offence and on conviction thereof shall be liable to a penalty not exceeding twenty-five pounds or to imprisonment for a period not exceeding six months.
- 112. Any person who hinders or obstructs any obstruction of person in the exercise of his duty under this Act, shall out provisions be guilty of an offence.
- 113. Any justice may issue a warrant for the arrest Arrest of of any child boarded-out, placed-out, apprenticed, or abscording adopted who has absconded or been illegally removed.
- 114. Any person who ill-uses or neglects to perform Penalty for his duty towards any child boarded-out, placed-out, ill-usage of apprenticed or adopted, or violates any regulation concerning such child, shall be guilty of an offence.
- 115. Where a person is charged with an offence Presumption under this Act in respect of a child who is alleged in the of age of charge or indictment to be under any specified age, and

the

the child appears to the court to be under that age, such child shall, for the purposes of this Act, be deemed to be under that age unless the contrary is proved.

Saving parental right of punishment.

116. Nothing in this Act contained shall be construed to take away or affect the right of any parent, teacher, or other person having the lawful control or charge of a child to administer punishment to such child.

A person not to be twice punished for the same offence, 117. Where a person is charged with an offence under this Act, for which he is also punishable under any other Act or at Common Law, he may be prosecuted and punished either under this Act or under any other Act, or at Common Law, but no person shall be punished twice for the same offence.

Neglect or ill-treatment of child.

118. Any person, whether the parent of the child or not, who, without reasonable excuse, neglects to provide adequate and proper food, nursing, clothing, medical aid, or lodging for any child in his care or custody, or assaults, ill-treats, or exposes any child, or causes or procures any child to be neglected, assaulted, ill-treated, or exposed, if such neglect, assault, ill-treatment, or exposure has resulted, or appears likely to result, in bodily suffering or permanent or serious injury to the health of such child, shall be guilty of an offence.

Minister may take proceedings for maintenance. 119. The Minister may institute legal proceedings-

(a) against any parents for moneys expended in the maintenance of their children, when satisfied that such parents are in a position to pay for such maintenance; and

(b) against the parents of illegitimate children for the recovery of maintenance money, and such parents shall be liable jointly and severally.

Money of ward to be placed to separate fund.

120. All money and other property to which any ward shall be entitled shall be placed to a separate fund and shall be under the control of the Minister for the benefit and maintenance of such ward.

Expenditure of money appropriated by Parliament. 121. The expenses incurred in respect of the administration of this Act shall be defrayed from such moneys as Parliament shall appropriate for that purpose, and if there are no such moneys available, such expenses

shall

shall be defraved out of the Consolidated Revenue Fund by warrant under the hand of the Governor directed to the Colonial Treasurer.

The said Treasurer shall pay out of the said fund only such charges as are certified to be correct under the hand of the Minister and countersigned by the secretary, and all payments in pursuance of such warrants shall be credited to the said Treasurer, and the receipt of the person to whom the same are paid shall be his discharge in respect of the sum therein mentioned in the passing of his accounts. All payments made under any such warrant shall be recouped out of the vote for the purpose of this Act so soon as there are sufficient funds to the credit of such vote.

122. The Minister shall furnish a report to Parlia-Report to be furnished to ment every year on the working of this Act.

PART XIV.

ADOPTION OF CHILDREN.

123. In this Part, unless the context otherwise Interpretetion. requires,-

"Adopted child" means child in respect of whom an order of adoption has been made.

"Adopting parent" means any person who by an order of adoption is authorised to adopt a child, and in case of any such order being made in favour of a husband and wife on their joint application, includes both husband and wife.

"Court" means the Supreme Court in its equitable jurisdiction.

124. Upon application made to the court by—

(a) husband and wife jointly; or

(b) a married woman, with the written consent of adopted. her husband; or

(c) a woman, whether married or unmarried, who, No. 6, s. 3. in the opinion of the court, is at least eighteen years older than the child; or

By whom female child

See W.A.

(d) a married man who, in the opinion of the court, is at least thirty years older than the child, an order of adoption of a female child may be made in favour of the applicant in the form prescribed.

125. Upon application made to the court by—

By whom male child may be adopted. Ibid. s. 4.

(a) husband and wife jointly; or

(b) a married man alone, but with the written consent of his wife; or

(c) a man, whether married or unmarried, who, in the opinion of the court, is at least eighteen years older than the child; or

(d) a woman, whether married or unmarried, who, in the opinion of the court, is at least thirty years older than the child,

an order of adoption of a male child may be made in favour of the applicant in the form prescribed.

Matters to be order made.

· See W.A. Act, 1896, No. 6, s. 5.

126. An order of adoption shall not be made unless proved before the court is satisfied— (a) that the person applying for the order is of

good repute and a fit and proper person to have the care and custody of the child, and of sufficient ability to bring up, maintain, and educate the child; and

(b) that the welfare and interest of the child will be promoted by the adoption; and

(c) if the child is over the age of twelve years, that the child consents to the adoption; and

(d) that the parents of the child or such one of them as is living consent or consents to the adoption, or if the child is illegitimate that the mother consents to the adoption, or if the child has a guardian, that such guardian consents to the adoption:

Provided that the consent of any person whose consent is required to be given by this paragraph may be dispensed with if the court is of opinion that such person

has deserted or abandoned the child.

Effect of order. Ibid. ss. 7, 8.

127. When an order of adoption is made, for all purposes civil and criminal, and as regards all legal and equitable rights and liabilities, the adopted child shall be deemed to be a child of the adopting parent, and the adopting

adopting parent shall be deemed to be a parent of the adopted child, as if such child had been born to such adopting parent in lawful wedlock, and the order of adoption shall terminate all rights and liabilities existing between the child and his natural parents other than the right of the child to take property as heir or next of kin of his natural parents or of their lineal or collateral kindred:

Provided always that such adopted child shall not by

such adoption—

(a) acquire any right, title, or interest in any property under any deed, will, or instrument whatsoever made or executed prior to the date of such order of adoption unless it is expressly so stated in such deed, will, or instrument; nor

(b) be entitled to take any property limited to the heirs of the body of the adopting parent; nor

(c) be entitled to take any property as next of kin to any lineal or collateral kindred of the adopting parent; nor

(d) be entitled to take any property as next of kin

to any child of the adopting parent.

128. When an order of adoption is made the child to take adopted child shall take the surname of the adopting adopting parent.

See W.A. Act 1896, No. 6, s. 10. parent in addition to his proper name.

129. (1) The judges of the Supreme Court or any Power to three of them may make rules for carrying into effect the provisions and objects of this Part and for providing for the registration of orders of adoption and the payment of fees.

(2) Until such rules are made any application under this Part shall be by motion, and the practice of

the Equity Court shall apply thereto.

THE SCHEDULE.

Date of Act.	Name of Act.	Extent of repeal.
Act No. 40, 1900	Crimes Act, 1900	So much of s. 429 as is inconsistent with this Act.
Act No. 17, 1901	Deserted Wives and Children Act, 1901.	So much of the Act as re- lates to complaints in respect of illegitimate children, and to pro- ceedings consequent upon or incidental to such complaints.
Act No. 61, 1901	State Children Relief Act, 1901.	The whole.
Act No. 47, 1902	Children's Protection Act, 1902.	The whole.
Act No. 27, 1904	Infant Protection Act, 1904.	The whole.
Act No. 16, 1905	Neglected Children and Juvenile Offenders Act, 1905.	

In the name and on behalf of His Majesty I assent to this Act.

W. P. CULLEN,
Lieutenant-Governor.

Government House, Sydney, 30th November, 1923.

CHILD WELFARE BILL.

SCHEDULE of Amendments referred to in Message of 21st November, 1923.

Page 3, clause 5, line 36. After "in" insert "Part IV and"

Page 5, clause 5, line 29. After "incompetent" insert "or improper"

Page 17, clause 37, line 16. Omit "forty-eight" insert "twenty-four"

Page 29, clause 70, lines 8, 9, and 10. Omit "one or more good and sufficient sureties "to the satisfaction of the court" insert "or without a surety or sureties"

Page 32, clause 76, line 6. Omit "within one month from the birth of such child"

Page 33, clause 80, line 37. After "with" insert "or without"

Page 33, clause 80, line 41. After "sureties" insert "if any"

Page 34, clause 80, line 4. After "with" add "for the period specified in the "recognizance."

Page 35, clause 84. Add new paragraph.

Page 35, clause 85, line 37. Omit "police"

Page 38, clause 91. At end of clause add further proviso.

Page 38. After new proviso to clause 91 insert new clause 92.

Page 39. Insert new clause 95.

Page 41. At end of clause 98 100 insert new subclause (3).

Page 42, clause 99 101. Omit lines 20 to 24 inclusive.

Page 42. After clause 101 insert new clause 102.

Page 43, clause 101 104, line 22. Omit "two years" insert "twelve months"

180m

This Public Bill originated in the Legislative Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

S. G. BOYDELL,

Acting Clerk of the Legislative Assembly.

Legislative Assembly Chamber, Sydney, 24 October, 1923.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

W. L. S. COOPER, Clerk of the Parliaments.

Legislative Council Chamber, Sydney, 21st November, 1923.

New South Wales.



ANNO QUARTO DECIMO

GEORGII V REGIS.

Act No. , 1923.

An Act to amend and consolidate certain Acts relating to children.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Child Welfare Act, Short title 1923," and shall come into operation on a date to be and comproclaimed by the Governor in the Gazette.

14061 23—A

2.

2. This Act is divided into Parts as follows: -

Parts of Act.

PART I.—PRELIMINARY—ss. 3-5.

PART II.—Authorities Charged with Administration of Act—ss. 6-8.

5 PART III.—Boarding-out of Children — ss. 9-15.

PART IV.—Institutions—ss. 16-28.

PART V.—PLACES USED FOR RECEPTION OF CHILDREN—ss. 29-36.

10 PART VI.—LYING-IN HOMES—ss. 37-40.

PART VII.—PROTECTION OF CHILDREN—ss. 41-47.

PART VIII.—STREET TRADING LICENSE — ss. 48, 49.

PART IX.—COMMITTAL OF NEGLECTED OR UN-CONTROLLABLE CHILDREN OR JUVENILE OFFENDERS—ss. 50-68.

PART X.—Affiliation Proceedings—ss. 69-93.

PART XI.—CHILDREN'S COURTS—88. 94-99.

PART XII.—REGULATIONS—s. 100.

PART XIII.—GENERAL AND SUPPLEMENTAL ss. 101-119.

PART XIV.—Adoption of Children—ss. 120-126.

PART I.

PRELIMINARY.

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3. (1) The Acts mentioned in the Schedule hereto Repeal and are to the extent therein expressed hereby repealed. savings.

(2) All persons appointed under any Act hereby repealed and holding office at the commencement of this 30 Act shall be deemed to have been appointed hereunder.

(3) All schools declared to be public industrial schools under any Act hereby repealed shall continue to be such schools subject to the provisions of this Act relating to institutions constituted thereunder.

(4) The provisions of this Act shall apply to all children apprenticed or boarded-out under any Act hereby repealed as if such children had been apprenticed

or boarded-out under this Act.

(5) All proclamations, regulations, rules and 10 licenses issued or made under the authority of any Act hereby repealed and in force at the commencement of this Act shall, in so far as they are not inconsistent with this Act, be deemed to have been made or issued thereunder, and references in any such regulations to the 15 provisions of the Acts repealed shall be construed as

4. The powers and authorities of the State Children's State Relief Board, which is hereby dissolved, are vested in Children Relief Board, the Minister.

20 5. In this Act, unless the context otherwise Interpretation.

"Age" means, in the absence of positive evidence as to age, the apparent age.

"Apprentice" means any boarded-out child under

articles of indenture.

"Asylum" includes the Benevolent Asylum, every asylum for destitute children, or industrial asylum, and every charitable institution supported wholly or in part by grants from the Consolidated Revenue.

"Boarded-out" means placed in the care of some person for the purpose of being nursed or maintained by such person or in such person's

home

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35 "Child" means boy or girl under sixteen years of age, and in Part IV and Part IX means boy or girl under eighteen years of age.

"Committee" means advisory committee appointed

under this Act.

"Court" means Children's Court, and includes a magistrate or justices exercising the jurisdiction of a children's court. "Institution"

	"Institution" means institution established under this Act, and includes special school for truants established under the Public Instruction
	(Amendment) Act, 1916.
5	"Justice" means justice of the peace.
	"Juvenile offender" means child who has com-
	mitted an offence.
	"Local authority" means council of a municipality
	or shire and includes the governing body of a
10	local government area, constituted or to be
TO	
	constituted.
	"Lying-in home" means house in which more than
	one woman is received for confinement with
	or without payment of money.
15	"Magistrate" means stipendiary or police magistrate.
	"Maintenance" includes clothing, support, training,
	and education.
	"Medical practitioner" means legally qualified
14	
•	medical practitioner.
20	
	"Near relative" means, except as regards an
	illegitimate child, father, mother, step-father,

illegitimate child, father, mother, step-father, or step-mother of the child; and as regards an illegitimate child—the mother and the person admitting himself to be or adjudged by a

admitting himself to be or adjudged by a competent court to be the father of such child, and the husband of the mother of such child if born before their marriage.

"Neglected child" means child-

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(a) who is in a brothel, or lodges, lives, resides, or wanders about with reputed thieves or with persons who have no visible lawful means of support, or with common prostitutes, whether such reputed thieves, persons or prostitutes are the parents of such child or not; or

(b) who has no visible lawful means of support or has no fixed place of abode; or

(c) who begs in any public place, or habitually wanders about public places in no ostensible occupation, or sleeps in the open air in any public place; or (d)

....

" Preliminary

Child Welfare.

	Chua weijare.
	(d) who without reasonable excuse is not provided with sufficient and proper food, nursing, clothing, medical aid or lodging, or who is ill-treated or exposed by his parent:
5	Provided that such neglect, ill-treatment, or exposure has resulted or appears likely to result in any permanent or serious injury to the child; or
10	 (e) who takes part in any public exhibition or performance whereby the life or limb of such child is endangered; or (f) who, not being duly licensed for that purpose, is engaged in street trading; or
15	 (g) whose parents are habitual drunkards, or if one of these be dead, insane, unknown undergoing imprisonment, or absent from the State, whose other parent is an habitual drunkard; or (h) who, being a female, solicits men or other-
20	wise behaves in an indecent manner, or habitually wanders at night without lawful cause in a public place; or (i) who is in any place where opium or any preparation thereof is smoked; or
25	(j) who is living under such conditions as indicate that the child is lapsing or likely to lapse into a career of vice and crime; or(k) who in the opinion of the court is under incompetent or improper guardianship.
30	"Offence" includes any matter punishable summarily or by indictment. "Officer" includes any person acting under the instructions of the Minister, but does not include any special or other magistrate appointed for
35	the judicial administration of this Act. "Parent" when used in relation to a child, includes a step-parent, guardian, any person cohabiting with a parent of the child, and any person who is by law liable to maintain the child.
40	"Placed out" means placed in employment without being apprenticed.

"Preliminary expenses" means the expenses of the maintenance of the mother during a period of one month immediately preceding the birth of her child, reasonable medical and nursing expenses attendant upon the confinement of the mother, and the expenses of the maintenance of the mother and child for three months immediately succeeding its birth.

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- "Prescribed" means prescribed by this Act or by any regulations made hereunder.
 - "Proclamation" means proclamation in the Gazette.
- "Public place" means place to which the public have the right of access, or which the public are allowed to use, and includes a vessel or vehicle, and any part of premises licensed under Part III of the Liquor Act, 1912, which is open to the public.
 - "Secretary" means the head of the department appointed to administer this Act.
 - "Shelter" includes a place of safety within the meaning of section forty-four.
 - "Still-born child" means a child born dead after the commencement of the sixth month of pregnancy.
 - "Street" includes any highway or other public place, whether a thoroughfare or not.
- "Street trading" includes the hawking of newspapers, matches, flowers and other articles, playing, singing, or performing for profit, shoeblacking, and any other like occupation carried on in any public place. But this definition does not include playing, singing, or performing at an occasional entertainment, the proceeds of which are wholly applied for the benefit of any school or of any church or charity.
 - "Superintendent" includes manager or person in tharge.

"Uncontrollable,"

"Uncontrollable," as applied to a child, means child whom his parents cannot control.

"Ward" means child who, under the provisions of this Act, has been received into an asylum or institution, adopted or apprenticed, or boarded. out, or placed out.

PART II.

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AUTHORITIES CHARGED WITH ADMINISTRATION OF ACT.

6. The Governor may, upon the recommendation of Appointment 10 the Public Service Board, appoint a secretary and such of officers. officers as are necessary for the administration of this Act.

7. Such secretary and officers shall receive such Payment of remuneration and allowances as shall be fixed by the officers. Public Service Board, and shall be subject to the provisions of the Public Service Acts during their tenure of office.

8. (1) The Governor may from time to time appoint Advisory such persons as he thinks fit to form an advisory committees. committee, or advisory committees.

20 (2) Such committee or committees shall exercise such powers and duties as may be prescribed.

PART III.

BOARDING-OUT OF CHILDREN.

9. In all matters appertaining to the boarding-out of Authority of children under this Act, the Minister or person authorised Minister. by him shall be the authority to admit a child to State control and pay guardians such rates as may be prescribed, to direct the removal of such children, to apprentice any child boarded-out or placed out, at or before the end 30 of his term of residence, to any person approved by the Minister, to approve of persons applying for the custody of children and to arrange the terms of such custody, and to direct the restoration of any child to his parent or guardian upon such terms as the Minister may think 35 proper.

10. The secretary may, and shall when so directed, Boarding-out remove any child from an asylum and cause him to be boarded-out, as hereinafter provided, for any period not extending beyond the time when such ward shall attain 5 the age of fourteen years.

11. The secretary whenever directed by the Minister Removal of may remove any ward from an institution, and cause him ward from an institution.

to be boarded-out.

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12. The Minister may cause to be visited and in-Extension of 10 spected all children for two years after their official period of period of boarding-out, placing-out, or apprenticeship has terminated, and during such period of two years may cause such children to be removed from their existing guardians or custodians.

13. The Minister may deduct from the payments Deduction due to any guardian such amount as may be deemed from payments to equivalent to the loss occasioned by the neglect of such guardian.

guardian to keep outfits up to regulation standard.

14. The Minister may in his discretion board out Children may 20 her own children to any widow, deserted wife, or wife be boarded out to whose husband is incapacitated through mental or bodily mothers. infirmity or is in gaol, or to the mother of an illegitimate child

15. The Minister may place invalid or sick children Cottage 25 under his control in cottage-homes in approved localities.

PART IV.

INSTITUTIONS.

16. The Governor may, by proclamation, establish and constitute, as institutions under this Act— may establish institutions.
30 (a) shelters for the reception and temporary deten-

(a) shelters for the reception and temporary detention and maintenance of children;

(b) industrial schools for the reception, detention, and maintenance of children committed to

such institutions;
(c) homes for children committed to an institution,

(c) homes for children committed to an institution, but whose cases call for segregation or special treatment.

17. Every institution shall be controlled and admin-Minister to have istered under the direction of the Minister, and shall once control of at least in every three months, be visited and inspected institutions by a person appointed by the Minister.

18. (1) An order duly endorsed committing a child Order to be to an institution, or removing a child from one institu-superintion to another, shall be forwarded to the superintendent, tendent. and shall be sufficient warrant for the detention of the child.

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(2) The production of—

(a) such order so endorsed; or

Certain orders and copies to be

(b) a copy of such order so endorsed with a memo-evidence. randum purporting to be signed by the superintendent of any such institution, stating that the child named in such order was duly received into, and is at the time of signing thereof detained in such institution, or has been otherwise disposed of according to law; or

(c) any order made under this Act, or a copy thereof purporting to be signed by the clerk of the court at which the same was made and certified to be a correct copy,

shall, without proof of the signature of the person purporting to have signed the same, be evidence in all 25 courts and proceedings-

(d) of the due making and signing of any such order, memorandum, or certificate; and

(e) of the committal, detention, and identity of the child, and of the identity of the parent named in any such order, memorandum, or certificate.

19. All children committed to or inmates of an Children in institution shall, subject to the directions of the Minister, to be under be in the custody and under the control of the superin-control of tendent of the institution until they attain the age of tendent.

35 eighteen years, or are discharged, removed from the institution, apprenticed, or placed out:

Provided that a child committed to an institution on being charged with an indictable offence shall be detained in such institution until the expiration of the period 40 named in the order of committal, or until he is lawfully discharged, removed from the institution, apprenticed, 20. or placed out.

20. The Minister, with respect to any child who has Powers and been committed to or is an inmate of any institution—

- (a) shall determine the particular institution in which the child shall be placed and detained, provided that no child may remain in a shelter for more than one month, except by permission of the Minister;
- (b) may remove a child from one institution to another;
- 10 (c) may remove any child from an institution and place him in an asylum, or may board him out.

21. The Minister may, on due cause being shown, Child may be take a boarded-out child or a child who has been placed removed to an institution. in an asylum, and place him in an institution.

22. (1) Every child, an inmate of any institution, Religious shall, so far as religious teaching is concerned, be placed teaching. under the guidance and control of clergymen of the persuasion to which the parents of such child belong, or in which such child has been brought up.

20 (2) In the event of such parents or their religious persuasion not being known, and of the child not having been brought up in any religious persuasion, then as far

as religious teaching is concerned—

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(a) such child shall, if of or over the age of twelve 25 years, be placed under the guidance and control of the clergymen of such persuasion as the Minister may direct, unless such child states some persuasion in which he desires to be educated:

(b) such child shall, if under the age of twelve years, be placed under the guidance and control of the clergymen of such persuasion as the Minister may direct, but may on attaining the age of twelve years select the persuasion in

which he desires to be educated;

(e) provided that if at any time the religious persuasion of any such child or of his parents become known to the Minister, he shall at once order the child to be placed under the guidance and control, as far as religious teaching is concerned, of clergymen of such persuasion.

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- 23. (1) The secretary may, subject to the approval Child may be of the Minister, by indenture bind or cause to be bound apprenticed. any child under his care and control, in accordance with and subject to the provisions of the Apprentices Act, 5 1901.
 - (2) The secretary also, subject to the approval Child may be of the Minister, may, under an approved form of agree-placed-out. ment, place a child out in suitable employment in cases where apprenticeship conditions are not applicable.
- 10 (3) Any child so apprenticed or placed-out shall Punishment be liable to be proceeded against and punished for for misconduct. absconding, or for other misconduct, in the same way as any child apprenticed by his father with such child's consent.
- 24. Upon complaint made by the secretary to the Minister may Minister that any person to whom any such child has apprentice. been apprenticed or placed-out is not performing the ship or conditions of such indenture or agreement, or is unfit to agreement. have the further care or control of such child, the Minister 20 may call upon such person to answer such complaint, and on proof thereof to his satisfaction the Minister may order such apprenticeship or agreement to be put an

25. The Governor may discharge any child from an Discharge of institution and restore him to the custody of his parent child by Governor. or other suitable person on such terms and conditions as to him may seem desirable, or as may be prescribed.

end to, and may direct the child to be sent back to an

institution.

26. (1) If it appears to a court on complaint by or cost of 30 on behalf of the Minister that any near relative is of maintenance of ward may ability to maintain or to contribute to the maintenance be recovered of a ward, the court may order such near relative to from near pay to the Minister a reasonable sum, in instalments or otherwise, as the court directs for or towards—

- 35 (a) the past maintenance of such ward, whether such ward be alive or not at the time of the application;
 - (b) the future maintenance of such ward.

(2) A like order against a near relative may, with his consent, be made on the committal of a ward to an institution by the court so committing him.

(3) Such order, when made against a father or 5 mother, may include the cost of bringing such parent back to the place where the order is made from any other place where he or she may for the time being reside.

(4) Where an order under this section is made in respect of a person against whom an order has been 10 made in respect of the child under Part X of this Act, the court may rescind or amend the last-mentioned order so as to secure that the said person do not pay twice for the maintenance of the same child.

(5) Any order made under this section may be 15 enforced, appealed from, quashed, confirmed, or varied, in the same manner in all respects as orders made under Part X of this Act. And the court may issue a warrant for the arrest of any person absconding from the State with a view to evade compliance with any 20 order under this section.

27. Any person who-

(a) ill-treats, terrorises, overworks, or injures any offences child committed to or an inmate of an respect of institution;

25 (b) counsels, or causes or attempts to cause, any such child to be withdrawn or to abscond from any institution or from the charge of any person with or to whom such child is boarded-out, placed out or apprenticed;

30 (c) knowing any such child to have so withdrawn or to have so absconded, harbours or conceals such child or prevents him from returning to such institution or person;

(d) having the charge of any such child—

(i) illegally discharges or dismisses or attempts to discharge or dismiss him from an institution;

(ii) neglects such child;

(iii) does not well and truly observe, perform, and keep all the covenants, conditions, and agreements contained in any indenture or agreement

agreement entered into by him respecting any child and which by such indenture or agreement he has bound himself or agreed to observe, perform or keep,

5 shall be liable to a penalty not exceeding one hundred pounds or to be imprisoned for a period not exceeding

six months or both.

28. If any child committed to or an inmate of any child institution be absent therefrom without the leave of deserting may be 10 the superintendent, any constable may apprehend and apprehended. convey such child to such institution to be delivered into the custody of the superintendent thereof.

PART V.

PLACES USED FOR RECEPTION OF CHILDREN.

15 29. The person in charge of any place established or Licensing of used for the reception and care of one or more children place used for under the age of seven years, apart from their mothers, children shall make application to the Minister in the prescribed form and manner for a license in respect of such place.

The Minister shall thereupon cause inquiry to be made respecting such application and a report to be furnished

by an officer.

The Minister upon receiving such report may grant or refuse to grant to the person in charge a license in 25 respect of such place.

Every license granted shall be granted subject to such

conditions and requirements as are prescribed.

able facilities for such inspection.

30. For the purpose of making any inquiry and officer may report as aforesaid respecting any place, or for the inspect place.

30 purpose of ensuring that the prescribed conditions and requirements are complied with and fulfilled in respect of any licensed place, any officer may, at any time, enter the place and inspect it and the children who are inmates thereof, and the person in charge of the place shall,

35 during the course of such inspection, afford all reason-

In making such inspection the officer may, if he thinks fit, be accompanied by a medical practitioner or a police officer, or by both.

Any person who delays, hinders, or obstructs any 5 officer in making such inspection shall be liable to a penalty not exceeding twenty-five pounds:

Provided that the Minister may at any time, by writing under his hand, order that the provisions of this section shall not apply in any particular case where he 10 is satisfied that it is undesirable or unnecessary that it should apply. Any court may, in any particular case, suspend the operation of the provisions of this section for a period of eight days to enable such order to be obtained.

31. Where, on any inspection of a licensed place, Where the officer finds that any of the prescribed conditions or license not requirements are not complied with or fulfilled, the observed, secretary may give directions to the person in charge Minister may cancellicense. to ensure a compliance with and fulfilment of such

- 20 conditions or requirements, failing which the license of such place may be cancelled by the Minister, and any children or inmates of such place may be removed therefrom and placed in such place as the Minister may approve.
- 32. Where any place is established or used for the Penalties on reception and care of one or more children under the person in charge of age of seven years apart from their mothers, and is not unlicensed licensed under the provisions of this Act, the person in place. charge of such place shall be liable to a penalty not

30 exceeding twenty-five pounds, and any children who are inmates of such place may be removed therefrom and placed in such care as the Minister may approve of: Provided that nothing in this Part shall apply when bona fide blood relationship or guardianship approved

35 by the Minister exists between the said children and the persons by whom they are cared for.

33. (1) No person shall, without a written order of Regulating E. court specifying the terms on which the child may children be received, receive into his care, charge, or custody under seven 40 any child under the age of seven years to rear, nurse,

or otherwise maintain, apart from its mother, in consideration of the payment to such person of any sum of money or other valuable consideration otherwise than by way of periodical instalments; and no such instal-5 ment shall be paid for more than four weeks in advance, nor exceed the sum of thirty shillings per week. Any person receiving or agreeing to receive payment for the rearing, nursing, or maintenance of any child contrary to this section shall be guilty of an offence.

- 10 (2) This section shall not apply to any person being the legal or natural guardian of such child; nor to the manager or officers of any institution supported wholly or in part by public subscription, or bona fide by private charity where such institution is open to State 15 inspection, or controlled by the State; nor to any person exempted for the time being from the operation of this section by the Minister.
- (3) The secretary shall, if required, receive from anyone wishing to place a child in the care of such person 20 a sum of money from which he shall make to the caretaker of such child such payments as are permitted under this Act.
- (4) Every court when giving an order under this section shall in each case report to the secretary 25 that it has given such order.

34. (1) Every person who receives into his care, Registration charge, or custody any child under the age of seven of reception of children. years to rear, nurse, or otherwise maintain the same for payment under this Part shall register or cause to be 30 registered the particulars in the form prescribed, at the office of the district registrar of births, deaths, and marriages, appointed under the provisions of the Act No. 17,1899, for the district in which such person then resides. within seven days from the date of such child's reception 35 if such office is within a distance of two miles from his place of abode, or within fourteen days if such office is

not within two miles as aforesaid, and such registrar shall furnish such particulars to the secretary.

(2) Any person who fails to comply with the 40 provisions of this section shall be guilty of an offence.

35. (1) No person who has in his care, charge, or Change of custody any child in accordance with the provisions of address to be this Part shall change his place of abode, or relinquish the care, charge, or custody of such child without 5 forthwith notifying such change or relinquishment to the district registrar as aforesaid, and such registrar shall register the same in the form prescribed, and shall at once report such particulars to the secretary. When such change of abode is made to a place out of the 10 district of such registrar he shall forward a copy of such registration of removal to the registrar of the district to which the child is removed, and upon receipt of such copy the said registrar shall enter the particulars therein

set forth in a book provided for that purpose.

(2) Any person who fails to comply with the provisions of this section shall be guilty of an offence.

36. (1) Every person having charge of a child regis- Notice to be tered under this Part shall, immediately after the death given of of any such child, if such death occurs elsewhere than child.

20 in the city of Sydney, or any municipality included in the suburbs thereof, give or cause to be given notice of such death to the officer in charge of the nearest police station, and such officer shall make inquiry and report to the coroner for the district, or if the exigencies of

25 the case so require to a justice, whether an inquest or magisterial inquiry respecting the cause of death is necessary, and in addition to such notice such person shall by registered letter report such death to the secretary.

(2) When the death of any such child occurs in 30 the city of Sydney, or any municipality included in the suburbs thereof, such notice shall be given to the secretary, who may cause an inquest or inquiry to be held.

(3) The body of a child registered under this 35 Part shall not be buried without the production of a certificate under the hand of the coroner or the justice who held the inquiry, or of a stipendiary or police magistrate, authorising such burial, or of a medical practitioner who has attended such child during its last

40 illness, certifying the cause of death, and also that such cause was in no way consequent on the neglect or ill-treatment of such child. (4)

(4) Any person having charge of a child registered as aforesaid who neglects, refuses, or omits to give notice of the death of such child in accordance with the provisions of this section shall be guilty of an offence.

5 (5) Where the death occurs at a greater distance than fifteen miles from the nearest police station, satisfactory evidence that the omission to give such notice was not the result of wilful neglect on the part of the person in charge of such registered child shall entitle 10 such person to the dismissal of the charge.

PART VI.

LYING-IN HOMES.

37. Every person in charge of a lying-in home shall Keepers of furnish records in the form prescribed, and forward the lying-in homes to 15 same to the registrar for the district in which such person furnish resides, within a period of forty-eight twenty-four hours records. from the occurrence of each birth in such home, and any such person who fails to comply with the provisions herein contained, or wilfully falsifies such records, shall be 20 guilty of an offence.

38. No person in charge of a lying-in home shall Removal of permit any child to be taken from such home unless in child from the charge of the mother of such child, without first home. obtaining the written consent of the secretary or a 25 person authorised by him. Any such person who violates the provisions of this section shall be guilty of an offence.

39. Any person in charge of a lying-in home shall Registration be responsible for the registration, in accordance with of births by householder. 30 the provisions of the Act No. 17, 1899, of all births occurring in such house; and any such person who omits, neglects, or refuses to register the birth of any such child, shall be liable to the punishment provided by that Act.

23-B

40. (1) When a woman is delivered in a lying-in still-born home of a still-born child, no interment of such child child not to shall take place without its being authorised by the without a certificate of a medical practitioner, magistrate, or certificate.

5 constable of police, who has made personal inquiry into the circumstances.

(2) Any person interring any such still-born child without first obtaining such certificate shall be

guilty of an offence.

10 (3) But any such still-born child, born in a lying-in home situated more than fifteen miles from the nearest such practitioner, magistrate, or constable of police, may be interred without such authority, but the birth of the child so buried shall be reported within seven

15 days from the date of the burial, by the person who interred the body, to the nearest police officer, who shall forthwith make a full inquiry into the circumstances of the case, with the view of taking further action if necessary; and if the person who so buried

20 the body shall fail to report as required, he shall be guilty of an offence.

PART VII.

PROTECTION OF CHILDREN.

41. (1) Any person who causes or allows any child Employment of child in under the age of fourteen years to take part in any public dangerous exhibition or performance whereby, in the opinion of a performances. court, the life or limbs of such child is or are endangered, and the parent or any person having the custody of such child who aids or abets such first-mentioned so person therein, shall be guilty of an offence.

(2) Where in the course of a public exhibition or performance which in its nature is dangerous to the life or limb of a child under such age as aforesaid taking

part

part therein, any accident causing actual bodily harm occurs to such child, the employer of such child, whether its parent or not, shall be guilty of an offence; and if such employer is not the parent of such child, 5 the court before which such employer is convicted may award as compensation a sum not exceeding one hundred pounds, to be paid by such employer to the child or to some person named by the court on behalf of the child for the bodily harm so occasioned.

10 **42.** (1) Any person who—

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(a) causes or procures, or having the custody or child to solicit alms charge thereof, allows any child under the age or perform. of sixteen years to be in any place for the purpose of begging or receiving alms, or inducing the giving of alms, whether under the pretence of singing, playing, performing, offering anything for sale or otherwise; or

(b) causes or procures, or having the custody or charge thereof, allows any child under the age of sixteen years to be in any place or in any premises licensed according to law for public entertainments, for the purpose of singing, playing, or performing for profit, or offering anything for sale between ten o'clock at night and six o'clock in the morning; or

(c) causes or procures, or who, having the custody or charge thereof, allows any child under the age of ten years to be at any time in any place, or in any premises licensed according to law for public entertainments, or in any circus or other place of public amusement to which the public are admitted by payment, for the purpose of singing, playing, or performing for profit, or offering anything for sale,

35 shall be guilty of an offence:

Provided that in the case of any entertainment or series of entertainments to take place in premises licensed according to law for public entertainments, or in any circus or other place of public amusement as aforesaid, 40 where it is shown to the satisfaction of the Minister that proper provision has been made to secure the

health

health and kind treatment of any children proposed to be employed thereat, the Minister may, notwithstanding anything in this Act, grant a license for such time and during such hours and subject to such restrictions and 5 conditions as he may think fit, for any child exceeding seven years of age, of whose fitness to take part in such entertainment or series of entertainments without injury the Minister is satisfied, to take part in such entertainment or series of entertainments, and such license may 10 at any time be varied, added to, or rescinded by the said Minister upon sufficient cause being shown; and such license shall be sufficient protection to all persons acting under or in accordance with the same.

(2) The Minister may appoint any person to see 15 that the restrictions and conditions of any license under this section are duly complied with; and such person shall have power to enter, inspect, and examine any place of public entertainment at which the employment of a child is for the time being licensed under this

20 section.

(3) This section shall not apply in the case of any occasional entertainment, the proceeds of which are wholly applied for the benefit of any school or to any charitable object.

25 **43.** For the purposes of the last two preceding custody or sections any person who is the parent of a child, or any charge person to whose charge a child is committed by its parent, or any person having actual possession or control of a child, shall be deemed to have the custody 30 or charge thereof.

44. Any constable or any officer appointed under Removal of this Act may take any child under eighteen years of age child to a in respect of whom there is reason to believe that an safety. offence under this Act has been committed to a place of safety, and a child so taken to a place of safety, and also any child under eighteen years of age who seeks refuge in a place of safety, may be there detained until

45. Where it appears to a court or any justice that an Care of child
40 offence under this Act has been committed in the case of pending trial any child under eighteen years of age brought before such

court

court or justice, and that the health or safety of the child will be endangered unless an order is made under this section, the court or justice may, without prejudice to any power under this Act, make such order as circumstances frequire for the care and detention of the child until a reasonable time has elapsed for the bringing and disposing of any charge against the person who it appears has committed the offence; and an order under this section may be enforced, notwithstanding that any person claims the custody of the child.

46. (1) Any constable may take into custody without Arrests warrant any person who commits, or who is reasonably without suspected by such constable to have committed, an offence under this Act, if the name and residence of such 15 person are unknown to such constable and cannot be

ascertained by him.

(2) Where such an arrest is made, the inspector or constable in charge of the station to which such person is conveyed shall, unless in his belief the release 20 of such person on bail would tend to defeat the ends of justice, or to cause injury or danger to the child in respect of whom the offence is alleged to have been committed, release the person arrested on his entering into such a recognizance, with or without sureties, as may in 25 his judgment be required to secure the attendance of such person upon the hearing of the charge.

47. Whenever steps have been taken under any of Disposal of the last three preceding sections to secure the safety or child by well-being of a child, and the person charged with committing an offence in respect of such child has been convicted, such child may be disposed of as the court so convicting may direct.

PART VIII.

STREET TRADING LICENSE.

48. (1) A written license authorising a male child Issue of of or over the age of twelve years to engage, subject to 5 the regulations, in a specified description of street trading may be issued—

(a) by the Minister or by any officer acting under his authority; or

(b) in respect of its district by a local authority or some officer of such authority appointed in that behalf with the approval of the Minister.

(2) Such license shall be delivered to the child with a badge to be worn by him as prescribed during such trading.

(3) Such license shall not be issued unless it is shown that the moral or material welfare of the child will not suffer by such trading.

(4) Every license shall be granted for a term of six months, but may be renewed from time to time, and 20 may at any time be cancelled by the Minister or by the authority which has issued it. No charge shall be made for any license or badge.

49. If any person employs a child in street trading—Penalty for employing

(a) who is not duly licensed under this Act; or child in street
 (b) who, although so licensed, is employed by him trading in in trading of a description not authorised by contravention of Act.

he shall be liable to a penalty not exceeding five pounds, or in case of a second or subsequent offence to a penalty 30 not exceeding ten pounds.

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PART IX.

COMMITTÁL OF NEGLECTED OR UNCONTROLLABLE CHILDREN OR JUVENILE OFFENDERS.

50. Any justice may, upon oath being made before Warrant for 5 him by an officer or other person appointed by the apprehension. Minister in that behalf that, having made due inquiry, he believes any child to be a neglected or uncontrollable child,—

(a) issue his summons for the appearance of such child before a court; or

(b) in the first instance, issue his warrant directing such child to be apprehended.

51. A constable or any person authorised by the ApprehenMinister in that behalf may, although the warrant is not

15 at the time in his possession, apprehend any child for
whose apprehension a warrant has been issued under
the last preceding section.

52. (1) If it appears to any justice on information Warrant to laid before him on oath by any credible person, that search for child 20 there is reasonable cause to suspect that a child is in a suspected in place which is a brothel, or where opium or any place where preparation thereof is smoked, such justice may issue opium is his warrant authorising any person named therein to search in such place for any child, and to take such 25 child to a shelter to be dealt with under this Act.

(2) Any person authorised by warrant under this section to search for a child may enter (if need be by force) into any house, building, or other place specified in the warrant, and may remove such child 30 therefrom.

(3) Every such warrant shall be addressed to and executed by some constable of police, who shall be accompanied by the person making the information (if such person so desire), unless the justice issuing the 35 warrant otherwise directs.

(4) It shall not be necessary in the information

or warrant to name the child.

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53. Any person authorised by the Minister in that Apprehension behalf, or any constable of police may without warrant of child in apprehend

apprehend a child who is in a place which is a brothel or where opium or any preparation thereof is smoked, or who he has reason to believe is a neglected or uncontrollable child.

- 54. Where a child is found in a brothel or in a Where child place where opium or any preparation thereof is smoked, in brothel or the known or new or in the known of the known or new or in the known of the known or in the known of the the keeper or person in charge or apparently in charge keeper guilty of an offence. of such brothel or place shall be guilty of an offence.
- 55. Any child apprehended as a neglected or uncon- Child placed 10 trollable child or juvenile offender shall be taken to a in shelter and to be brought shelter and as soon as practicable thereafter shall be before court. brought before the court by the superintendent of the shelter.
- 56. Any person having the actual care and custody Application 15 of a child may apply to a court to commit the child to to controllable an institution upon the ground that the child is an child to uncontrollable child. Such child may be detained at a shelter pending the determination of the court.

57. Where any child is brought before a court as a Procedure 20 neglected or uncontrollable child or juvenile offender, or where an application is made under the last preceding section, the court may, if a parent of the child is present, thereupon hear and determine the matter.

If a parent of the child is not present, the court in its 25 discretion may hear and determine the matter or require the parent to be present and remand the child for the purpose of securing the attendance of the parent if practicable.

If the parent refuses to attend without reasonable 30 excuse, the court may issue a warrant to bring him before the court at the hearing, but the parent may be admitted to bail on entering into recognizances, with or without sureties, to attend at the court at the hearing of the matter.

58. If on the hearing the court finds that a child is Power of a neglected or uncontrollable child or juvenile offender hearing. it may-

(a) release the child on probation upon such terms and conditions and for such period of time as 40 the court may think fit; or

- (b) commit the child for such period of time as the court may think fit to the care of some person who is willing to undertake such care;
- 5 (c) commit the child to an institution: Provided that no order of committal of an uncontrollable child on the application of a near relative shall be made unless-

(a) he proves that he has not by neglect lost con-10 trol of the child; and

- (b) security is given to the satisfaction of the court for the making of such payment as, in the opinion of the court, the applicant is able to afford towards the maintenance of such child.
- 15 59. Where a child is summarily convicted of an Power with offence for which the penalty is punishment by imprison-respect to child liable to ment, or imprisonment in default of payment of a fine, be summarily the count may the court may—

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(a) release the child on probation upon such terms and conditions and for such period of time as the court may think fit; or

(b) commit the child for such period of time as the court may think fit to the care of some person who is willing to undertake such care:

(c) commit the child to an institution; or

(d) sentence the child according to law. If the court sentences a child it shall forthwith

transmit to the Minister a copy of the proceedings and a 30 statement of the reasons for passing sentence. The Minister may, with the concurrence of the

Attorney-General, order the removal to an institution of the child so sentenced.

60. (1) Where a child is summarily convicted before Court may 35 a court of an offence in respect of which a penalty, order parent damages, or costs are imposed, and there is reason to penalty, believe that his parent has contributed to the commission costs in of the offence by wilful default or by habitually neglecting to exercise due care of the child, the court may, on

40 information, issue a summons against such parent, charging him with so contributing to the commission of the offence. (2)

- (2) If the court is satisfied that the parent has contributed to the commission by the child of the offence by wilful default, or by habitually neglecting to exercise due care of him, the court may order that the penalty, 5 damages, or costs shall be paid by the parent instead of by the child, and may also order the parent to give security for the good behaviour of the child.
- (3) Any sums so imposed and ordered to be paid may be recovered from the parent in the same manner 10 as sums ordered by justices to be paid may be recovered under the Justices Act, 1902.
- (4) Proceedings in the nature of an appeal may be taken by the parent, under Part V of the Justices Act, 1902, from any order made against him in pursuance 15 of this section.
 - 61. (1) Where a child is charged before a court Power with with an indictable offence other than homicide or rape, child charged and is not dealt with summarily, the court may—

 with certain indictable

(a) release the child on probation upon such terms offences.

and conditions and for such period of time as
the court may think fit; or

(b) commit the child for such period of time as the court may think fit to the care of some person who is willing to undertake such care;

(c) commit the child to an institution; or

(d) commit the child to take his trial according to law.

If the court commits a child to take his trial it shall 30 forthwith transmit to the Minister a copy of the proceedings and a statement of the reasons for its decision.

(2) When a court has committed a child to take his trial for an indictable offence, the Minister may commit the child to an institution, if the Attorney-35 General shall have entered a nolle prosequi in regard to proceedings against the child:

Provided that the Minister may exercise his powers under this section only if the child or his parent consents, or if evidence on behalf of the child has been

40 given before the court.

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62.

62. Where a child is charged before a court with any Court to hear offence, or is brought before a court as a neglected or evidence on behalf of uncontrollable child, the court, before making any order child. or committal, shall give the child or his parent an 5 opportunity to call evidence, and shall hear any evidence that may be tendered by or on behalf of the child.

63. When a child has been dealt with under para- As to sections graph (a) or (b) of section fifty-eight or fifty-nine, or 58, 59, or 61. paragraph (a) or (b) of subsection one of section sixty-

10 one, the following provisions shall apply:—

20

(1) Subject to the directions of the Minister, the child shall be in the custody and under the control of the person to whose care he has been committed.

15 (2) The child and the premises wherein he resides, or whereto he has been committed, shall be subject to inspection by officers appointed in that behalf.

(3) Any person having the care of a child as aforesaid who neglects or ill-treats such child shall be liable to a penalty of five pounds, and the child may be removed from his custody and control by the Minister.

64. If a child who has been released upon probation As to breach 25 breaks the terms or conditions of the release, he may be of terms of probation. apprehended and brought before a court.

If it shall appear that such breach has occurred, the court may deal with him under the provisions of this Act, in the same manner as if he had not been released upon 30 probation.

65. Where a child upon his trial has pleaded guilty Child conto or has been convicted of an indictable offence, the victed of indictable judge may, in addition to any other sentence for the offence may offence, commit the child at the expiration of such institution. 35 sentence to an institution, or may, instead of any other sentence, commit the child forthwith to an institution.

66. A court or a judge in committing a child to an Form of institution shall do so in general terms, but may recom-committal. mend to the Minister that the child be sent to an 40 institution of a particular class.

- 67. A child on being committed to an institution Child may be may, in the discretion of the court or judge, be placed in abelian in a shelter pending the Minister's decision as to his destination.
- 68. The Minister as soon as practicable shall endorse Name of on the order of committal the name of the institution be endorsed and the place where the child is to be detained.

PART X

AFFILIATION PROCEEDINGS.

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Proceedings begun before birth.

69. Where any single woman is with child by any Single woman man who has made no adequate provision for the pay- with child ment of preliminary expenses of and incidental to and proceedings immediately succeeding the birth of the child, or the against father.

15 expenses of the future maintenance of the child, she, or See Imperial with her consent the secretary, or any other reputable Act 35 & 36 person on her behalf, may make complaint in writing on s. 3. oath to a magistrate or court that she is with child by the said man, and that he has made no adequate provision for

20 the payment of the expenses aforesaid; and shall when making such complaint produce evidence on oath, either oral or on affidavit, in corroboration in some material particular of the allegation as to the paternity of the child.

The magistrate or court may thereupon summon the man to appear before the court to answer such complaint; or, if the circumstances seem to require it, may issue a warrant for his apprehension.

70.

70. The court shall hear and determine so much of Court may such complaint as relates to the paternity of the child, require defendant to and maypay prelimin-(a) order the defendant to deposit with the court ary expenses. a sum not exceeding thirty pounds for pre-No. 702, ss. 3, 5 liminary expenses; and 4; Vic. Act, (b) further order the defendant to enter into a ss. 2, 3: recognizance with one-or-more-good and Imperial Act, sufficient-sureties-to-the-satisfaction-of-the Vic., c. 65, 10 court or without a surety or sureties for s. 4. such amount as the court determines, as a security that within four months from the birth of the child, and on such day as any court, at any time not later than three 15 months from the said birth, determines, and of which at least fourteen days' notice shall be given to the defendant by or on behalf of the complainant, the defendant will appear and show cause why he should not make such 20 adequate provision as the court determines for the payment of the expenses of the maintenance and education of the child after it has reached the age of three months. Every such order See S.A. Act shall specify a date not later than six months 702, s. 7. 25 thereafter when the order shall lapse if the child has not been born, and if upon such date the child has not been born the order shall lapse and the defendant and his surety or sureties shall be deemed to be released from 30 their recognizances, and the unexpended portion of any moneys paid by the defendant as preliminary expenses shall be repaid to him: Provided that if the mother has been delivered of a still-born child within the date specified. 35 the court may direct that the whole or such portion of the amount deposited, as it thinks fit, be paid out to her.

The court shall not make an order under this section see S.A. Act against the defendant unless it be proved by the evidence 702, s. 6.

40 of some medical practitioner or by the certificate of some medical practitioner admitted as such evidence with the consent of the defendant that the woman is quick

quick with child, and unless her evidence be corroborated in some material particular, or if the court be satisfied that at the time the child was begotten the mother

was a common prostitute.

In default of compliance with any order as aforesaid, the court may commit the defendant to prison for any term not exceeding twelve months: Provided that upon compliance with such order, at any time during such term of imprisonment, the defendant shall be released 10 from prison.

71. If upon the day on which the defendant is bound Forfeiture of to show cause as aforesaid, or upon any later day to which recognizance where the proceedings are adjourned he does not appear, and it defendant is proved to the satisfaction of the court that the child does not appear.

- 15 has been born, and that the order binding the defendant to show cause has not lapsed, the recognizances entered into by the defendant and sureties before the birth shall be forfeited, and such recognizance shall be dealt with as a forfeited recognizance in the manner provided by
- 20 the Fines and Forfeited Recognizances Recovery Act, 1902; the moneys so secured shall be applicable for the benefit of the mother and child, and the court may proceed in the case ex parte and make an order for the payment by the defendant of a sum for the maintenance 25 and education of the child.

72. If upon the day or later day mentioned in the Order after last preceding section the defendant appears, and it is birth where proved to the satisfaction of the court that the child dees appear. has been born, and that the order binding the defendant

30 to show cause has not lapsed, the court shall make an order for the payment by the defendant of a sum for the maintenance and education of the child.

Proceedings begun after birth.

73. In any case where the father of an illegitimate complaint may 35 child has left it without means of support, the mother of the child, or the secretary or any other reputable person on behalf of the child, may make complaint on oath to of support. a magistrate or court; and shall, when making such (See Local Act, No. 17, 1901, complaint, produce evidence on oath, either oral or on s. 4; Imperial Act, 35 & 36 Vio., 40 affidavit, in corroboration in some material particular of c. 65, s. 8.)

any allegation in such complaint as to the paternity of the child; and upon such complaint being made, the magistrate or court may summon the defendant to appear before the court to answer such complaint, or if the 5 circumstances seem to require it, may issue a warrant for his apprehension.

In any case where the mother of an illegitimate child has left it without means of support, the secretary or any reputable person on behalf of the infant may make

10 complaint in writing on oath to a magistrate or court, and upon such complaint being made the magistrate or court may summon the defendant to appear before the court to answer such complaint, or, if the circumstances seem to require it, may issue a warrant for her 15 apprehension.

74. The court shall hear and determine the com- Court shall plaint, and may make an order for the payment by the determine defendant of a sum for the maintenance and education complaint and may of the child.

In any order made under this section against the for maintenance father of an illegitimate child, the court may further order that the preliminary expenses to an amount not exceeding thirty pounds shall be paid by the defendant, and for the purposes of this and the preceding section

25 any defendant who has failed to pay an adequate sum for preliminary expenses shall be deemed to have left the child without means of support.

75. Where any complaint has been made under this Women may Part by a woman for expenses in respect of a child of in certain cases be 30 which she is about to be or has been delivered, she may, compelled to at the hearing of the complaint, be compelled to give evidence; and where complaint has been made by an officer or other reputable person on behalf of a woman for such expenses, she may, at the hearing of 35 the complaint, be compelled to give evidence if it has first been proved to the satisfaction of the court that she has made an allegation as to the paternity of the child. The admissions of a woman in giving evidence under this section shall not be used against her in any

40 criminal prosecution, except for perjury committed while so giving evidence,

76. (1) Where after the fifth month of pregnancy Court may any illegitimate child has been still-born or having been order payment of born alive has died before attaining the age of sixteen funeral years, and where the mother of any such child has died expenses of mother and during parturition or in consequence of parturition child.

within-one-month-from the birth-of-such-child, and the (See 35 & 36 Vic., c. 65, s. 4.)

(a) for preliminary expenses;

(b) for funeral expenses of such mother or child;

10 any reputable person may make complaint in writing on oath to any magistrate or court that the defendant has failed to pay the same, and shall when making such complaint produce evidence upon oath either oral or on affidavit in corroboration in some material particular of 15 the allegation as to the paternity of the child.

(2) Such magistrate or court may thereupon summon the defendant to appear before the court to answer such complaint; or if the circumstances seem to require it, may issue a warrant for his apprehension.

20 (3) The court shall hear and determine the complaint and may make an order for payment by the defendant of a sum—

(a) not exceeding thirty pounds for preliminary expenses;

25 (b) a reasonable sum for the expenses of the funeral:

Provided that no order for preliminary expenses shall be made under this section unless the complaint be made within twelve months of the birth of such child, 30 and no order for funeral expenses shall be made unless complaint be made within twelve months of the death

of such mother or child.

Any complaint under this section may include all or

any of the expenses mentioned therein.

35 (4) The provisions of section ninety-two of this Act shall apply to proceedings under this section as if the proceedings were in respect of the maintenance of an illegitimate child:

Provided that where the defendant has been adjudged 40 by any court of competent jurisdiction to be father of any such child this subsection shall not apply, and no further proof of paternity shall be required. 77.

77. In any order under this Part the court may court may further order the payment of such costs by such persons ment of costs. as it thinks fit.

78. If it appears to the court that both the father Mother also 5 and mother of an illegitimate child are able to to contribute to expenses of contribute to any of the expenses mentioned in the maintenance. preceding sections of this Part, the court, in making any (See Deserted Wives and order, may direct the payment of such expenses by both Children Act, No. 17, 1901, the father and mother in such proportions and in such s. 7; N.Z. Act, 58 Vic. No. 22, 10 manner as it thinks fit; and if it appears to the court s. 10.) that the mother only is able to so contribute, it may direct the payment by her alone.

79. Every order adjudging any sum to be paid for Period for the maintenance of a child may be made to take which orders for maintenance and the not earlier than three months ance may be immediately preceding the date of the order, or, if a made.

previous order has been made, from the date when the Act, 35 & 36 last preceding order ceased to have effect, and shall be Vic., c. 65, of full force and validity until the child has, if a male, Act, 58 Vic. 20 attained the age of founteen years, or has if a famile, Act, 58 Vic. 20 attained the age of founteen years, or has if a famile No. 22 x 9

20 attained the age of fourteen years, or has, if a female, No. 22, s. 9.) attained the age of sixteen years, or until the death of such child if such death occurs within the respective periods above mentioned:

Provided that the court may in the order direct that 25 the payments to be made under it in respect of a male child shall continue until the child attains the age of sixteen years, in which case such order shall be in force until that period:

Provided also that for the purpose of recovering money 30 previously due under an order it shall always remain of full force and validity.

80. When an order is made under this Part for the Security for payment of any expenses other than preliminary expenses payment of amount may the court may, immediately after pronouncing its decibe ordered.

35 sion, or at any time during the currency of the order Deserted on notice being given to the defendant, require the Children Act, defendant to enter into a recognizance with or without No. 17, 1901, sureties for the due performance for a period not exceeding twelve months of such order, and in default

40 of the defendant's immediately entering into such

recognizance with the required sureties if any, the court 23—C may

may commit the defendant to prison, there to remain for any term not exceeding twelve months or until such recognizance has been entered into or the said order complied with for the period specified in the recognisance.

The court, on due proof that the conditions of such recognizance have not been complied with by the defendant may ex parte forfeit such recognizance, which shall thereupon be dealt with as a forfeited recognizance in the manner provided for by the Fines 10 and Forfeited Recognizances Recovery Act, 1902.

81. Where an order has been made under this Part Further for the payment of expenses, or of moneys secured under orders may be made as to recognizances, the court may, in a summary way and with mode of or without any application for that purpose, make such payment of expenses. 15 orders in writing as it thinks necessary for better securing Deserted the payment and regulating the receipt of the expenses Wives and or moneys ordered to be paid, or for investing and No. 17, 1901, applying the proceeds of the goods or rents ordered and s. 10. directed to be sold or collected, or for ensuring the due 20 appropriation of such expenses or moneys or for causing

the child in respect of whom the order was made to be properly brought up and educated.

82. In any order under this Part the court may, by Seizure of the said order, or at any time during the currency of such defendant's 25 order, authorise and direct some person forthwith to seize goods. 1bid. s. 9. and sell the defendant's goods and to demand and to receive his rents, or any moneys to which he is entitled or about to become entitled, or such portions of the said goods or rents or moneys as the court thinks fit, and to appropriate 30 the proceeds towards the payment of the moneys ordered in such manner as it from time to time directs, and if it appears on oath that the defendent has theretofore usually resided in New South Wales and has left the said State, the like order may be made and authority given

issued. A copy of the orders provided for in sections eightyone and eighty-two, certified to by the clerk of the court, shall be served on any person affected thereby. 40 Any person who disobeys or neglects to comply with any

35 by such court although no summons or warrant has been

such order served on him shall be guilty of an offence under this Act.

83. On complaint on oath being made to the court Disobedience or magistrate that any person has disobeyed or has not of order may be punished, complied with any order made under this Part such court or magistrate may summon such person or issue 5 his warrant for the apprehension of such person to answer such complaint. The court may at any time in a summary way inquire into any such disobedience or non-compliance with any such order, and may enforce compliance, or may punish non-compliance with such 10 order by the committal of the offender until such order has been complied with, and until the payment of any costs incidental to the hearing of the said complaint which may be awarded by the court.

84. The court from time to time may, upon applica- Court may 15 tion made by or on behalf of the mother or child or by vary order. or on behalf of the father, and upon notice given in such manner as the court shall direct to all parties to be affected thereby, vary any order made under this Part. On the determination of such application the court may 20 award costs to the successful party.

A man adjudged to be the father of a child may apply to the court for leave to apply to have the order varied on the ground that evidence material to the question of the paternity of the child was not available to or known 25 of by him at the date of the adjudication, and the court may on hearing the evidence grant or refuse such leave. Except in pursuance of leave so granted the question of the paternity of the child shall not be raised on an application to vary an order.

85. (1) Every summons or notice shall be served by Service of a constable or other person upon the person to whom it summons or notice. is directed by delivering it to him personally, or if he cannot be conveniently met with, then by leaving it with some person for him at his last or most usual place 35 of abode.

(2) Service of a summons or notice in manner aforesaid may be proved by the oath of the police constable or other person who served it, or by affidavit, or otherwise.

certain cases.

Child Welfare.

86. (1) If a defendant against whom a summons Court may has been issued under this Part does not appear in proceed accordance therewith the court, upon proof of the service of the summons, may issue a warrant for his apprehen-5 sion, or may proceed in the case ex parte.

(2) In every case where a warrant has been issued, and the defendant cannot, after strict inquiry and search, be found to be taken thereon, the court may

in like manner proceed in the case ex parte.

87. Any magistrate or court on being satisfied by Warrant may complaint on oath that any defendant has removed or issue in is about to remove out of New South Wales or to remote parts thereof to defeat any of the provisions of this Part or any order made hereunder may issue a warrant for 15 the apprehension of such defendant to be dealt with

according to law:

Provided that in lieu of issuing such warrant the magistrate or court may issue a summons requiring such defendant to appear before the court to answer 20 such complaint. Upon the appearance of such defendant he may at the discretion of the court be ordered to enter into a recognizance with sureties for the due performance for a period not exceeding twelve months of such order. And in default of defendant immediately entering into 25 such recognizance with the required sureties, the court may commit the defendant to prison, there to remain for any term not exceeding twelve months or until such recognizance has been entered into or the said order

complied with. The court on due proof that the conditions of such recognizance have not been complied with by the defendant may ex parte forfeit such recognizance, which shall thereupon be dealt with as a forfeited recognizance

in the manner provided by the Fines and Forfeited 35 Recognizances Recovery Act of 1902.

88. (1) Every person who wilfully refuses or Certain neglects to comply with an order made against him breaches of Actindictable under this Part, and goes or attempts or makes when offender preparation to go beyond New South Wales, or to leaves New South Wales. 40 reside or is resident either permanently or temporarily (See N.Z., 1894, beyond New South Wales, shall be deemed to be guilty No. 22, 8, 17; vic, 1901, No.

of an indictable offence, punishable by imprisonment with hard labour for a term not exceeding twelve months.

- (2) No person convicted of an offence against 5 this section shall be liable to any other penalty or punishment for such offence.
- 89. A committal to prison or conviction of an Committal to offence under this Part shall not prevent the making or prevent to operation of any order for the payment of money or the making or 10 doing of any act by such person which may be lawfully operation of made.

90. Whenever the Legislature of any British posses- Persons sion beyond the limits of the United Kingdom of deserting children in Great Britain and Ireland, the Channel Islands, and other colony, 15 the Isle of Man, and other than New South Wales, &c., may be makes provision whereby the offence of desertion of New South children, and going to reside beyond the limits of such (See Vic., possession, is constituted an offence whether punishable 1901, No. on indictment or otherwise by imprisonment for a term 1,737, s. 5;

20 of twelve months or more, then and in every such case 58 Vic. No. every person accused of such offence and coming to 22, s. 23.) New South Wales may be there arrested and dealt with under and pursuant to the provisions of the Act of the Imperial Parliament of Great Britain and Ireland, 44 & 45 Vic.

25 intituled the Fugitive Offenders Act, 1881, or any 7 v.s. 321. Act amending the same.

91. Every person aggrieved by an order of a court Appeal to or by the dismissal of a complaint under this Part quarter sessions or may appeal to a court of quarter sessions against such district court. 30 order in the manner provided by the Justices Act, 1902, in respect of appeals to courts of quarter sessions:

Provided that where an order is made by the court at any place, and a district court is held nearer to that place than a court of quarter sessions, such appeal may 35 be made to such district court in the same manner as an appeal may be made to a court of quarter sessions under the said Act:

Provided also that where an order is made before birth respecting the paternity of a child, and the party 40 aggrieved by the order gives notice of intention to appeal

to a court of quarter sessions or district court, as the case may be, and desires that the appeal shall not be heard before the birth of the child, such party shall state his or her desire in the notice, and in such case the appeal 5 shall be heard at the first court of quarter sessions or district court, as the case may be, held after a period of one month from the birth has elapsed, or at any court of quarter sessions or district court succeeding such first held court and to which the hearing is postponed, but 10 no appeal shall in such case be heard earlier than such first held court:

Provided also that at the request of either party the child shall be produced in court. Where an appeal respecting the paternity of a child is to be heard after 15 the birth of the child, no order shall be made under sections seventy-one and seventy-two of this Act until and unless such appeal has been heard and determined.

Provided also that where any order has been made ex parte under subsection two of section eighty-six of 20 this Act the defendant may appeal as in this section, provided that at any time within one month of the time when the fact of such order having been made came to knowledge, the onus of proving such time to lie upon the defendant.

- 25 **92.** Where an order of court has been quashed, or Where order an order of dismissal of a complaint has been confirmed quashed, &c. by a court of competent jurisdiction on appeal as provided by section ninety-one, fresh proceedings may by leave of a court be brought at any time under sections 30 sixty-nine, seventy-three, or seventy-six in respect of the same cause of complaint or subject-matter.
- 92. **93.** Where any proceedings are taken under this Evidence Act, in respect of the maintenance of an illegitimate necessary for child, of which the defendant is alleged to be the father, maintenance. 35 no order shall be made—
 - (a) upon the evidence of the mother, unless her evidence be corroborated in some material particular; or
- (b) if the court is satisfied that at the time the child was begotten the mother was a common prostitute.

93. **94.** Sections sixty-one, sixty-two, sixty-three, Application sixty-four, sixty-five, sixty-six, sixty-eight, sixty-nine, of Justices seventy, seventy-one, seventy-four, seventy-five, seventy-1902. six, seventy-seven, seventy-eight, seventy-nine, eighty,

5 eighty-one, eighty-two, eighty-three, eighty-four, eighty-five, eighty-seven, eighty-nine, ninety, ninety-two, ninety-three, ninety-four, ninety-five, ninety-six, ninety-seven, ninety-eight, ninety-nine, one hundred and one, one hundred and two, one hundred and three, one

10 hundred and four, one hundred and five, one hundred and six, one hundred and seven, one hundred and eight, one hundred and nine, one hundred and ten, one hundred and eleven, one hundred and twelve, one hundred and thirteen, one hundred and fourteen, one hundred and

15 fifteen, one hundred and sixteen, one hundred and seventeen, one hundred and eighteen, one hundred and nineteen, one hundred and twenty, one hundred and twenty-one, one hundred and fifty-two, and one hundred and fifty-three of the Justices Act, 1902, shall mutatis

20 mutandis apply to this Part of this Act, so far as such sections are not inconsistent with such Part or the Deserted Wives and Children Amending Act, 1913: Provided that subsection two of section eighty-two shall not affect the provision relating to periodical payments

25 under such Part, or to amounts ordered to be paid under sections seventy, seventy-four, and seventy-six of this Part.

95. A court for the purpose of dealing with pro-Powers of ceedings under sections sixty-nine, seventy-three, and court under sections seventy-six of this Act shall have all the powers of a and 76.

justice or justices under sections sixty-one, sixty-six, and seventy-one of the Justices Act, 1902, and the provisions of sections sixty-two, sixty-three, and sixty-four of that Act shall mutatis mutandis apply to the forms,

35 service, and proof of service of any summons or warrant

issued by the court under this Act.

PART XI.

CHILDREN'S COURTS.

94. 96. (1) The Governor shall by proclamation estable Governor lish special courts to be called children's courts.

Every such court shall consist of a special magistrate for dealing with and shall have jurisdiction within the area named in a children.

(2) In places not within any such area the jurisdiction of a court shall be exercised by a special

10 magistrate, or any two justices.

(3) Such special magistrate shall possess the qualifications required for the office of police or stipendiary magistrate under the Public Service Act, 1902.

15 95. 97. Within the area so named a court and the Powers of magistrate constituting such court—

(a) shall exercise the powers and authorities which are possessed by special, stipendiary or police magistrates, courts of petty sessions, or justices in respect of children and of offences committed by or against children;

(b) shall exercise the powers and authorities of a justice or justices to hear and determine complaints under the Deserted Wives and Children

Act, 1901;

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(c) shall hear and determine complaints, informations, and applications under this Act.

96. 98. On and after the establishing of a court, the Jurisdiction jurisdiction of every court of petty sessions in respect of of other courts to 30 the matters as to which the court has jurisdiction, except cease those matters in which a justice or justices has or have jurisdiction under the Deserted Wives and Children Act, 1901, shall cease to be exercised within the area proclaimed:

35 Provided that nothing in this section shall abridge or prejudice the ministerial powers of magistrates or justices in cases of committal for trial, or their powers to take any information or issue any summons, or grant, issue, or endorse any warrant, or admit to bail:

Provided

Provided also that no conviction, order, judgment, or proceeding made or given by or had before a court of petty sessions in contravention of this section shall be invalidated or affected by reason only of such contra-5 vention.

97. 99. A court shall be held-

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Children's

- (a) where practicable, in the proximity of a shelter; courts r held in
- (b) in some building or room approved of in that courts. behalf by the Minister: Provided that if a court room or police office is so approved of, the hearing shall not take place at an hour when the ordinary court business is being transacted.
- 98. 100. (1) At any hearing or trial by a court under Exclusion of 15 this Act, the court may order that any persons not hearing. directly interested in the case shall be excluded from the court-room or place of hearing or trial.

(2) Upon and during the hearing of any complaint made under Part X of this Act, no person 20 shall be or be permitted to be present in court except the following—

> (a) the adjudicating magistrate, the secretary, or an officer deputed by him, the officers of the court, and a member of the police force;

(b) the complainant and the defendant, and their respective barristers and solicitors;

(c) the mother or sister, or other relative or friend of the complainant, if desired by such complainant;

(d) any person whilst being examined as a witness; and

(e) the mother or sister or female friend of any female witness, if desired by such witness whilst being examined,

35 unless the court shall, in the interests of justice, permit any other person to be present.

(3) The provisions of the last preceding subsection shall apply, mutatis mutandis to the hearing of an appeal under section ninety-one of this Act.

99.

99. **101.** Proceedings in the nature of appeal to the Appeal from Supreme Court or a judge thereof, or to a Court of children's Quarter Sessions or a District Court, from any deter-

mination, conviction, or order of a court may be taken 5 by a child or by a parent on behalf and in the name of his child under Part V of the Justices Act, 1902. The provisions of the said Part applicable to justices in the exercise of their summary jurisdiction shall apply to a court:

10 Provided that in place of the release of the appellant from custody upon entering into recognizances or depositing any money with the court, he may be committed by the court from which the appeal is made to a shelter pending the determination of the appeal:

15 Provided also that this section shall not apply to an

order committing a child to take his trial.

The judge hearing the appeal may order that any person not directly interested in the case shall be excluded from the court-room.

20 Further, the judge officiating in any court to which a case begun in a Children's Court has been transferred, may order that any person not directly in terested in the case shall be excluded from the court-room.

102. The Justices Act, 1902, so far as it is not Application 25 inconsistent with this Act shall apply to this Act with of Justices the exception of Part X.

PART XII.

REGULATIONS.

100. 103. (1) The Governor may make regulations Governor may make regulations and purposes of this Act.

(2) Such regulations may provide for the payment of fees and may impose a penalty not exceeding thirty pounds for any breach thereof. Any such penalty may be enforced by and recovered before a court.

(3) Such regulations shall—(i) be published in the Gazette;

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(ii) take effect from the date of publication or from a later date to be specified in such regulations; and

(iii) be laid before both Houses of Parliament within fourteen days after publication if Parliament is in session, and if not, then within fourteen days after the commencement of the next session. If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

PART XIII.

GENERAL AND SUPPLEMENTAL.

101. 104. (1) Every person charged with committing offences.

15 an offence against the provisions of this Act may be prosecuted before a court.

(2) Every person guilty of an offence against the provisions of this Act shall be liable, upon conviction before a court, unless some other penalty or 20 punishment is expressly provided, to a penalty not exceeding one hundred pounds, or to imprisonment for a period not exceeding two years, twelve months, or to

both penalty and imprisonment.

102. 105. If it be made to appear to any magistrate, When 25 on information laid before him on oath, that there is information on oath, reason to believe that any person is offending against warrant may the provisions of this Act in any house or place, be issued or that any of the provisions of this Act are being premises. infringed in any house or place, such magistrate may 30 issue his warrant authorising an officer to search any house or place therein named, at any hour of the day, or at any hour of the night not later than ten o'clock, for the purpose of ascertaining whether there is or

has been therein or thereon an infringement of the

35 provisions of this Act.

Such

Such officer may, if he thinks it necessary, be accompanied by a medical practitioner, or by a police officer, or by both.

103. 106. (1) Whenever it appears to any magis-Power of 5 trate, or to any justice, on information made before him search and to on oath by any person who, in the opinion of the place child in magistrate or justice, is bona fide acting in the interest safety. of any child, that there is reasonable cause to suspect that such child, being a child under the age of eighteen

- 10 years, has been or is being ill-treated or neglected in a manner likely to cause the child unnecessary suffering, or to be injurious to its health, such magistrate or justice may issue a warrant authorising any officer or constable of police named therein to search for such child; and if
- 15 it is found to have been or is then being ill-treated or neglected in manner aforesaid, to take it to and detain it in a place of safety until it can be brought before a court; and the court before whom the child is brought may commit the child to the custody of some person

20 named by the court, or make such other order as to the custody of the child as the court may think fit.

(2) The magistrate or justice issuing such warrant may, by the same warrant, cause any person accused of any offence in respect of the child to be 25 apprehended, and proceedings to be taken for punishing

such person according to law.

(3) Any person authorised by warrant under this section to search for any child, and to take it to and detain it in a place of safety, may enter (if need be by 30 force) any house, building, or other place specified in the warrant, and may remove the child therefrom.

(4) Every warrant issued under this section shall be addressed to and executed by an officer of police, who shall be accompanied by the person giving the in-

35 formation, if such person so desire, unless the magistrate or justice otherwise directs; and the person to whom the warrant is addressed may be accompanied by a medical practitioner.

(5) It shall not be necessary in any information 40 or warrant issued under this section to name any particular child.

104. 107. (1) If a Children's Court has reason to child believe that a child, male or female, is suffering from believed to be suffering from venereal disease, the court may at any time, either before venereal or after committal of such child, order an examination to disease. 5 be made of such child by a medical practitioner, either male or female.

(2) In the event of the medical practitioner reporting that any child is so suffering, the court shall forthwith notify the Commissioner in writing, who may 10 thereupon deal with such child as provided in Act

No. 46, 1918.

105. 108. (1) No child shall be apprenticed, boarded-Application out, or placed out under the provisions of this Act, unless of Act No. 46, 1918, to State the child has been—

(a) examined by a medical practitioner; and

(b) certified by such medical practitioner as being free from venereal disease, or no longer liable to convey infection.

(2) Such certificate shall be obtained at the 20 expense of the Child Welfare Department, and retained

by it.

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(3) Any person contravening this section shall be liable to a penalty not exceeding twenty pounds.

106. 109. (1) Where a person is charged with commit-Information 25 ting an offence under this Act in respect of two or more or summons. children the same information or summons may charge the offence in respect of all or any of them, but the person charged shall not be liable to a separate penalty in respect of each child unless upon separate informations 30 or summonses.

(2) The same information or summons may also charge the offences of assault, ill-treatment, neglect, abandonment or exposure, together or separately, but when charged together the person charged shall not be **35** liable to separate penalties.

(3) Where an offence charged is a continuous offence, it shall not be necessary to specify in the information or summons the date of the acts constituting the

offence.

40 107. 110. (1) Where in any proceeding against any Evidence person for an offence under this Act the child in respect certain

of whom the offence is charged to have been committed, or any other child of tender years who is tendered as a witness, does not in the opinion of the court understand the nature of an oath, the evidence of such child may 5 be received though not given upon oath if in the opinion of the court such child is possessed of sufficient intelligence to justify the reception of the evidence, and understands the duty of speaking the truth. And the evidence of such child, though not given on oath, but 10 otherwise taken and reduced into writing as a deposition, shall be deemed to be a deposition to all intents and purposes.

A person shall not be convicted of the offence charged unless the testimony admitted by virtue of this section, 15 and given on behalf of the prosecution, is corroborated by some other material evidence in support thereof

implicating the accused.

Any child whose evidence is received as aforesaid, and who wilfully gives false evidence, shall be guilty of a 20 misdemeanour, but no prosecution shall be instituted under this section without the leave of the court before

which such evidence was given.

- (2) Where a justice is satisfied by the evidence of a medical practitioner that the attendance before a 25 court of any child in respect of whom an offence under this Act is alleged to have been committed would be injurious or dangerous to its health, the justice may take in writing the statement of such child in pursuance of section four hundred and six of the Crimes Act, 1900, as 30 if the child were dangerously ill, and in the opinion of the medical practitioner, not likely to recover.
- (3) Where in any proceedings with relation to an offence under this Act the court is satisfied by the evidence of a medical practitioner that the attendance 35 before the court of any child in respect of whom an offence is alleged to have been committed would be injurious or dangerous to its health, any deposition taken under section four hundred and six of the Crimes Act, 1900, or any statement of the child taken under 40 this section, may be read in evidence, and shall have effect in like manner as if it were proved that the child

were so ill as to be unable to travel, or (in the case of any such statement) that there was no reasonable probability that the child would ever be able to travel or give evidence; but the same proviso shall apply as 5 in the case of the reception of evidence under the first subsection.

(4) Where in any proceedings with relation to an offence under this Act the court is satisfied by the evidence of a medical practitioner that the attendance

- 10 for the purpose of giving evidence before the court of any child in respect of whom the offence is alleged to have been committed would be injurious or dangerous to its health, and is further satisfied that the evidence of the child is not essential to the just hearing of the case,
- 15 the case may be proceeded with and determined in the absence of the child.
 - 108. 111. If any person makes any false representation, Forgery of or forges any certificate, or makes use of any forged certificate, certificate knowing it to be forged, with intent to obtain

20 the registration either of such person or of any other person under this Act, or falsifies any register kept in pursuance of this Act, or furnishes false particulars of any matter which is required to be entered in such register, such person shall be guilty of an offence and on

25 conviction thereof shall be liable to a penalty not exceeding twenty-five pounds or to imprisonment for a period not exceeding six months.

109. 112. Any person who hinders or obstructs any obstruction of person in the exercise of his duty under this Act, shall out provisions of Act. 30 be guilty of an offence.

110. 113. Any justice may issue a warrant for the arrest Arrest of of any child boarded-out, placed-out, apprenticed, or absconding adopted who has absconded or been illegally removed.

111. 114. Any person who ill-uses or neglects to perform Penalty for 35 his duty towards any child boarded-out, placed-out, ill-usage of apprenticed or adopted, or violates any regulation concerning such child, shall be guilty of an offence.

112. 115. Where a person is charged with an offence Presumption under this Act in respect of a child who is alleged in the of age of 40 charge or indictment to be under any specified age, and

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the child appears to the court to be under that age, such child shall, for the purposes of this Act, be deemed to be under that age unless the contrary is proved.

- 113. 116. Nothing in this Act contained shall be con- Saving 5 strued to take away or affect the right of any parent, right of teacher, or other person having the lawful control or punishment. charge of a child to administer punishment to such child.
- 114. 117. Where a person is charged with an offence A person not 10 under this Act, for which he is also punishable under to be twice any other Act or at Common Law, he may be prosecuted for the same and punished either under this Act or under any other offence. Act, or at Common Law, but no person shall be punished twice for the same offence.
- 15 115. 118. Any person, whether the parent of the child or Neglect or not, who, without reasonable excuse, neglects to provide of child. adequate and proper food, nursing, clothing, medical aid, or lodging for any child in his care or custody, or assaults, ill-treats, or exposes any child, or causes or procures any

20 child to be neglected, assaulted, ill-treated, or exposed, if such neglect, assault, ill-treatment, or exposure has resulted, or appears likely to result, in bodily suffering or permanent or serious injury to the health of such child, shall be guilty of an offence.

25 116. 119. The Minister may institute legal proceedings - Minister (a) against any parents for moneys expended in may take the maintenance of their children, when for satisfied that such parents are in a position to maintenance.

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pay for such maintenance; and (b) against the parents of illegitimate children for the recovery of maintenance money, and such parents shall be liable jointly and severally.

147. 120. All money and other property to which any Money of ward shall be entitled shall be placed to a separate fund ward to be 35 and shall be under the control of the Minister for the separate

benefit and maintenance of such ward. 118. 121. The expenses incurred in respect of the Expenditure administration of this Act shall be defrayed from such of money moneys as Parliament shall appropriate for that purpose, by Parlia. 40 and if there are no such moneys available, such expenses ment.

shall

shall be defrayed out of the Consolidated Revenue Fund by warrant under the hand of the Governor directed to the Colonial Treasurer.

The said Treasurer shall pay out of the said fund only 5 such charges as are certified to be correct under the hand of the Minister and countersigned by the secretary, and all payments in pursuance of such warrants shall be credited to the said Treasurer, and the receipt of the person to whom the same are paid shall be his discharge

10 in respect of the sum therein mentioned in the passing of his accounts. All payments made under any such warrant shall be recouped out of the vote for the purpose of this Act so soon as there are sufficient funds to the credit of such vote.

15 119. 122. The Minister shall furnish a report to Parlia- Report to be ment every year on the working of this Act.

By whom

PART XIV.

ADOPTION OF CHILDREN.

120. 123. In this Part, unless the context otherwise Interpre-20 requires,-"Adopted child" means child in respect of whom an order of adoption has been made.

"Adopting parent" means any person who by an order of adoption is authorised to adopt a child, and in case of any such order being made in favour of a husband and wife on their joint application, includes both husband and wife.

"Court" means the Supreme Court in its equitable jurisdiction.

30 121. 124. Upon application made to the court by—

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(a) husband and wife jointly; or female chil. (b) a married woman, with the written consent of may be adopted. her husband; or

(e) a woman, whether married or unmarried, who, No. 6, s. 3. in the opinion of the court, is at least eighteen years older than the child; or

23-D (d)

By whom

Child Welfare.

(d) a married man who, in the opinion of the court, is at least thirty years older than the child, an order of adoption of a female child may be made in favour of the applicant in the form prescribed.

5 122. 125. Upon application made to the court by—

(a) husband and wife jointly; or

(b) a married man alone, but with the written adopted. Ibid. s. 4. consent of his wife; or

(c) a man, whether married or unmarried, who, in the opinion of the court, is at least eighteen years older than the child; or

(d) a woman, whether married or unmarried, who, in the opinion of the court, is at least thirty years older than the child,

15 an order of adoption of a male child may be made in favour of the applicant in the form prescribed.

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123. 126. An order of adoption shall not be made Matters to be unless the court is satisfied—

(a) that the person applying for the order is of See W.A. good repute and a fit and proper person to have Act, 1896, the care and custody of the child, and of No. 6, s. 5. sufficient ability to bring up, maintain, and educate the child; and

(b) that the welfare and interest of the child will be promoted by the adoption; and

(c) if the child is over the age of twelve years, that the child consents to the adoption; and

(d) that the parents of the child or such one of them as is living consent or consents to the adoption, or if the child is illegitimate that the mother consents to the adoption, or if the child has a guardian, that such guardian consents to the adoption:

Provided that the consent of any person whose consent 35 is required to be given by this paragraph may be dispensed with if the court is of opinion that such person has deserted or abandoned the child.

124. 127. When an order of adoption is made, for all Effect of purposes civil and criminal, and as regards all legal and order.

40 equitable rights and liabilities, the adopted child shall Ibid. ss. 7, 8. be deemed to be a child of the adopting parent, and the adopting

adopting parent shall be deemed to be a parent of the adopted child, as if such child had been born to such adopting parent in lawful wedlock, and the order of adoption shall terminate all rights and liabilities 5 existing between the child and his natural parents other than the right of the child to take property as heir or next of kin of his natural parents or of their lineal or collateral kindred:

Provided always that such adopted child shall not by

10 such adoption—

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(a) acquire any right, title, or interest in any property under any deed, will, or instrument whatsoever made or executed prior to the date of such order of adoption unless it is expressly so stated in such deed, will, or instrument; nor

(b) be entitled to take any property limited to the heirs of the body of the adopting parent; nor

(c) he entitled to take any property as next of kin to any lineal or collateral kindred of the adopting parent; nor

(d) be entitled to take any property as next of kin to any child of the adopting parent.

125. 128. When an order of adoption is made the child to take adopted child shall take the surname of the adopting adopting parent. See W.A. Act, 1896, No. 6, s. 10. 25 parent in addition to his proper name.

126. 129. (1) The judges of the Supreme Court or any Power to three of them may make rules for carrying into effect the provisions and objects of this Part and for providing for the registration of orders of adoption and the pay-30 ment of fees.

(2) Until such rules are made any application under this Part shall be by motion, and the practice of the Equity Court shall apply thereto.

THE SCHEDULE.

	Date of Act.	Name of Act.	Extent of repeal.
5	Act No. 40, 1900	Crimes Act, 1900	So much of s. 429 as is inconsistent with this Act.
	Act No. 17, 1901	Deserted Wives and Children Act, 1901.	lates to complaints in respect of illegitimate children, and to pro-
10			ceedings consequent upon or incidental to such complaints.
	Act No. 61, 1901	State Children Relief Act, 1901.	The whole.
15	Act No. 47, 1902	Children's Protection Act, 1902.	The whole.
	Act No. 27, 1904	Infant Protection Act, 1904.	The whole.
20	Act No. 16, 1905	Neglected Children and Juvenile Offenders Act, 1905.	

[3s. 3d.]

Sydney: Alfred James Kent, Government Printer-1923.

Legislative Council,

Child Welfare Bill.

(Proposed Amendments to be inserted in Committee.)

SCHEDULE OF AMENDMENTS, WITH REASONS THEREFOR.

AMENDMENT.

Clause 5:-

After the word "incompetent", line 29, page 5, insert the words "or improper".

Clause 37:-

For the word "forty-eight", line 16, read "twenty-four".

Clause 70:-

For the words "one or more good and sufficient sureties to the satisfaction of the court", line 8, read "or without a surety or sureties".

Clause 76:

Omit the words "within one month of the birth of such child", line 6.

Clause 80:-

After the word "with", line 37, insert the words "or without".

After the word "sureties", line 41, insert the words "if any".

After the word "with", line 3, page 34, insert the words "for the period specified in the recognisance".

REASON.

This extension is suggested by the magistrates of the Children's Court to avoid possible unnecessary argument in court later.

Alteration made simply to conform to section 12 of the Public Hospitals Act, which provided for the registration of births in lying-in homes within twenty-four hours.

At present it is not clear that the court has a discretion to dispense with a surety, even though the complainant may desire it.

A case has actually occurred where the mother died five days after the month had expired, and in such cases there seems to be no reason why the time should be limited and the defendant so escape liability for the expense which otherwise would probably fall on the State or the woman's friends.

A similar amendment has been made in clause 70.

A similar amendment has been made in clause 70.

This amendment is designed to make it clear that the defendant cannot be imprisoned in default of entering into the recognisance if he pays twelve months maintenance in advance.

Clause 84:--

Add new paragraph as follows: -- "A man adjudged to be the father of a child may apply to the court for leave to apply to have the order varied on the ground that evidence material to the question of the paternity of the child was not available to or known of by him as the date of the adjudication, and the court may on hearing the evidence grant or refuse such leave. Except in pursuance of leave so granted the question of the paternity of the child shall not be raised on an application to vary an order."

Clause 85:-

Omit the word "police", line 28.

Clause 91:—

Add new paragraph as follows:—"Provided also that where any order has been made ex parte under subsection two of section eighty-six of this Act the defendant may appeal as in this section, provided that at any time within one month of the time when the fact of such order having been made came to knowledge, the onus of proving such time to lie upon the defendant."

New clause :-

Insert new clause after clause 91 as follows:-"Where an order of court has been quashed, or an order of dismissal of a complaint has been confirmed by a court of competent jurisdiction on appeal as provided by section ninety-one, fresh proceedings may by leave of a court be brought at any time under sections sixty-nine, seventy-three, or seventy-six in respect of the same cause of complaint or subject matter."

REASON.

It is at present doubtful whether on an application for the variation of an order the question of paternity can be entertained afresh. The suggested amendment puts Experience the matter beyond doubt. shows that a man may be adjudged to be the father of a child of which he is not the father, and it is considered that in such case it should be open to him to apply at any time for the variation of the order, and to the court to vary such order even to the extent of directing all payments to cease. The onus will be on the man to prove that he is not the father, and the mother will not be obliged to establish her claim a second time.

The word to be omitted is unnecessary, and brings the subsection into line with subsection one.

It seems only just that where an order is made ex parte the defendant should be given reasonable time in which to appeal.

Until the case of ex parte Cotten 40 W.N. 37, it was generally considered that the mother had the right of making further application in the event of the dismissal of her complaint, notwithstanding appeal to Quarter Sessions, and the magistrate or court would exercise discretion before granting fresh process. It may happen that a complaint may be dismissed with the result that the maintenance of a child is thrown upon the State although fresh and indubitable evidence may become available on her behalf, and it would be in the interests of the State to permit the making of a fresh complaint subject to the right of the court to refuse to issue further process.

New clause:-

After clause 93:-

"A court for the purpose of dealing with proceedings under sections sixtynine, seventy-three, and seventy-six of this Act shall have all the powers of a justice or justices under section sixty-one, sixty-six, and seventy-one of the Justices Act, 1902, and the provisions of sections sixty-two, sixty-three, and sixty-four of that Act shall mutatis mutandis apply to the forms, service, and proof of service of any summons or warrant issued by the court under this Act."

Clause 98:-

Insert new subclause as follows:-

"(3) The provisions of the last preceding subsection shall apply, mutatis mutandis, to the hearing of an appeal under section ninety-one of this Act."

Clause 99:-

Omit the final paragraph.

New clause :-

Add new clause after clause 99 as follows:—

"The Justices Act, 1902, so far as it is not inconsistent with this Act shall apply to this Act with the exception of Part X."

REASON.

The object of this amendment is to provide a means enforcing the attendance of a person able to give evidence as to paternity but who will not voluntarily do so. There are cases of this kind, and there is no way at present of compelling such persons to appear for examination.

There is every reason to believe that cruel hardship is sometimes inflicted on sensitive women who prefer to forego their statutory rights rather than appear in a public court.

The object of the paragraph was to provide that appeals in affiliation matters should be held in camera. As that object will be gained by the insertion of the new subclause 3 to clause 98, the paragraph in question is unnecessary.

The necessity for this clause is that in the constitution of a children's court no machinery is provided to regulate the procedure, e.g., issue of process, taking of bail, granting remands, &c. -ivu o providura see eda le locido eda -- como proviscida da sespona, se a stil

[PREPARED FOR USE OF MEMBERS IN CONNECTION WITH CHILD WELFARE BILL. MEMBERS ARE ASKED TO RETAIN THIS COPY.]

Child Welfare Bill.

EXPLANATION OF PROVISIONS.

As has been made clear, the Child Welfare Bill is the consolidation of the State Children Relief Act, 1901, the Children's Protection Act, 1902, the Infant Protection Act, 1904, and the Neglected Children and Juvenile Offenders Act, 1905. These four Acts, passed at different times, have now been fused into one measure. The new Bill comprises fourteen Parts, which cover the whole of the ground dealt with by the four Acts to be repealed, with the addition of some special features such as the provisions relating to the adoption of children, and certain amendments which provide for the introduction of new machinery for administration. Where required, detailed amendments have also been made throughout. The following explanation is offered concerning the new Bill.

GENERAL COMMENTS ON THE BILL.

Probably there is no more urgent work awaiting fulfilment than the consolidation of the State Children Relief Act, the Children's Protection Act, the Infant Protection Act, and the Neglected Children and Juvenile Offenders Act. Reports show that such a consolidation has been urged for some considerable time. Administration has been made more difficult through the fact that these four Acts of Parliament, passed at different periods, and not properly linked up, have been permitted to exist for so long. The Pill now submitted has been ready for some time, and is of such a character as would have to be drawn up, no matter what Government were in power. It has received considerable scrutiny and examination, and is held to be a suitable instrument for the necessities of the situation.

The complaints of the State Children Relief Department in past years have been taken cognizance of, and their suggestions for amendments have been carefully considered and incorporated in the Bill, where justified, and the whole measure is now ready for the consideration of the House, as a reasonable effort towards effecting such changes as are most material to the welfare of the ends in view.

A brief review of the four Acts which constitute the basis of the work of the State Children Relief Department is necessary here. The Boarding-out System came into existence in the year 1881—that is so far as the passage of the State Children Relief Act betokens official cognizance of this public necessity. Sir Henry Parkes took cognizance of a little band of ladies and gentlemen who were the promulgators of the Boarding-out System. Commencing as a voluntary committee they organised to such an extent as to compel the attention of Sir Henry Parkes, and to induce him to bring in the State Children Relief Act of 1881. This was a short concise measure providing for the boarding-out of children as opposed to institutional life for children who had no natural protectors, or who were neglected by the parents that they had. It will be remembered that at that time the Randwick Asylum for Destitute Children loomed very large as the one great agency for dealing with neglected and destitute children. Commonsense entered into the organising minds of the day when they promulgated the idea of home life for such children as being an essentially better process of dealing with them than that of swarming them in huge numbers in large institutions. The fight that took place against the existing order of things in the shape of institutions by the boarding-out advocates ended in a decided success for the latter.

When the State Children Relief Act was passed it was placed under the Ministerial control of the Colonial Secretary. In the Children's Protection Act as passed, no specific Minister was mentioned as being charged with administration, and it was subsequently decided by the Executive to place it in charge of the Honorary Board subsequently appointed under the State Children Relief Act, and consequently under the Ministerial oversight of the Minister responsible for the latter Act. The Children's Protection Act was amended in 1899, and both the original and the amending Acts were consolidated by the present Act of 1902. The Infant Protection Act was passed in 1904, and this Act was placed under the "Minister administering the State Children Relief Act."

The Neglected Children and Juvenile Offenders Act followed in 1905, introduced by the Wade Government, and after considerable debate in the House was deliberately placed under the Minister of Public Instruction. The other three Acts were then transferred to the Public Instruction Department.

One great principle was vindicated and established, and that was that infants should be boarded-out and not placed in institutions, but that institutions should be established and maintained for the treatment of uncontrollable children. That is the state of things to-day. The administration of affairs arising out of these four Acts obviously means everything to the well-being of the children concerned. That administration has been beset with difficulties owing to four distinct measures having come into being and also owing to the growth of the opinion that there should be more direct responsibility to the people in matters of this kind. The existence of an Honorary Board has been realised to be both an inadequate and obsolete instrument of public control. Despite the fact that the paramountcy of the Minister was set forth in the State Children Relief Act, the administration in detail has been to a large extent isolated from Ministerial cognizance, and the time has gone by for mere covering approval to be regarded as a satisfactory oversight of the administration of work of this nature. The constituents of Members demand access to the Minister on all matters affecting their children, and no Minister is now able to escape from his very vital responsibility in this respect.

The time has arrived for the obliteration of these four distinct Acts and for their recrudescence in the shape of a comprehensive measure which will have no Honorary Board interposed between it and the direct responsibility of a Minister of the Crown.

In regard to the Child Welfare Bill, provision has been made for the admission of Councils of Advice of auxiliary forces which will bring to bear on the various problems which are involved in this work special experience and special knowledge. There is no doubt that such forces can be attached to the Child Welfare Department with great advantage, but they should be attached simply as Advisory Committees and not Administrative ones. If the Department stands in need of a greater and broader knowledge than what the official staff can offer, then Councils of Advice can be brought into activity so that they may officiate as friendly critics of the administration and advisors in regard to special features of work which lie outside the ordinary routine. This seems to be a most wholesome solution of one of the most difficult forms of administration that the Government is concerned in, resulting in the Minister and his staff being wholly responsible for the administrative work reinforced by fitting influences from special expert Committees of Advice.

Proceeding now to a brief review of the Bill in principle, enough has been said to show why the State Children Relief Board is abolished in that Bill, and a more modern form of machinery substituted. This is the principal change provided in the Bill, namely, the bringing in of a new form of administration, more in keeping with the political needs of the day.

The other work has been confined to remedying, wherever past experience has shown it to be necessary, the defects and shortcomings of the various Acts. Wherever the annual reports of the Department have shown changes to be necessary, conditions have been examined and amelioration has been provided. The reports of the Department are one source from which this information emanates, as it represents the experience of administration in detail. Wherever suggestions have been received from sources individual or otherwise, they have been most carefully considered and amendments included if deemed advisable. Given an Act with sufficiently general powers, the administration would have to depend on safe and sound officers working under sympathetic Ministerial control.

One great benefit that will accrue from this changed administration will consist of the fact that at the present time, apart from the activities of the State Children Relief Board, a large amount of organisation has gone on in connection with the development of its Industrial Schools by the Education Department. These Industrial Schools represent, perhaps, the most important feature of the Neglected Children and Juvenile Offenders Act, taken in conjunction with the probation system. When the whole of this work is unified under Ministerial control, a better administrative system in connection with homes for children will be rendered possible. To a large extent dual internal administration exists, and this is fatal to any success, and is productive of considerable friction. The knell of this divided control should be sounded in the vital interests of the public who are concerned; and it is felt that more economical administration can obtain, together with the co-ordination of existing agencies for the reception of children, to a far better degree than has ever been done. It will be noted that definite provision has been inserted of a proper legal character for the adoption of children. At present, the weak instrument in this direction is farcical and leads to nothing. Other States are a little more progressive than we are in this respect, and some provision similar to the Western Australian law has been included in this Bill which will provide for a

proper legalised adoption of a child, and for the child to receive with this adoption all the benefits which would accrue to him had he been the natural-born child of his foster-parents. A study of this provision will show the justice and wisdom of such a measure, and it will tend to make more secure, first, the foster-parents who select this way of obtaining children perhaps when they are naturally denied them; and secondly, the interests of the child who is adopted, and who thereby would have the natural-born child's right to any property that may be left behind.

Clause 1. Citation of Act.

Clause 2. Division of the Act into Parts.

PART I

PRELIMINARY.

- Clause 3. Repeal and savings clause.
 - (1) This subsection provides for the repeal of the Acts referred to in the Schedule.
 - (2) This subsection provides for the continuance of the employment of necessary officers. This is the usual practice when a new Act covering existing Government administration is brought in.
 - (3) This is merely a necessary provision for the continuance of existing Industrial Schools as such.
 - (4) This is also a necessary detail which brings children who have been apprenticed or boarded-out under repealed Acts within the operations of the new measure.
 - (5) This is a customary section when Acts are being brought in, providing for all proclamations, regulations, rules, &c., being retained under the new Act until revised regulations, &c., are issued.
- Clause 4. Dissolution of State Children Relief Board.

This section dissolves the State Children Relief Board, and vests its powers in the Minister of Public Instruction

Clause 5. Interpretation section.

This section relates to interpretation. Those interpretations which are not in italics are existing ones, which have been carried forward as being suitable and necessary for retention. Those in italics represent alterations, slight or otherwise.

- "Age"—Definition self-explanatory.
- "Apprentice"—In this Bill the term apprentice is given a technical interpretation, so that any child in order to be described as an apprentice must now be under articles of indenture.
- "Asylum"-Self-explanatory.
- "Boarded-out"—This phrase is defined for the first time, as it is necessary to distinguish the Department's various methods of dealing with children, such as boarding-out, placing-out, apprenticeship, or adoption. All these methods have been accorded separate definitions in the new Bill, each of which will be referred to in the proper place.
- "Child"—It has been found necessary to define a child as being a "boy or girl under 16 years of age, and in Part IX, boy or girl under 18 years of age." This has been rendered necessary through the many ways in which the Department has to deal with children. For the purpose of accepting children to board out, 16 would be the limit of the age at which a child would be so received. This is only proper and reasonable, since any child over 16 years of age ought to be largely able to do for itself, and not to stand in need of being boarded out. For considerations of this character, 16 has been fixed as the limit of the age so far as the general provisions of this Bill go; but in Part IX, which deals with the Department's power to rescue children from bad surroundings and conditions dangerous to their welfare, the age has been raised to 18 for obvious reasons. This wants to be visualised. A girl getting into a Chinese den at 15½ under the present Act could be arrested and dealt with for her own benefit and well-being; but if she had just passed 16 years of age and was found under similar conditions, or had otherwise lapsed into vice, the Department would be helpless to take charge of that girl and thus afford her its protection. In many ways, too, parents realise their children are going wrong and postpone dealing with them on

a promise of amendment, and perhaps wake up to the fact that the age of 16, which is the Rubicon of Court action, has been passed, and they are unable then to invoke the aid of the Department in providing a location for their child, which will take it out of the pressure of the temptation which is causing its downfall.

These, then, are the reasons for the two ages provided for in this Bill, and they speak for themselves. It would conflict with reasonable administration to make the age 18 generally throughout the Bill; but in thus altering it specifically to apply to evil conditions of life operating against child welfare, all that is necessary has been done and the Department incurs no risk of clashing with other ages in other fields.

"Committee"—is defined to mean an advisory committee appointed under this Act. These committees will represent an important part of the new machinery. While abolishing the Honorary Board, which was appointed for a limited function—namely, the boarding-out of children,—it is not desired to cut the Department off from more specialised forms of advice. In certain large administrative organisations advisory committees have been tried with great success. It is recognised that at times some wider stream of information and knowledge is required than what is usually to be found in the routine of a Government department, and the intention in this case is to group together certain special interests which call for the attention of specialists, and form committees of advice to assist the administration in regard to work with which they are familiar. These advisory committees will not be administrative but purely advisory as their name implies; but in order that their advice may be well grounded, and in the highest degree useful and to the point, they will have access to all papers and other information which will be necessary for the consideration of any question submitted for their judgment. By this means the Minister hopes to be soundly assisted on all matters of this kind.

"Court"—Under the Bill this term has been defined by the Draftsman in accordance with the necessity of the provision.

"Institution" - Under the Bill, this not only means Institutions established under the Child Welfare Act, but also another Institution established under the Public Instruction (Amendment) Act, namely, the Truant School, or in the event of further such schools being established, Truant Schools. The experience accumulated up to the present in regard to the Truant School has caused the Department to realise that some of the provisions which already exist under the Neglected Children and Juvenile Offenders Act, and which have been carried forward into the new Bill, could be most desirably applied to the Truant School. For instance, a child committed to the Truant School may become quite uncontrollable there, and become a bad example to the other inmates. He may defy authority and abscond from the school. In order to adequately deal with him at the present time he would have to be discharged from the Truant School as an unfit subject for its routine, re-arrested and charged as an uncontrollable child under the Neglected Children and Juvenile Offenders Act. In that way the Court would be enabled to commit him to an Institution which would deal with him more drastically than is possible at the Truant School. This is a rather roundabout way of getting at this rather necessary result. By broadening this definition of the word "Institution" to include the Truant School, the Minister would be enabled to act upon the powers set forth in section 20, which authorises him to transfer a child from one Institution to another. Thus, in the case of a recalcitrant boy in the Truant School he could be transferred to an Industrial School without further Court proceedings, upon the Minister being satisfied that such a course of action was desirable.

"Justice"

"Juvenile offender"

"Lecal authority"

"Lying-in home"

" Magistrate"

"Maintenance"

"Medical practitioner"

"Minister

"Near relative"

These definitions are self-explanatory.

"Neglected child"—Clause (j) represents an extension of the original definition which refers to a child "lapsing into a career of vice and crime." The new definition reads "lapsing or likely to lapse into a career of vice and crime." The words "likely to lapse" are new, and the experience of the Department goes to show that the introduction of these words will simplify procedure. It is sometimes difficult to prove an actual lapse, but more feasible to detect the likelihood of that lapse being imminent. Through this small alteration action will be possible at crucial junctures, and the interference of the Department will be justified by the beneficially protective results.

Clause (k).—This provision is at present comprised in Regulation 31 of the Children's Protection Act, and the magistrates of the Children's Court advise that it should be provided for in the Act itself.

- "Offence"—Self-explanatory.
- "Officer"—This is defined to mean an officer acting under the directions of the Minister where he formerly acted under the directions of the State Children Relief Board.
- "Parent"—Self-explanatory.
- "Placed-out"—This is defined to mean placed out in employment without being apprenticed. This is a very necessary definition because of the frequent misuse of the word "apprentice," which misuse has been objected to from time to time. An apprentice is a child who is bound by legally recognised indentures; but many lads are placed on farms or in other occupations where no such indentures can be entered into. A simple form of agreement takes the place of indentures, and it has been necessary therefore to introduce this new phrase in order to adequately define the process of finding employment for children other than in an occupation where indentures would obtain.
- "Preliminary expenses"—Self-explanatory.
- "Prescribed"
 "Proclamation"
 "Public place"
- "Secretary"—It is necessary to make provision for the title of the officer in charge of the Department who has certain powers to be conferred upon him by this Bill, similar to those now exercised by the Boarding-out Officer and Chief Officer. These statutory powers for the purposes of the administration and the avoidance of delays are now vested in the Boarding out Officer and the Chief Officer.
- "Stelter"
 "Still-born child"
 "Street"
 "Street-trading"
 "Superintendent"
 "Uncontrollable"
- "Ward"—This means a child who has been brought under the provisions of the Child Welfare Act and dealt with in any of the methods prescribed therein. It is felt that this alteration will commend itself on all hands. Many an unfortunate child who has been boarded-out has found that in after life a sort of stigma has been cast upon him through his having been a "State child." The aim of the Government in helping children who have been left in such circumstances should not be marred by a stupid mistake of this sort. To brand a child in this way owing to its early parental misfortune is uncalled for, and it is a matter that urgently calls for alteration. In the Child Welfare Act, whether it has been received in an asylum, placed in an institution, boarded-out, placed out, apprenticed, or adopted, it will be known simply by the name "Ward." This carries no adjectival phrase with it. It is attended by no reproach, and is considered the most suitable substitute for the reflective term "State child."

PART II.

AUTHORITIES CHARGED WITH ADMINISTRATION OF ACT.

Clause 6. Appointment of officers.

This is a machinery clause to provide for adjustment of positions under changed conditions following reorganisation.

Clause 7. Payment of officers.

This simply provides that the officers of the Department shall be appointed under the provisions of the Public Service Act.

Clause 8. Appointment of Advisory Committees.

This has already been descanted on in the interpretation section, and what is there said should be read in connection with this clause. Regulations will be framed to govern the operations of these committees. The committees will be reserved for the deliberate consideration of problems, and will only have to meet whenever necessity arises. They will act on the same lines as the committees attached to the Sydney Technical College, where combinations of both employers and employees are rendering valuable assistance to the administration.

PART III.

BOARDING-OUT OF CHILDREN.

Clause 9. Existing clause 7, State Children Relief Act.

This section simply states that the Minister has power to admit children to State control, and to board them out. This power was exercised by the Board, and no other change has been made except to substitute the Minister for the Board.

Clause 10. Existing clause 8, State Children Relief Act.

This replaces the old section 8 of the State Children Relief Act, and provides for developed action concerning a child's location. Such removals will be done on reports of the facts and circumstances. It simply transfers the powers of the Boarding-out Officer to the Secretary.

Clause 11. Existing clause 9, State Children Relief Act.

This represents a necessary elasticity in the administration of Institutions under the Department's control, and will enable the Department, by judiciously weeding out types, to establish a better classification, which was one of the needs emphasised by the late Royal Commissioner. It may be that a child in an Institution will be benefited by being boarded-out, and section 11 gives power to do this.

Clause 12. Existing clause 12, State Children Relief Act.

This section simply specifies the Minister in place of the Honorary Board as the authority for the boarding-out of children, and for the visitation of such children during the period of their boarding-out, for the transfer of children from one guardian to another, and for placing out and apprenticing where necessary.

Clause 13. Existing clause 14, State Children Relief Act.

This is a necessary machinery clause formerly accorded to the Board, the authority simply being transferred to the Minister. The contract made with guardians by the Department provides for certain outfits being kept up to standard, and whenever there has been a breach of this condition it is necessary to have power to deduct from payments due to any of these guardians a sum which represents the extra expenditure which the Department has to incur. Cases of this type are not however, very frequent.

Clause 14. Existing clause 16, State Children Relief Act.

This is perhaps one of the most important clauses in the whole Bill. It replaces section 16 of the present State Children Relief Act, but it goes much further, and necessarily so, than the old section. It is perhaps a striking instance of the necessity for the consolidation of these Acts. The state of public opinion at the time the State Children Relief Act was passed was actually of such a character that it only provided for the boarding-out of children to their mothers if the latter were widows or had been deserted by their husbands. It shut out the unfortunate mother of the illegitimate—it took no stock of her, and left her out of the pale of the State's munificence. The new clause will make it possible, not only for a married mother to have her children boarded-out to her, but also for the unmarried mother to have the same right and privilege. There are many cases in which it is perhaps desirable to take children away from the mother when the mother is not married, but there are also a fair number of cases where the mother is a fit and proper person to have her children, and this Bill recognises her indelible right in this respect.

This section is also extended to include assistance where husbands are in hospital or in gaol and thereby unable to support their families; also to cover the cases where a husband is living at home, but is incapable of earning on account of illness. At present it is not legal to render assistance in such cases, notwithstanding that the family are not only deprived of the bread-winner, but are also charged with the expenses of his invalidism.

The Department has been granting aid in such cases as these with the consent of the Auditor-General, it having been notified to the House that it was proposed to amend the Act in these directions. This is the promised amendment and faith with the Auditor-General will thus be kept, as well as the provision itself extended in all necessary directions.

Clause 15. Existing clause 17, State Children Relief Act.

This simply provides for the Minister doing what the Board has previously done in regard to sick children under their care. It is necessary when a child is unfit to be boarded-out to segregate it in a home controlled by the Department, where it may be restored to normal health again.

PART IV.

Institutions.

Clause 16. Existing clause 6, Neglected Children and Juvenile Offenders Act.

This is practically the same provision as is already contained in the Neglected Children and Juvenile Offenders Act, and provides for the following classes of Institution:—

(a) Shelters: These will be of the same type and for the same purpose as are provided for at present.

(b) Industrial Schools: These are also similarly designed to those Institutions provided under the present Act.

Instead of the old clause providing for Reformatory Schools, it is not intended to retain this term. The term Industrial School is all that is needed in the way of provision for the juvenile offender. It is not necessary to retain the somewhat obnoxious term of "reformatory" any longer. The existing provision for the establishment of a reformatory has therefore been cut out, and in its place subsection (c) provides for the establishment of Homes for children committed to an Institution, but whose cases call for segregation or special treatment. This is designed to meet the well-recognised difficulty of classification. The Department has heretofore done its best with the instruments available for dealing with children committed to its care, but owing to the dual control emanating from the existence of an Honorary Board together with Ministerial power, a proper unified system has not been possible in regard to the classification of children. Under the new control this difficulty will vanish, and this section, providing as it does for the establishment of special Homes as will be necessary for the reception of children, will make for the solution of this particular problem. It may be necessary to establish a Home for boys of confirmed absconding propensities, and under this sub-clause it will be possible to do so. Other Homes may be realised as being necessary as the question of classification is gone more thoroughly into, and this sub-clause will give sufficient power to establish any sort of Home that may be deemed necessary for the special treatment of certain types of children.

- Clause 17. Continuation of existing clauses 7 and 8, Neglected Children and Juvenile Offenders Act.

 This is merely a machinery clause which has been retained. A system of inspection by a State officer has always been provided for, and is found to be a necessary procedure.
- Clause 18. Existing clause 50, Neglected Children and Juvenile Offenders Act.

 This is a machinery clause, carried forward with all its subsections, as its represents necessary procedure.
- Clause 19. Existing clause 34, Neglected Children and Juvenile Offenders Act.

 This is a machinery clause carried forward from the existing Act, which merely provides for the exercise of proper authority by Superintendents of Institutions.
- Clause 20. Existing clause 35, Neglected Children and Juvenile Offenders Act.

 This deals with certain powers of the Minister in locating children. It is purely a machinery clause, but whereas in the present Act permission was given for a child to remain in a Shelter for three months, the new clause limits that time to one month, except by permission of the Minister. This change is fully justified, and makes the Minister responsible for saying how long a child may stay in this temporary abiding place, which is all that a Shelter is meant to be.
- Clause 21. Existing clause 36, Neglected Children and Juvenile Offenders Act.

 This is also a machinery clause, providing for the change of location of a child, where such is called for.
- Clause 22. Existing clause 37 of the Neglected Children and Juvenile Offenders Act.

This is the old clause providing for the careful oversight of children in Institutions in the matter of religious teaching. It provides for a child being placed under the care of a clergyman of the persuasion to which it belongs, or to which its parents belong, or to which its parents desire the child to be brought up. This is a very important clause carried forward intact from the Neglected Children and Juvenile Offenders Act. It has not been found necessary to alter this clause, which provides for the child receiving proper religious teaching, and imposes necessary safeguards to ensure that that teaching is given, and that the child is brought up in the proper faith. It gives the Minister power to act in certain situations. The clause is working well, and has been found adequate for the purposes that are specified. It is needless to say that it is necessary to have such a clause since the religious beliefs of children are most jealously regarded by established churches. I desire to most scrupulously carry out the obligation imposed by this section, and to jealously safeguard all the provisions which are contained in it.

Clause 23. Existing clause 38, Neglected Children and Juvenile Offenders Act.

This provides for the Secretary of the Department appropriations as skill.

This provides for the Secretary of the Department apprenticing a child, subject to the approval of the Minister. The second subsection also provides for placing a child out subject to the same authority. These are necessary methods of disposing of children after they are eligible to leave an Institution, in cases where they either have no homes to go to or where the home is unsuitable.

- (3) This provides that any child apprenticed or placed out shall be dealt with for misconduct in the same way as if he were apprenticed by his father, with the child's consent.
- Clause 24. Existing clause 39, Neglected Children and Juvenile Offenders Act.

 This is the old clause taken from the Neglected Children and Juvenile Offenders Act, and is a necessary provision for terminating the arrangements whereby a child is placed out, should such a course be necessary.
- Clause 25. Existing clause 40, Neglected Children and Juvenile Offenders Act.

 This is the existing clause for the discharge of children from Institutions, and has been carried forward without alteration.
- Clause 26. Existing clause 41, Neglected Children and Juvenile Offenders Act.

 This section is carried over from the Neglected Children and Juvenile Offenders Act, and is a necessary provision for the recovery of maintenance where warranted. The subsection provides for suitable action being taken in specific instances. The responsibility of guardians is defined, and the limitations of the term "near relative" are set forth in the definitions under section 5. This is purely a machinery clause in other respects.

Clause 27. Existing clause 43, Neglected Children and Juvenile Offenders Act.

This is a very necessary provision. In many ways it provides for the punishment of offences in respect of children. It has been in vogue now since 1905, and does not call for any alteration.

Clause 28. Existing clause 45, Neglected Children and Juvenile Offenders Act.

This is purely a machinery clause, providing for the recapture of children who get out of bounds.

PART V.

PLACES USED FOR RECEPTION OF CHILDREN.

Clause 29. Existing clause 27, Infant Protect on Act.

This section has been kept intact except where the Minister has been substituted for the Board. It is a necessary provision governing the administration of this important matter, and may be regarded as a fitting clause to retain in the new Bill.

Clause 30. Existing clauses 28, Infant Protection Act, 8 and 15, Children's Protection Act.

This clause represents a combination of the provisions of the Infant Protection and the Children's Protection Acts as mentioned above. In these two Acts there is a fair amount of duplication; and now that the time for consolidation has arrived, it affords facilities for combining clauses as in the present instance. It will be noted that the usual provision for inspecting both the place and the child is carried forward here; and there is the proviso also carried forward in order not to make the inspection and penalties extend in unnecessary directions, for instance, in cases where the Minister is satisfied children are living suitably with their own relatives. This is the old proviso, and is necessary in any consolidation to provide against drastic or sweeping action, where it is not warranted. The discretion is properly placed with the Minister in such cases.

Clause 31. Existing clause 29, Infant Protection Act.

This section provides for the cancellation of licenses where the conditions prescribed are not observed. The action is initiated by the Secretary, as it was in the old Act initiated by the Chief Officer.

Clause 32. Existing clause 30, Infant Protection Act.

This section provides penalties for persons conducting unlicensed premises. This provision is essential. It will be noted that necessary exceptions are made as regards blood relatives or approved guardianship. It is carried forward from the old Act, and necessarily so.

Clause 33. Existing clause 5, Children's Protection Act.

This is the old clause, the Secretary simply being substituted for the Chief Officer.

There have always been two methods of placing children out. One is the ordinary boarding-out of children to guardians, where the Department generally pays for the support of the child. The other is as provided for in the old Children's Protection Act, where people wish to place their children out and are willing to pay for it themselves. They are guided by the Department under the provisions of the Children's Protection Act, to the extent of supervising the arrangements of finding suitable homes for the reception of children, and of advising generally as to the payment to be made. This work will still go on as it provides for the wants of a section of the community who will always desire to proceed in this way.

It has been found necessary to raise the amount from 20s. to 30s. because of the fact that it is extremely difficult to place children of this type on a limit of 20s. per week, and in order to facilitate administration, and make it easier to place these children, the amount has been raised. This has been done purely out of the experience of the Department, with the concurrence of the magistrates of the Children's Court. So many cases occur where, while the amount was fixed at 20s., as it now is, special Court proceedings have to be taken to make it legal to charge more than 20s. The alteration has been made in consequence of this fact.

Clause 34. Existing clause 6, Children's Protection Act.

In this Act the word "infant" has been dropped, and the word "child" is regarded as sufficient for all purposes, so that in this Act the Infant and Children's Protection Acts are practically fused. The age is made uniform by incorporating the word "seven" in all cases instead of "three" where it occurs under the Children's Protection Act. The form of registration prescribed in this section is necessary for the proper administration of the Act. Experience has shown the necessity for this clause, which has been duly carried forward.

Clause 35. Existing clause 7 of the Children's Protection Act.

This is a machinery clause carried forward from the existing Act, the only alteration being the substitution of the Secretary for the Chief Officer.

Clause 36. Existing clause 10, Children's Protection Act.

This is the old clause brought forward with all its subsections. It calls for no alteration. The Secretary has been substituted for Chief Officer. There is nothing new in these provisions. They are all proved requirements which must be inserted in any consolidation.

PART VI.

LYING-IN HOMES.

Clause 37. Existing clause 17, Children's Protection Act.

This represents the point at which the activities of the State Children Relief Department conjoin with those of the Health Department, but for totally different reasons, and since those reasons are different, and the requirements of each Department are different, it will still be necessary to retain this section.

Under the Private Hospitals Act (Section 12) a return is required from the keepers of lying-in homes showing, in the case of a birth occurring in the home, the name of the woman and the date of birth. So far as can be ascertained, the Health Department's return is put to no useful purpose. The returns are sent on here, but inasmuch as they are not as complete as this Department wants them, we are under the necessity of obtaining another return as provided for in Schedule 4 of the Children's Protection Act. The return which the present Act requires will still be needed under this Act, and will call for the following information:—

Address of lying-in home.

Name of keeper of lying-in home.

Name of woman.

Age.

Date of woman's admission.

Date of confinement.

Name of medical attendant or midwife.

This information is necessary for the Department in the exercise of its surveillance. This being an important item of child welfare, it is necessary to retain this provision, but in the new Act it is required that the return shall be furnished within forty-eight hours of the birth, instead of two weeks as under the existing law. The reduction of the period will be of material assistance to the administration.

- Clause 38. Existing clause 18, Children's Protection Act.
- Clause 39. Existing clause 19, Children's Protection Act.
- Clause 40. Existing clause 20, Children's Protection Act.

These are the old clauses brought forward as being indispensable. These provisions have been in force for years, and no exception has been taken to them. They are necessary for the purposes for which they have been prescribed.

"Constable" of police has been inserted so as to make it clear that it refers to any rank of the

police force. This is particularly necessary in country centres.

PART VII.

PROTECTION OF CHILDREN.

- Clause 41. Existing clause 22, Children's Protection Act.
- Clause 42. Existing clause 23, Children's Protection Act.
- Clause 43. Existing clause 24, Children's Protection Act.
- Clause 44. Existing clause 25, Children's Protection Act.
- Clause 45. Existing clause 26, Children's Protection Act.
- Clause 46. Existing clause 27, Children's Protection Act.
- Clause 47. Existing clause 28, Children's Protection Act.

These are machinery clauses concerning the custody of children and are important phases of the Department's activities in this respect. They represent obvious precautions that must be taken in regard to work of this kind. The extended age of the child in clauses 44 and 45 is very desirable. Formerly these particular clauses defined a child as under 14, but in view of the extended policy of this Bill, which aims at a greater control up to 18, the children concerned in these clauses have now been defined as children under 18. It is a distinct advance from what the old Act provides for, and it will without doubt enable the Department to do much better work in this important direction in the future.

PART VIII.

STREET-TRADING LICENSES.

Clause 48. Existing clause 47, Neglected Children and Juvenile Offenders Act.

This relates to licensing of children for street-trading. In the new Bill the age has been raised from 10 to 12 years. In some quarters it is desired to raise the age to 14 or 16 years, but it is felt that 12 is a fitting compromise, and while giving the Department authority to adequately regulate this phase of employment, it will at the same time enable children to render assistance in some legitimate way towards the upkeep of the home. Hardship would be caused in many cases if the age were raised beyond 12. City children must live in the streets, and there are so many temptations to be met with in selling newspapers, &c., that it is vitally necessary to regulate this work in the way it is intended to do in this section. These provisions are, of course, part and parcel of the Neglected Children and Juvenile Offenders Act, which is now being superseded.

Clause 49. Existing clause 48, Neglected Children and Juvenile Offenders Act.

This is the old clause and does not call for amendment.

PART IX.

COMMITTAL OF NEGLECTED OR UNCONTROLLABLE CHILDREN OR JUVENILE OFFENDERS.

Clause 50. Existing clause 15, Neglected Children and Juvenile Offenders Act.

This section concerns the warrant for the apprehension of a neglected or uncontrollable child, and is transferred entirely from the Neglected Children and Juvenile Offenders Act.

Clause 51. Existing clause 16, Neglected Children and Juvenile Offenders Act.

This section concerns the method of apprehending a child, and is slightly altered from the existing clause, which reads "a constable or any person authorised by the Governor." Although the old clause required the authorisation of the Governor, the Minister's authority was deemed to be sufficient, and the clause is now altered to fit in with that.

Clause 52. Existing clause 17, Neglected Children and Juvenile Offenders Act.

This clause is further in connection with the search for children in suspected places, and represents the old clause with a small change. Formerly warrants had to be executed by a Sergeant of Police or officer of higher grade. With a view to facilitating this work and to avoid unduly pressing on the time of Sergeants, the work has been brought within the region of performance by an ordinary constable.

Clause 53. Existing clause 18, Neglected Children and Juvenile Offenders Act.

This is the old clause carried forward in its entirety.

Clause 54. Existing clause 46, Neglected Children and Juvenile Offenders Act.

Clause 55. Existing clauses 19 and 20, Neglected Children and Juvenile Offenders Act.

Clause 56. Existing clause 21, Neglected Children and Juvenile Offenders Act. Clause 57. Existing clause 22, Neglected Children and Juvenile Offenders Act.

These are all machinery clauses, and have been transferred as they stand from the present Act, without alteration, as they are adequate in their present form for the purposes required. Old clauses 19 and 20 have been combined in clause 55.

Clause 58. Existing clause 23, Neglected Children and Juvenile Offenders Act.

This section deals with the powers of the Court when hearing cases against children. The provisions of this section, and of sections 59, 60, 61, 62, 63, 64, 65, 66, 67, and 68 all represent the machinery of the Children's Court, and have been transferred completely to this Bill. These clauses have been revised by the magistrates, together with others, and represent a finalisation in procedure.

Under the existing Act the Court has power to release a child on probation, commit him to an asylum or to the care of some person who is willing to undertake the care of the child, or commit to an Institution.

The power of the Court is absolute where probation is concerned. A child can be released on probation without reference to the Department.

As regards subsection (b) in this Bill, the words "either to an asylum" have been eliminated, leaving the clause to stand with those words omitted. The power of the Court to commit to anything in the shape of an Institution will therefore be confined to clause (c), and clause (b) will stand

ractically in a supplementary way to clause (a), which provides for simple release on probation. There have been no cases in which children have been committed to an asylum by the Court, and it is for this reason that the words "either to an asylum" have been omitted.

With regard to clause (c), the power of the magistrate in this respect is tempered by the Minister's subsequent action. The Minister is the authority for selecting the Institution—the magistrate simply commits in general terms. This is as it should be, for the Minister has, through him descriptions of an institution of an institution of an institution than the magistrate. his administrative officers, a fuller knowledge of the conditions of an Institution than the magistrate of the Children's Court would be able to acquire with the other demands on his time.

Clause 59. Existing clause 24, Neglected Children and Juvenile Offenders Act.

This section is an amplification of the previous section, showing the differentiated ways of dealing with certain types of juvenile offenders. It represents the procedure in vogue throughout the whole State, and naturally no alteration should be made in procedures affecting Court business unless there are very urgent and strong reasons for it. No dislocation in such procedures for trifling purposes would be warranted. No suggestions have been made by the magistrates for any alteration of the clause.

Clause 60. Existing clause 25, Neglected Children and Juvenile Offenders Act.

This is a machinery clause which has been transferred from the existing Act without amendment.

Clause 61. Existing clause 26, Neglected Children and Juvenile Offenders Act.

This is a machinery clause which provides for additional methods of dealing with children in regard to classified offences. It is purely a legal consideration. Under this particular clause, however, the Department is able to step in and save a child from being sent to gaol for committing an indictable offence. It will be noted that in preference to sending a child to gaol, or committing him for trial, the position of the Minister of Public Instruction is recognised by providing that the case may be sent on to him with a view to the committal of the boy to an Industrial School. This is a very useful section, and enables proper and suitable action to be taken in regard to a child in preference to dealing with him as a full-blown criminal.

Clause 62. Existing clause 27 of the Neglected Children and Juvenile Offenders Act. This is a legal provision for the hearing of evidence on behalf of the child by the Court.

Clause 63. Existing clause 28, Neglected Children and Juvenile Offenders Act.

Following the omission of the words "either to an asylum" in clauses 58, 59 and 61 the words "in charge of the asylum" which occur in the present Act have been omitted. In other respects the clause is retained in its present form.

Existing clause 29, Neglected Children and Juvenile Offenders Act.

This section is the same as the section in the existing Act with the exception that the word "commit" has been altered to "deal with." This is necessary, following on an advising received from the Crown Solicitor as to procedure to be taken for breaches of probation conditions in certain cases.

Clause 65. Existing clause 30, Neglected Children and Juvenile Offenders Act.

This represents a useful section, providing a method whereby a child brought before an ordinary Court may be sent to an Institution instead of being committed to gaol. It has been carried over as it stands from the present Act.

Clause 66. Existing clause 31, Neglected Children and Juvenile Offenders Act.

This section has been transferred from the present Act as it stands.

Clause 67. Existing clause 32, Neglected Children and Juvenile Offenders Act.

This is a necessary provision for the temporary detention of a child pending the Minister's decision as to his destination.

Clause 68. Existing clause 33, Neglected Children and Juvenile Offenders Act.

This represents the final or culminating action in the case of a child brought before the Children's Court and committed to an Institution. The Minister being in direct control of the Institutions, knowing their character and purposes, and being also the arbiter of that character through his responsibility for the appointment of staffs, &c., he is naturally, through his immediate administrative officers, the best person to decide as to the Institution a child should go to. The Court forms are submitted to the Minister with the magistrate's recommendation set forth thereon, and the Minister decides as to which Institution the child shall be sent. This is now working satisfactorily, and the clause has been transferred as it stands, without alteration.

PART X.

Affiliation Proceedings.

Clause 69. Existing clause 4, Infant Protection Act,

This very delicate clause has not been interfered with, although there have been suggestions made with a view to making it more drastic and to strengthen the position of the girl who is pleading her case. There are two purposes that this section and section 73 are required to serve. One is to meet the case of a woman pleading for compensation from the man concerned, and the other is also concerning the necessity that exists for protecting the man from lightly-formulated charges or from malicious ones. The magistrates agree that these clauses require no alteration beyond the insertion of the words "or court" after "magistrate" for the purpose of permitting complaint to be made to two justices constituting a Court outside proclaimed areas.

Clause 70. Existing clause 5, Infant Protection Act.

This is the existing section, but in subsection (a) "thirty pounds" has been substituted for "twenty pounds" because of the high cost of living, which brings the expenses in a great many of these cases over £20.

In subsection (b) it has been found advisable to add the proviso stated, because where the child is still-born a woman often finds herself bereft of any compensation at all. The child might be still-born because of the worry she has undergone. This insertion leaves this to the magistrate to grant what he thinks fit under the circumstances. This alteration has been concurred in by the magistrates of the Children's Court.

An insertion has also been made to provide for the acceptance of a medical certificate as evidence. This has been suggested by the magistrates to obviate the attendance of a doctor at the Court to prove the woman has quickened.

Clause 71. Existing clause 6, Infant Protection Act.

This is the existing clause brought forward, but the magistrates of the Children's Court have suggested an alteration as follows:—

(1) Lines 18, 19, 20—At present these recognizances can only be sued upon as a debt in a Civil Court; the alteration will allow them to be dealt with as stated.

(2) Lines 22-25—To allow the Court to proceed ex parte and make an order for maintenance, &c., in cases where defendant fails to appear on notice to show cause after the birth of the child.

- Clause 72. Existing clause 7, Infant Protection Act.

 This is the existing clause brought forward. It requires no alteration.
- Clause 73. Existing clause 8, Infant Protection Act.

 This is the existing clause, merely substituting the Secretary for the Chief Officer as in the old Act.
- Clause 74. Existing clause 9, Infant Protection Act.

This is the existing clause. "Thirty pounds" has been substituted for "twenty pounds" consequent upon the similar alteration made in section 70. An alteration has been inserted at the suggestion of the magistrates, to make it clear that the order cannot be made against the mother.

A deletion from the existing clause has also been suggested by the magistrates so as to permit an order for preliminary expenses to be made at any time whatsoever after the birth of the child. At present, though a complaint may have been made before birth the defendant may not have been brought before the Court till after twelve months; the child would then be born and a fresh complaint would be necessary.

The addendum to this clause is also suggested by the magistrates to "meet the case whe e at present the defendant has not paid the preliminary expenses but has nevertheless not left the child without means of support."

- Clause 75. Existing clause 10, Infant Protection Act.

 This is the existing clause transferred without alteration. It requires no amendment.
- Clause 76. Existing clause 11, Infant Protection Act.

 This clause has been remodelled at the instance of the magistrates. As the clause stands in the present Act it is inoperative so far as still-born children are concerned. It is, of course, just as important that it should apply in such cases as in cases where the child is born alive.
- Clause 77. Existing clause 12, Infant Protection Act.
- Clause 78. Existing clause 13, Infant Protection Act.
- Clause 79. Existing clause 14, Infant Protection Act.

These are the existing clauses carried forward, and they require no alteration. The Court undoubtedly requires power of this character.

Clause 80. Existing clause 15, Infant Protection Act.

This is the existing clause brought forward, and has been amended by the addition of the paragraph re recognizances for the same reason as stated in the notes to section 71.

Clause 81. Existing clause 16, Infant Protection Act.

This is purely a machinery clause and requires no alteration. It has been transferred from the old Act in its entirety.

Clause 82. Existing clause 17, Infant Protection Act.

This section is a machinery clause, and has been remodelled at the suggestion of the magistrates to permit money belonging to a defendant which is in the custody of a third party to be attached, and making disobedience of the attachment order an offence.

Clause 83. Existing clause 18, Infant Protection Act.

This is also a machinery section. It has been remodelled at the suggestion of the magistrates, merely to improve the wording. It further authorises the issue of a warrant in suitable cases, and the addition of costs incidental to the amount due.

Clause 84. Existing clause 19, Infant Protection Act.

This is the existing clause, transferred as it stands, but the magistrates have suggested the addition of the final sentence to make clear the power to award costs on the determination of an application to vary an order.

Clause 85. Existing clause 20, Infant Protection Act.

The clause has been remodelled at the suggestion of the magistrates so as to make the mode of service and proof thereof to conform with the Justices Act.

Clause 86. Existing clause 21, Infant Protection Act.

This is the existing clause, which requires no alteration.

Clause 87. Existing clause 22, Infant Protection Act.

The remodelling of this section is suggested by the magistrates.

Under the existing section sureties can only be required at the time of making the original order. It is desirable that the Court should have power to impose sureties at any time during the currency of the order, and the alteration is designed to meet this.

Clause 88. Existing clause 23, Infant Protection Act.

Clause 89. Existing clause 24, Infant Protection Act.

Clause 90. Existing clause 25, Infant Protection Act.

These are the existing clauses carried forward. They require no alteration. It is necessary that the Department should have power to act in the situations specified in the way indicated.

Clause 91. Existing clause 26, Infant Protection Act.

This is the existing clause. An alteration has been made at the suggestion of the magistrates, so as to make clear and certain the right of appeal on the dismissal of a complaint.

Clause 92. Existing clause 42, Neglected Children and Juvenile Offenders Act.

This is a machinery clause, which has proved sufficient for its purposes. It requires no alteration.

Clause 93. This clause has been drafted by the magistrates. At present the Affiliation Court is working without adequate legal machinery, and this section is designed to remedy that position. In the opinion of the magistrates this clause is essential.

PART XI.

CHILDREN'S COURTS.

Clause 94. Existing clause 9, Neglected Children and Juvenile Offenders Act.

Clause 95. Existing clause 10, Neglected Children and Juvenile Offenders Act.

There has been nothing suggested to the Department, either by its experience or otherwise, to warrant a change in the sections relating to the constitution of the Children's Courts. The Bill has been revised by the magistrates of the Children's Court, and they have not suggested any amendments in the provisions of this Part of the Act, excepting the insertion of subclause 3 to clause 94, which is designed to ensure that a special magistrate shall possess the qualifications mentioned.

Clause 96. Existing clause 11, Neglected Children and Juvenile Offenders Act.

Clause 97. Existing clause 12, Neglected Children and Juvenile Offenders Act.

Clause 98. Existing clause 13, Neglected Children and Juvenile Offenders Act, and 32, Infant Protection Act.

These are purely machinery clauses concerning the conduct of Children's Courts. They have been transferred entirely from the existing Acts, and do not call for alteration.

Clause 99. Existing clause 14, Neglected Children and Juvenile Offenders Act.

This is a machinery clause transferred from the existing Act. An addition has been put in for the reason that, where desirable privacy obtains at the hearing of a case in the Children's Court the same provision does not exist when that case is carried on to an ordinary court of law, and it has been noticed that the Court is crowded at the hearing of these cases, and children are subjected to the shock and moral injury attaching to this undesirable publicity. The addendum simply provides for the same consideration being extended to children in the ordinary court of law as it is in the Children's Court.

PART XII.

REGULATIONS

Clause 100. This is a customary section in Bills of this character, and it provides for amplification—if sufficient power has been granted in the body of the Act—in the shape of regulations specifying necessary courses of action for carrying out the purposes of the Act.

PART XIII.

GENERAL AND SUPPLEMENTAL.

Clause 101.

Clause 102. Existing clause 21, Children's Protection Act.

Clause 103. Existing clause 33, Children's Protection Act.

The clauses in this Part, with the exception of clauses 118 and 119, are all penal sections and inasmuch as the four Acts are being consolidated it was necessary to group them in a separate section by themselves. This has been done, and they prescribe procedures and penalties for offences, methods of search and arrest, and other legal processes. It will prove to be a great convenience to have a special section of this character. Formerly the whole four Acts were separate and each provided for different penalties. This involved trouble and the possibility of contradictory procedure.

The penalties and the offences are those which were formerly provided for in the State Children Relief Act, the Infant Protection Act, and the Neglected Children and Juvenile Offenders Act. Nothing new has been introduced, but as before stated, the separate sections have been classified under a separate part of the Act.

Clauses 104, 105. These clauses are existing provisions of the Venereal Diseases Act. They are being re-enacted here merely so that they will be brought more pointedly under the notice of those charged with the administration. Particularly is this desirable for the benefit of country Children's Courts, which are very frequently constituted by two justices of the peace sitting as a Children's Court.

Clause 106. Existing clause 34, Children's Protection Act.

Clause 107. Existing clause 35, Children's Protection Act.

Clause 108. Existing clause 16, Children's Protection Act.

Clause 109.

Clause 110. Existing clause 26, State Children Relief Act.

Clause 111. Existing clause 27, State Children Relief Act.

Clause 112. Existing clause 36, Children's Protection Act.

Clause 113. Existing clause 37, Children's Protection Act.

Clause 114. Existing clause 38, Children's Protection Act.

As before stated, these clauses are purely machinery ones. Their purposes are fully explained by the marginal notes.

Clause 115. Existing clause 9, Children's Protection Act.

This provision exists in the present law, and, although it is very rarely necessary to have resort to it, it is desirable to continue it.

Clause 116. Existing clause 18, State Children Relief Act.

Clause 117. Existing clause 23, State Children Relief Act.

These are purely machinery clauses, and have been transferred from the existing Acts, as they do not call for any alteration.

Clause 118. Existing clause 24, State Children Relief Act.

This section requires some explanation.

It was at first proposed in drawing up this Bill not to apply such a provision for the expenditure involved in general administration. In connection with the yearly estimates of every Department there are what are termed special appropriations. In section 24 of the State Children Relief Act there is what might be termed an undefined special appropriation since it enables the Department, after having underestimated its expenditure, to come legally and directly on the Consolidated Revenue for whatever balance of money it requires for its services.

Administrative experience has shown the convenience of the old clause. It enables the Minister to claim from Revenue and not overburden the Treasurer's Advance Account. Any sudden epidemic or wave of unemployment might jump the expenditure up considerably and lead to trouble re continuing payments. Moreover, it is always a difficult matter with such large eleemosynary services to provide for to estimate adequately the amount of money required annually. The old clause is therefore restored as being eminently suitable to the Department's peculiar requirements.

Every effort will be made to keep the expenditure within the sum voted by Parliament, but the powers of this clause are absolutely required in view of contingencies which have arisen in the past, and may arise again in the future. This Department's expenditure cannot very well be regulated in the same definite way as that of ordinary Departments with no such fluctuating experiences.

Clause 119. This section provides for the Minister reporting to Parliament each year as to the working of the Act.

PART XIV.

ADOPTION OF CHILDREN.

Clauses 120 to 126. This is an entirely new set of provisions which I think will commend themselves to all. The Department has been confronted with cases of people who have taken infants, lavished kindness upon them, as well as money and care, for years, until the child reaches the age at which it can commence to make some return for all this attention. The bonds of affection which have grown up between the foster-parents and the child, who probably knows no other parents, have then been rudely broken, and in many cases the future of the child prejudiced, simply by the assertion of the natural tie, which did very little for the child at the outset of its existence.

A case of this kind was brought under notice of the Department by Dr. Arthur, M.L.A., who submitted a letter from a Mrs. Hamilton, of Dunedoo.

There are many desirable childless people who would take children off the State if they could feel sure that the child was to be permanently theirs throughout life. These new sections have been most carefully designed to meet this situation. Adoptions hitherto made by the Department under regulations could afford no guarantee for the continuance of the arrangement. West Australia has something similar to these provisions already in force, but so far no provision has been made in this State for a legal form of adoption. These sections, if passed, will tend to make more secure—(1) the foster-parents who select this way of obtaining children; and (2) the interests of the child who is adopted. The latter is specially studied in the matter of confirming it in the rights of a natural-born child to any property which may be left behind by those foster-parents if they die intestate.

Clause 120. This section provides for necessary interpretations, which are self-explanatory.

Clause 121. Clause 122. Clause 123.

These are machinery clauses. The marginal notes fully explain their purposes.

Clause 124. Clause 125.

Clause 126.

The third part of the control of the

This Public Bill originated in the Legislative Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

S. G. BOYDELL,

Acting Clerk of the Legislative Assembly.

Legislative Assembly Chamber, Sydney, 24 October, 1923.

New South Wales.



ANNO QUARTO DECIMO

GEORGII V REGIS.

Act No. , 1923.

An Act to amend and consolidate certain Acts relating to children.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of 5 the same, as follows:—

1. This Act may be cited as the "Child Welfare Act, Short title 1923," and shall come into operation on a date to be mencement. proclaimed by the Governor in the Gazette.

23—A

2.

2. This Act is divided into Parts as follows: - Par

Parts of Act.

- PART I.—PRELIMINARY—88. 3-5.
- PART II.—AUTHORITIES CHARGED WITH AD-MINISTRATION OF ACT—ss. 6-8.
- 5 PART III.—BOARDING-OUT OF CHILDREN ss. 9-15.
 - PART IV.—Institutions—ss. 16-28.
 - PART V.—Places Used for Reception of Children—ss. 29–36.
- 10 PART VI.—LYING-IN HOMES—ss. 37-40.
 - PART VII.—Pretection of Children—ss. 41-47.
 - PART VIII.—STREET TRADING LICENSE ss. 48, 49.
- PART IX.—Committal of Neglected or Uncontrollable Children or Juvenile Offenders—ss. 50-68.
 - PART X.—Affiliation Proceedings—ss. 69-93.
 - PART XI.—CHILDREN'S COURTS—ss. 94-99.
 - PART XII.—REGULATIONS—s. 100.
- PART XIII.—GENERAL AND SUPPLEMENTAL—ss. 101-119.
 - PART XIV.—Adoption of Children—ss. 120-126.

PART I.

PRELIMINARY.

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- 3. (1) The Acts mentioned in the Schedule hereto Repeal and are to the extent therein expressed hereby repealed. savings.
- (2) All persons appointed under any Act hereby repealed and holding office at the commencement of this 30 Act shall be deemed to have been appointed hereunder.

(3) All schools declared to be public industrial schools under any Act hereby repealed shall continue to be such schools subject to the provisions of this Act relating to institutions constituted thereunder.

(4) The provisions of this Act shall apply to all children apprenticed or boarded-out under any Act hereby repealed as if such children had been apprenticed

or boarded-out under this Act.

(5) All proclamations, regulations, rules and 10 licenses issued or made under the authority of any Act hereby repealed and in force at the commencement of this Act shall, in so far as they are not inconsistent with this Act, be deemed to have been made or issued thereunder, and references in any such regulations to the

15 provisions of the Acts repealed shall be construed as references to the corresponding provisions of this Act.

4. The powers and authorities of the State Children's State Relief Board, which is hereby dissolved, are vested in Children Relief Board. the Minister.

20 5. In this Act, unless the context otherwise Interpretation.

"Age" means, in the absence of positive evidence as to age, the apparent age.

"Apprentice" means any boarded-out child under

articles of indenture.

"Asylum" includes the Benevolent Asylum, every asylum for destitute children, or industrial asylum, and every charitable institution supported wholly or in part by grants from the Consolidated Revenue.

"Boarded-out" means placed in the care of some person for the purpose of being nursed or maintained by such person or in such person's

home.

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35 "Child" means boy or girl under sixteen years of age, and in Part IX means boy or girl under eighteen years of age.

"Committee" means advisory committee appointed

under this Act.

"Court" means Children's Court, and includes a magistrate or justices exercising the jurisdiction of a children's court. "Institution"

"Maintenance" includes clothing, support, training, and education. "Medical practitioner" means legally qualified medical practitioner. "Minister" means Minister of Public Instruction. "Near relative" means, except as regards an illegitimate child, father, mother, step-father, or step-mother of the child; and as regards an illegitimate child—the mother and the person admitting himself to be or adjudged by a competent court to be the father of such child, and the husband of the mother of such child if born before their marriage. "Neglected child" means child— (a) who is in a brothel, or lodges, lives, resides, or wanders about with reputed thieves or with persons who have no visible lawful means of support, or with common prostitutes, whether such reputed thieves, persons or prostitutes are the parents of such child or not; or (b) who has no visible lawful means of support or has no fixed place of abode; or (c) who begs in any public place, or habitually wanders about public places in no ostensible		Child Welfare.
"Justice" means justice of the peace. "Juvenile offender" means child who has committed an offence. "Local authority" means council of a municipality or shire and includes the governing body of a local government area, constituted or to be constituted. "Lying-in home" means house in which more than one woman is received for confinement with or without payment of money. "Magistrate" means stipendiary or police magistrate. "Maintenance" includes clothing, support, training, and education. "Medical practitioner" means legally qualified medical practitioner. "Minister" means Minister of Public Instruction. "Near relative" means, except as regards an illegitimate child, father, mother, step-father, or step-mother of the child; and as regards an illegitimate child—the mother and the person admitting himself to be or adjudged by a competent court to be the father of such child, and the husband of the mother of such child, and the husband of the mother of such child if born before their marriage. "Neglected child" means child— (a) who is in a brothel, or lodges, lives, resides, or wanders about with reputed thieves or with persons who have no visible lawful means of support, or with common prostitutes, whether such reputed thieves, persons or prostitutes are the parents of such child or not; or (b) who has no visible lawful means of support or has no fixed place of abode; or (c) who begs in any public place, or habitually wanders about public place, or habitually wanders about public places in no ostensible occupation, or sleeps in the open air in any		this Act, and includes special school for truants established under the Public Instruction
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admitting himself to be or adjudged by a competent court to be the father of such child, and the husband of the mother of such child if born before their marriage. "Neglected child" means child— (a) who is in a brothel, or lodges, lives, resides, or wanders about with reputed thieves or with persons who have no visible lawful means of support, or with common prostitutes, whether such reputed thieves, persons or prostitutes are the parents of such child or not; or (b) who has no visible lawful means of support or has no fixed place of abode; or (c) who begs in any public place, or habitually wanders about public places in no ostensible occupation, or sleeps in the open air in any	20	"Near relative" means, except as regards an illegitimate child, father, mother, step-father, or step-mother of the child; and as regards an illegitimate child—the mother and the person
(a) who is in a brothel, or lodges, lives, resides, or wanders about with reputed thieves or with persons who have no visible lawful means of support, or with common prostitutes, whether such reputed thieves, persons or prostitutes are the parents of such child or not; or (b) who has no visible lawful means of support or has no fixed place of abode; or (c) who begs in any public place, or habitually wanders about public places in no ostensible occupation, or sleeps in the open air in any	25	admitting himself to be or adjudged by a competent court to be the father of such child, and the husband of the mother of such child if born before their marriage.
with persons who have no visible lawful means of support, or with common prostitutes, whether such reputed thieves, persons or prostitutes are the parents of such child or not; or (b) who has no visible lawful means of support or has no fixed place of abode; or (c) who begs in any public place, or habitually wanders about public places in no ostensible occupation, or sleeps in the open air in any	30	(a) who is in a brothel, or lodges, lives, resides,
or prostitutes are the parents of such child or not; or (b) who has no visible lawful means of support or has no fixed place of abode; or (c) who begs in any public place, or habitually wanders about public places in no ostensible occupation, or sleeps in the open air in any		with persons who have no visible lawful means of support, or with common prosti-
or has no fixed place of abode; or (c) who begs in any public place, or habitually wanders about public places in no ostensible occupation, or sleeps in the open air in any	35	or prostitutes are the parents of such child or not; or
occupation, or sleeps in the open air in any		or has no fixed place of abode; or (c) who begs in any public place, or habitually
	49	occupation, or sleeps in the open air in any

	Chilla in cofurc.
5	(d) who without reasonable excuse is not provided with sufficient and proper food, nursing, clothing, medical aid or lodging, or who is ill-treated or exposed by his parent: Provided that such neglect, ill-treatment, or exposure has resulted or appears likely to result in any permanent or serious injury to the child; or
10	(e) who takes part in any public exhibition or performance whereby the life or limb of such child is endangered; or
	(f) who, not being duly licensed for that purpose, is engaged in street trading; or
15	(g) whose parents are habitual drunkards, or if one of these be dead, insane, unknown, undergoing imprisonment, or absent from the State, whose other parent is an habitual drunkard; or
20	 (h) who, being a female, solicits men or otherwise behaves in an indecent manner, or habitually wanders at night without lawful cause in a public place; or (i) who is in any place where opium or any
25	preparation thereof is smoked; or (j) who is living under such conditions as indicate that the child is lapsing or likely to lapse into a career of vice and crime; or (k) who in the opinion of the court is under
30	incompetent guardianship. "Offence" includes any matter punishable sum-
	marily or by indictment. "Officer" includes any person acting under the instructions of the Minister, but does not include any special or other magistrate appointed for
35	the judicial administration of this Act. "Parent" when used in relation to a child, includes a step-parent, guardian, any person cohabiting
40	with a parent of the child, and any person who is by law liable to maintain the child. "Placed out" means placed in employment without being apprenticed. "Preliminary

"Preliminary expenses" means the expenses of the maintenance of the mother during a period of one month immediately preceding the birth of her child, reasonable medical and nursing expenses attendant upon the confinement of the mother, and the expenses of the maintenance of the mother and child for three months immediately succeeding its birth.

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- "Prescribed" means prescribed by this Act or by any regulations made hereunder.
- "Proclamation" means proclamation in the Gazette.
- "Public place" means place to which the public have the right of access, or which the public are allowed to use, and includes a vessel or vehicle, and any part of premises licensed under Part III of the Liquor Act, 1912, which is open to the public.
- "Secretary" means the head of the department appointed to administer this Act.
 - "Shelter" includes a place of safety within the meaning of section forty-four.
 - "Still-born child" means a child born dead after the commencement of the sixth month of pregnancy.
 - "Street" includes any highway or other public place, whether a thoroughfare or not.
- "Street trading" includes the hawking of newspapers, matches, flowers and other articles, playing, singing, or performing for profit, shoeblacking, and any other like occupation carried on in any public place. But this definition does not include playing, singing, or performing at an occasional entertainment, the proceeds of which are wholly applied for the benefit of any school or of any church or charity.
 - "Superintendent" includes manager or person in charge.

"Uncontrollable,"

"Uncontrollable," as applied to a child, means child whom his parents cannot control.

"Ward" means child who, under the provisions of this Act, has been received into an asylum or institution, adopted or apprenticed, or boarded. out, or placed out.

PART II.

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AUTHORITIES CHARGED WITH ADMINISTRATION OF ACT.

6. The Governor may, upon the recommendation of Appointment 10 the Public Service Board, appoint a secretary and such of officers. officers as are necessary for the administration of this Act.

7. Such secretary and officers shall receive such Payment of remuneration and allowances as shall be fixed by the officers. Public Service Board, and shall be subject to the provisions of the Public Service Acts during their tenure of office.

8. (1) The Governor may from time to time appoint Advisory such persons as he thinks fit to form an advisory committees. committee, or advisory committees.

20 (2) Such committee or committees shall exercise such powers and duties as may be prescribed.

PART III.

BOARDING-OUT OF CHILDREN.

9. In all matters appertaining to the boarding-out of Authority of children under this Act, the Minister or person authorised Minister. by him shall be the authority to admit a child to State control and pay guardians such rates as may be prescribed, to direct the removal of such children, to apprentice any child boarded-out or placed out, at or before the end 30 of his term of residence, to any person approved by the Minister, to approve of persons applying for the custody of children and to arrange the terms of such custody, and to direct the restoration of any child to his parent or guardian upon such terms as the Minister may think 35 proper.

10. The secretary may, and shall when so directed, Boarding-out remove any child from an asylum and cause him to be boarded-out, as hereinafter provided, for any period not extending beyond the time when such ward shall attain 5 the age of fourteen years.

11. The secretary whenever directed by the Minister Removal of may remove any ward from an institution, and cause him ward from an institution.

to be boarded-out.

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12. The Minister may cause to be visited and in-Extension of 10 spected all children for two years after their official period of supervision. period of boarding-out, placing-out, or apprenticeship has terminated, and during such period of two years may cause such children to be removed from their existing guardians or custodians.

13. The Minister may deduct from the payments Deduction due to any guardian such amount as may be deemed from payments to equivalent to the loss occasioned by the neglect of such guardian.

guardian to keep outfits up to regulation standard.

14. The Minister may in his discretion board out Children may 20 her own children to any widow, deserted wife, or wife be boardedwhose husband is incapacitated through mental or bodily mothers. infirmity or is in gaol, or to the mother of an illegitimate

15. The Minister may place invalid or sick children Cottage 25 under his control in cottage-homes in approved localities.

PART IV.

Institutions.

16. The Governor may, by proclamation, establish Governor may establish institutions. and constitute, as institutions under this Act-

(a) shelters for the reception and temporary detention and maintenance of children;

(b) industrial schools for the reception, detention, and maintenance of children committed to such institutions;

(c) homes for children committed to an institution, but whose cases call for segregation or special treatment.

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17. Every institution shall be controlled and admin-Minister to istered under the direction of the Minister, and shall once control of at least in every three months, be visited and inspected institutions by a person appointed by the Minister.

18. (1) An order duly endorsed committing a child Order to be to an institution, or removing a child from one institu- forwarded to superintion to another, shall be forwarded to the superintendent, tendent. and shall be sufficient warrant for the detention of the child.

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(2) The production of—

(a) such order so endorsed; or

Certain orders and copies to be

(b) a copy of such order so endorsed with a memo-evidence. randum purporting to be signed by the superintendent of any such institution, stating that the child named in such order was duly received into, and is at the time of signing thereof detained in such institution, or has been otherwise disposed of according to law; or

(c) any order made under this Act, or a copy thereof purporting to be signed by the clerk of the court at which the same was made and certified to be a correct copy,

shall, without proof of the signature of the person purporting to have signed the same, be evidence in all 25 courts and proceedings—

(d) of the due making and signing of any such order, memorandum, or certificate; and

(e) of the committal, detention, and identity of the child, and of the identity of the parent named in any such order, memorandum, or certificate.

19. All children committed to or inmates of an Children in institution shall, subject to the directions of the Minister, to be under be in the custody and under the control of the superin-control of tendent of the institution until they attain the age of tendent.

35 eighteen years, or are discharged, removed from the institution, apprenticed, or placed out:

Provided that a child committed to an institution on being charged with an indictable offence shall be detained in such institution until the expiration of the period 40 named in the order of committal, or until he is lawfully

discharged, removed from the institution, apprenticed, 20. or placed out.

20. The Minister, with respect to any child who has Powers and been committed to or is an inmate of any institution—duties of Minister.

- (a) shall determine the particular institution in which the child shall be placed and detained, provided that no child may remain in a shelter for more than one month, except by permission of the Minister;
- (b) may remove a child from one institution to another;
- 10 (c) may remove any child from an institution and place him in an asylum, or may board him out.

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21. The Minister may, on due cause being shown, Child may be take a boarded-out child or a child who has been placed removed to an in an asylum, and place him in an institution.

15 **22.** (1) Every child, an inmate of any institution, Religious shall, so far as religious teaching is concerned, be placed teaching under the guidance and control of clergymen of the persuasion to which the parents of such child belong, or in which such child has been brought up.

20 (2) In the event of such parents or their religious persuasion not being known, and of the child not having been brought up in any religious persuasion, then as far as religious teaching is concerned—

(a) such child shall, if of or over the age of twelve years, be placed under the guidance and control of the clergymen of such persuasion as the Minister may direct, unless such child states some persuasion in which he desires to be educated;

30 (b) such child shall, if under the age of twelve years, be placed under the guidance and control of the elergymen of such persuasion as the Minister may direct, but may on attaining the age of twelve years select the persuasion in which he desires to be educated;

(c) provided that if at any time the religious persuasion of any such child or of his parents become known to the Minister, he shall at once order the child to be placed under the guidance and control, as far as religious teaching is concerned, of clergymen of such persuasion.

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- 23. (1) The secretary may, subject to the approval child may be of the Minister, by indenture bind or cause to be bound apprenticed. any child under his care and control, in accordance with and subject to the provisions of the Apprentices Act, 5 1901.
- (2) The secretary also, subject to the approval Child may be of the Minister, may, under an approved form of agreement, place a child out in suitable employment in cases where apprenticeship conditions are not applicable.
- 10 (3) Any child so apprenticed or placed-out shall Punishment be liable to be proceeded against and punished for for absconding, or for other misconduct, in the same way as any child apprenticed by his father with such child's consent.
- 15 **24.** Upon complaint made by the secretary to the Minister may Minister that any person to whom any such child has put an end to apprentice been apprenticed or placed-out is not performing the ship or conditions of such indenture or agreement, or is unfit to have the further care or control of such child, the Minister

20 may call upon such person to answer such complaint, and on proof thereof to his satisfaction the Minister may order such apprenticeship or agreement to be put an end to, and may direct the child to be sent back to an institution.

- 25. The Governor may discharge any child from an Discharge of institution and restore him to the custody of his parent child by Governor or other suitable person on such terms and conditions as to him may seem desirable, or as may be prescribed.
- 26. (1) If it appears to a court on complaint by or Cost of 30 on behalf of the Minister that any near relative is of maintenance ability to maintain or to contribute to the maintenance be recovered of a ward, the court may order such near relative to from near pay to the Minister a reasonable sum, in instalments or otherwise, as the court directs for or towards—
- 25 (a) the past maintenance of such ward, whether such ward be alive or not at the time of the application;
 - (b) the future maintenance of such ward.

(2) A like order against a near relative may, with his consent, be made on the committal of a ward to an institution by the court so committing him.

(3) Such order, when made against a father or 5 mother, may include the cost of bringing such parent back to the place where the order is made from any other place where he or she may for the time being reside.

(4) Where an order under this section is made in respect of a person against whom an order has been 10 made in respect of the child under Part X of this Act, the court may rescind or amend the last-mentioned order so as to secure that the said person do not pay

twice for the maintenance of the same child.

(5) Any order made under this section may be 15 enforced, appealed from, quashed, confirmed, or varied, in the same manner in all respects as orders made under Part X of this Act. And the court may issue a warrant for the arrest of any person absconding from the State with a view to evade compliance with any 20 order under this section.

27. Any person who—

(a) ill-treats, terrorises, overworks, or injures any Offences in child committed to or an inmate of an respect of institution;

25 (b) counsels, or causes or attempts to cause, any such child to be withdrawn or to abscond from any institution or from the charge of any person with or to whom such child is boarded-out, placed out or apprenticed;

30 (c) knowing any such child to have so withdrawn or to have so absconded, harbours or conceals such child or prevents him from returning to such institution or person;

(d) having the charge of any such child—

35 (i) illegally discharges or dismisses or attempts to discharge or dismiss him from an institution;

(ii) neglects such child;

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(iii) does not well and truly observe, perform, and keep all the covenants, conditions, and agreements contained in any indenture or agreement

agreement entered into by him respecting any child and which by such indenture or agreement he has bound himself or agreed to observe, perform or keep,

5 shall be liable to a penalty not exceeding one hundred pounds or to be imprisoned for a period not exceeding

six months or both.

28. If any child committed to or an inmate of any Child institution be absent therefrom without the leave of deserting 10 the superintendent, any constable may apprehend and apprehended. convey such child to such institution to be delivered into the custody of the superintendent thereof.

PART V.

PLACES USED FOR RECEPTION OF CHILDREN.

15 **29.** The person in charge of any place established or Licensing of used for the reception and care of one or more children place used for under the age of seven years, apart from their mothers, children. shall make application to the Minister in the prescribed form and manner for a license in respect of such place.

The Minister shall thereupon cause inquiry to be made respecting such application and a report to be furnished

by an officer.

The Minister upon receiving such report may grant or refuse to grant to the person in charge a license in 25 respect of such place.

Every license granted shall be granted subject to such

conditions and requirements as are prescribed.

able facilities for such inspection.

30. For the purpose of making any inquiry and officer may report as aforesaid respecting any place, or for the inspect place. 30 purpose of ensuring that the prescribed conditions and requirements are complied with and fulfilled in respect of any licensed place, any officer may, at any time, enter the place and inspect it and the children who are inmates thereof, and the person in charge of the place shall, 35 during the course of such inspection, afford all reason-

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In making such inspection the officer may, if he thinks fit, be accompanied by a medical practitioner or a police officer, or by both.

Any person who delays, hinders, or obstructs any 5 officer in making such inspection shall be liable to a penalty not exceeding twenty-five pounds:

Provided that the Minister may at any time, by writing under his hand, order that the provisions of this section shall not apply in any particular case where he 10 is satisfied that it is undesirable or unnecessary that it should apply. Any court may, in any particular case, suspend the operation of the provisions of this section for a period of eight days to enable such order to be obtained.

31. Where, on any inspection of a licensed place, Where the officer finds that any of the prescribed conditions or conditions of license not requirements are not complied with or fulfilled, the observed, secretary may give directions to the person in charge Minister may to ensure a cancellicense. to ensure a compliance with and fulfilment of such 20 conditions or requirements, failing which the license of such place may be cancelled by the Minister, and any

approve.

children or inmates of such place may be removed therefrom and placed in such place as the Minister may

32. Where any place is established or used for the Penalties on reception and care of one or more children under the person in age of seven years apart from their mothers, and is not unlicensed licensed under the provisions of this Act, the person in place. charge of such place shall be liable to a penalty not

30 exceeding twenty-five pounds, and any children who are inmates of such place may be removed therefrom and placed in such care as the Minister may approve of: Provided that nothing in this Part shall apply when bona fide blood relationship or guardianship approved

35 by the Minister exists between the said children and the persons by whom they are cared for.

33. (1) No person shall, without a written order of Regulating court specifying the terms on which the child may enildren be received, receive into his care, charge, or custody under seven 40 any child under the age of seven years to rear, nurse,

or otherwise maintain, apart from its mother, in consideration of the payment to such person of any sum of money or other valuable consideration otherwise than by way of periodical instalments; and no such instalment shall be paid for more than four weeks in advance, nor exceed the sum of thirty shillings per week. Any person receiving or agreeing to receive payment for the rearing, nursing, or maintenance of any child contrary to this section shall be guilty of an offence.

- 10 (2) This section shall not apply to any person being the legal or natural guardian of such child; nor to the manager or officers of any institution supported wholly or in part by public subscription, or bona fide by private charity where such institution is open to State 15 inspection, or controlled by the State; nor to any person exempted for the time being from the operation of this section by the Minister.
- (3) The secretary shall, if required, receive from anyone wishing to place a child in the care of such person 20 a sum of money from which he shall make to the caretaker of such child such payments as are permitted under this Act.
- (4) Every court when giving an order under this section shall in each case report to the secretary 25 that it has given such order.

34. (1) Every person who receives into his care, Registration charge, or custody any child under the age of seven of reception years to rear, nurse, or otherwise maintain the same for payment under this Part shall register or cause to be

payment under this Part shall register or cause to be 30 registered the particulars in the form prescribed, at the office of the district registrar of births, deaths, and marriages, appointed under the provisions of the Act No. 17,1899, for the district in which such person then resides, within seven days from the date of such child's reception 25 if such office is within a distant of the control of the cont

35 if such office is within a distance of two miles from his place of abode, or within fourteen days if such office is not within two miles as aforesaid, and such registrar shall furnish such particulars to the secretary.

(2) Any person who fails to comply with the 40 provisions of this section shall be guilty of an offence.

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- 35. (1) No person who has in his care, charge, or Change of custody any child in accordance with the provisions of address to be this Part shall change his place of abode, or relinquish the care, charge, or custody of such child without 5 forthwith notifying such change or relinquishment to the district registrar as aforesaid, and such registrar shall register the same in the form prescribed, and shall at once report such particulars to the secretary. When such change of abode is made to a place out of the 10 district of such registrar he shall forward a copy of such registration of removal to the registrar of the district to which the child is removed, and upon receipt of such copy the said registrar shall enter the particulars therein
- set forth in a book provided for that purpose.

 15 (2) Any person who fails to comply with the provisions of this section shall be guilty of an offence.

36. (1) Every person having charge of a child regis- Notice to be tered under this Part shall, immediately after the death given of of any such child, if such death occurs elsewhere than child.

20 in the city of Sydney, or any municipality included in the suburbs thereof, give or cause to be given notice of such death to the officer in charge of the nearest police station, and such officer shall make inquiry and report to the coroner for the district, or if the exigencies of

25 the case so require to a justice, whether an inquest or magisterial inquiry respecting the cause of death is necessary, and in addition to such notice such person shall by registered letter report such death to the secretary.

(2) When the death of any such child occurs in 30 the city of Sydney, or any municipality included in the suburbs thereof, such notice shall be given to the secretary, who may cause an inquest or inquiry to be held.

(3) The body of a child registered under this 35 Part shall not be buried without the production of a certificate under the hand of the coroner or the justice who held the inquiry, or of a stipendiary or police magistrate, authorising such burial, or of a medical practitioner who has attended such child during its last 40 illness, certifying the cause of death, and also that such cause was in no way consequent on the neglect or

ill-treatment of such child.

(4) Any person having charge of a child registered as aforesaid who neglects, refuses, or omits to give notice of the death of such child in accordance with the provisions of this section shall be guilty of an offence.

(5) Where the death occurs at a greater distance than fifteen miles from the nearest police station, satisfactory evidence that the omission to give such notice was not the result of wilful neglect on the part of the person in charge of such registered child shall entitle 10 such person to the dismissal of the charge.

PART VI.

LYING-IN HOMES.

37. Every person in charge of a lying-in home shall Keepers of furnish records in the form prescribed, and forward the lying-in homes to 15 same to the registrar for the district in which such furnish person resides, within a period of forty-eight hours from records. the occurrence of each birth in such home, and any such person who fails to comply with the provisions herein contained, or wilfully falsifies such records, shall be 20 guilty of an offence.

38. No person in charge of a lying-in home shal Removal of permit any child to be taken from such home unless in child from lying-in the charge of the mother of such child, without first home. obtaining the written consent of the secretary or a 25 person authorised by him. Any such person who violates the provisions of this section shall be guilty of an offence.

39. Any person in charge of a lying-in home shall Registration be responsible for the registration, in accordance with of births by householder. 30 the provisions of the Act No. 17, 1899, of all births occurring in such house; and any such person who omits, neglects, or refuses to register the birth of any such child, shall be liable to the punishment provided by that Act.

40. (1) When a woman is delivered in a lying-in still-born home of a still-born child, no interment of such child child not to shall take place without its being authorised by the without a certificate of a medical practitioner, magistrate, or certificate. 5 constable of police, who has made personal inquiry into the circumstances.

(2) Any person interring any such still-born child without first obtaining such certificate shall be

guilty of an offence.

10 (3) But any such still-born child, born in a lying-in home situated more than fifteen miles from the nearest such practitioner, magistrate, or constable of police, may be interred without such authority, but the birth of the child so buried shall be reported within seven

15 days from the date of the burial, by the person who interred the body, to the nearest police officer, who shall forthwith make a full inquiry into the circumstances of the case, with the view of taking further action if necessary; and if the person who so buried

20 the body shall fail to report as required, he shall be guilty of an offence.

PART VII.

PROTECTION OF CHILDREN.

41. (1) Any person who causes or allows any child Employment of child in under the age of fourteen years to take part in any public dangerous exhibition or performance whereby, in the opinion of a performances, court, the life or limbs of such child is or are endangered, and the parent or any person having the custody of such child who aids or abets such first-mentioned 30 person therein, shall be guilty of an offence.

(2) Where in the course of a public exhibition or performance which in its nature is dangerous to the life or limb of a child under such age as aforesaid taking

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Procuring

Child Welfare.

part therein, any accident causing actual bodily harm occurs to such child, the employer of such child, whether its parent or not, shall be guilty of an offence; and if such employer is not the parent of such child, the court before which such employer is convicted may award as compensation a sum not exceeding one hundred pounds, to be paid by such employer to the child or to some person named by the court on behalf of the child for the bodily harm so occasioned.

10 **42.** (1) Any person who—

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(a) causes or procures, or having the custody or child to charge thereof, allows any child under the age or perform. of sixteen years to be in any place for the purpose of begging or receiving alms, or inducing the giving of alms, whether under the pretence of singing, playing, performing, offering anything for sale or otherwise; or

(b) causes or procures, or having the custody or charge thereof, allows any child under the age of sixteen years to be in any place or in any premises licensed according to law for public entertainments, for the purpose of singing, playing, or performing for profit, or offering anything for sale between ten o'clock at night and six o'clock in the morning; or

(c) causes or procures, or who, having the custody or charge thereof, allows any child under the age of ten years to be at any time in any place, or in any premises licensed according to law for public entertainments, or in any circus or other place of public amusement to which the public are admitted by payment, for the purpose of singing, playing, or performing for profit, or offering anything for sale,

35 shall be guilty of an offence:

Provided that in the case of any entertainment or series of entertainments to take place in premises licensed according to law for public entertainments, or in any circus or other place of public amusement as aforesaid, 40 where it is shown to the satisfaction of the Minister that proper provision has been made to secure the health

health and kind treatment of any children proposed to be employed thereat, the Minister may, notwithstanding anything in this Act, grant a license for such time and during such hours and subject to such restrictions and 5 conditions as he may think fit, for any child exceeding seven years of age, of whose fitness to take part in such entertainment or series of entertainments without injury the Minister is satisfied, to take part in such entertainment or series of entertainments, and such license may

10 at any time be varied, added to, or rescinded by the said Minister upon sufficient cause being shown; and such license shall be sufficient protection to all persons acting

under or in accordance with the same.

(2) The Minister may appoint any person to see 15 that the restrictions and conditions of any license under this section are duly complied with; and such person shall have power to enter, inspect, and examine any place of public entertainment at which the employment of a child is for the time being licensed under this 20 section.

(3) This section shall not apply in the case of any occasional entertainment, the proceeds of which are wholly applied for the benefit of any school or to any

charitable object.

25 **43.** For the purposes of the last two preceding Custody or sections any person who is the parent of a child, or any charge person to whose charge a child is committed by its parent, or any person having actual possession or control of a child, shall be deemed to have the custody 30 or charge thereof.

44. Any constable or any officer appointed under Removal of this Act may take any child under eighteen years of age child to a place of in respect of whom there is reason to believe that an safety. offence under this Act has been committed to a place of

35 safety, and a child so taken to a place of safety, and also any child under eighteen years of age who seeks refuge in a place of safety, may be there detained until the child can be brought before a court.

45. Where it appears to a court or any justice that an Care of child 40 offence under this Act has been committed in the case of pending trial any child under eighteen years of age brought before such

court

court or justice, and that the health or safety of the child will be endangered unless an order is made under this section, the court or justice may, without prejudice to any power under this Act, make such order as circumstances 5 require for the care and detention of the child until a reasonable time has elapsed for the bringing and disposing of any charge against the person who it appears has committed the offence; and an order under this section may be enforced, notwithstanding that any 10 person claims the custody of the child.

46. (1) Any constable may take into custody without Arrests warrant any person who commits, or who is reasonably warrant.

suspected by such constable to have committed, an offence under this Act, if the name and residence of such 15 person are unknown to such constable and cannot be

ascertained by him.

(2) Where such an arrest is made, the inspector or constable in charge of the station to which such person is conveyed shall, unless in his belief the release 20 of such person on bail would tend to defeat the ends of justice, or to cause injury or danger to the child in respect of whom the offence is alleged to have been committed, release the person arrested on his entering into such a recognizance, with or without sureties, as may in 25 his judgment be required to secure the attendance of such person upon the hearing of the charge.

47. Whenever steps have been taken under any of Disposal of the last three preceding sections to secure the safety or child by well-being of a child, and the person charged with com30 mitting an offence in respect of such child has been convicted, such child may be disposed of as the court so convicting may direct.

PART VIII.

STREET TRADING LICENSE.

48. (1) A written license authorising a male child Issue of of or over the age of twelve years to engage, subject to 5 the regulations, in a specified description of street trading may be issued—

(a) by the Minister or by any officer acting under

his authority; or

(b) in respect of its district by a local authority or some officer of such authority appointed in that behalf with the approval of the Minister.

(2) Such license shall be delivered to the child with a badge to be worn by him as prescribed during

such trading.

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15 (3) Such license shall not be issued unless it is shown that the moral or material welfare of the child

will not suffer by such trading.

(4) Every license shall be granted for a term of six months, but may be renewed from time to time, and 20 may at any time be cancelled by the Minister or by the authority which has issued it. No charge shall be made for any license or badge.

49. If any person employs a child in street trading—Penalty for employing child in street trading—Penalty for employing child in street.

(b) who, although so licensed, is employed by him trading in trading of a description not authorised by of Act.

the license,

he shall be liable to a penalty not exceeding five pounds, or in case of a second or subsequent offence to a penalty 30 not exceeding ten pounds.

PART

PART IX.

COMMITTAL OF NEGLECTED OR UNCONTROLLABLE CHILDREN OR JUVENILE OFFENDERS.

50. Any justice may, upon oath being made before Warrant for 5 him by an officer or other person appointed by the apprehension. Minister in that behalf that, having made due inquiry, he believes any child to be a neglected or uncontrollable child,—

(a) issue his summons for the appearance of such

child before a court; or

(b) in the first instance, issue his warrant directing such child to be apprehended.

51. A constable or any person authorised by the Apprehen-Minister in that behalf may, although the warrant is not sion of child. 15 at the time in his possession, apprehend any child for whose apprehension a warrant has been issued under the last preceding section.

52. (1) If it appears to any justice on information Warrant to laid before him on oath by any credible person, that search for child 20 there is reasonable cause to suspect that a child is in a suspected in place which is a brothel, or where opium or any prothel or preparation thereof is smoked, such justice may issue opium is his warrant authorising any person named therein to smoked. search in such place for any child, and to take such 25 child to a shelter to be dealt with under this Act.

(2) Any person authorised by warrant under this section to search for a child may enter (if need be by force) into any house, building, or other place specified in the warrant, and may remove such child

30 therefrom.

(3) Every such warrant shall be addressed to and executed by some constable of police, who shall be accompanied by the person making the information (if such person so desire), unless the justice issuing the 35 warrant otherwise directs.

(4) It shall not be necessary in the information

or warrant to name the child.

53. Any person authorised by the Minister in that Apprehension behalf, or any constable of police may without warrant of child in brothel, &c. apprehend

apprehend a child who is in a place which is a brothel or where opium or any preparation thereof is smoked, or who he has reason to believe is a neglected or uncontrollable child.

54. Where a child is found in a brothel or in a Where child place where opium or any preparation thereof is smoked, in brothel or opium den, the keeper or person in charge or apparently in charge keeper guilty of such brothel or place shall be guilty of an offence.

55. Any child apprehended as a neglected or uncon-Child placed 10 trollable child or juvenile offender shall be taken to a in shelter and to be brought shelter and as soon as practicable thereafter shall be before court. brought before the court by the superintendent of the shelter.

56. Any person having the actual care and custody Application 15 of a child may apply to a court to commit the child to controllable an institution upon the ground that the child is an child to uncontrollable child. Such child may be detained at a shelter pending the determination of the court.

57. Where any child is brought before a court as a Procedure 20 neglected or uncontrollable child or juvenile offender, or where an application is made under the last preceding section, the court may, if a parent of the child is present, thereupon hear and determine the matter.

If a parent of the child is not present, the court in its 25 discretion may hear and determine the matter or require the parent to be present and remand the child for the purpose of securing the attendance of the parent if practicable.

If the parent refuses to attend without reasonable 30 excuse, the court may issue a warrant to bring him before the court at the hearing, but the parent may be admitted to bail on entering into recognizances, with or without sureties, to attend at the court at the hearing of the matter.

58. If on the hearing the court finds that a child is Power of a neglected or uncontrollable child or juvenile offender hearing. it may—

(a) release the child on probation upon such terms and conditions and for such period of time as

the court may think fit; or

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- (b) commit the child for such period of time as the court may think fit to the care of some person who is willing to undertake such care; or
- 5 (c) commit the child to an institution:
 Provided that no order of committal of an uncontrollable child on the application of a near relative shall be
 made unless—

(a) he proves that he has not by neglect lost control of the child; and

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- (b) security is given to the satisfaction of the court for the making of such payment as, in the opinion of the court, the applicant is able to afford towards the maintenance of such child.
- 15 **59.** Where a child is summarily convicted of an Power with offence for which the penalty is punishment by imprison-respect to child liable to ment, or imprisonment in default of payment of a fine, be summarily the court may—

(a) release the child on probation upon such terms and conditions and for such period of time as the court may think fit; or

(b) commit the child for such period of time as the court may think fit to the care of some person who is willing to undertake such care;

(c) commit the child to an institution; or

(d) sentence the child according to law.

If the court sentences a child it shall forthwith transmit to the Minister a copy of the proceedings and a 30 statement of the reasons for passing sentence.

The Minister may, with the concurrence of the Attorney-General, order the removal to an institution of the child so sentenced.

60. (1) Where a child is summarily convicted before Court may 35 a court of an offence in respect of which a penalty, order parent damages, or costs are imposed, and there is reason to penalty, believe that his parent has contributed to the commission damages, or costs in of the offence by wilful default or by habitually neglect-certain cases, ing to exercise due care of the child, the court may, on

40 information, issue a summons against such parent, charging him with so contributing to the commission of the offence. (2)

- (2) If the court is satisfied that the parent has contributed to the commission by the child of the offence by wilful default, or by habitually neglecting to exercise due care of him, the court may order that the penalty, 5 damages, or costs shall be paid by the parent instead of by the child, and may also order the parent to give security for the good behaviour of the child.
- (3) Any sums so imposed and ordered to be paid may be recovered from the parent in the same manner 10 as sums ordered by justices to be paid may be recovered under the Justices Act, 1902.
- (4) Proceedings in the nature of an appeal may be taken by the parent, under Part V of the Justices Act, 1902, from any order made against him in pursuance 15 of this section.
 - **61.** (1) Where a child is charged before a court Power with with an indictable offence other than homicide or rape, child charged and is not dealt with summarily, the court may—

 (a) release the child on probation upon such terms offences.

(a) release the child on probation upon such terms and conditions and for such period of time as the court may think fit; or

- (b) commit the child for such period of time as the court may think fit to the care of some person who is willing to undertake such care;
- (c) commit the child to an institution; or
- (d) commit the child to take his trial according to law.

If the court commits a child to take his trial it shall 30 forthwith transmit to the Minister a copy of the proceedings and a statement of the reasons for its decision.

(2) When a court has committed a child to take his trial for an indictable offence, the Minister may commit the child to an institution, if the Attorney-35 General shall have entered a nolle prosequi in regard to proceedings against the child:

Provided that the Minister may exercise his powers under this section only if the child or his parent consents, or if evidence on behalf of the child has been

40 given before the court.

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62. Where a child is charged before a court with any Court to hear offence, or is brought before a court as a neglected or evidence on uncontrollable child, the court, before making any order child. or committal, shall give the child or his parent an 5 opportunity to call evidence, and shall hear any evidence that may be tendered by or on behalf of the child.

63. When a child has been dealt with under para- As to sections graph (a) or (b) of section fifty-eight or fifty-nine, or ^{58, 59, or 61.} paragraph (a) or (b) of subsection one of section sixty-

10 one, the following provisions shall apply:—

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(1) Subject to the directions of the Minister, the child shall be in the custody and under the control of the person to whose care he has been committed.

(2) The child and the premises wherein he resides, or whereto he has been committed, shall be subject to inspection by officers appointed in that behalf.

(3) Any person having the care of a child as aforesaid who neglects or ill-treats such child shall be liable to a penalty of five pounds, and the child may be removed from his custody and control by the Minister.

64. If a child who has been released upon probation As to breach 25 breaks the terms or conditions of the release, he may be of terms of apprehended and brought before a court.

If it shall appear that such breach has occurred, the court may deal with him under the provisions of this Act, in the same manner as if he had not been released upon 30 probation.

65. Where a child upon his trial has pleaded guilty Child conto or has been convicted of an indictable offence, the victed of judge may, in addition to any other sentence for the offence may offence, commit the child at the expiration of such institution.

35 sentence to an institution, or may, instead of any other sentence, commit the child forthwith to an institution.

66. A court or a judge in committing a child to an Form of institution shall do so in general terms, but may recommend to the Minister that the child be sent to an 40 institution of a particular class.

- 67. A child on being committed to an institution Child may be may, in the discretion of the court or judge, be placed placed in in a shelter pending the Minister's decision as to his destination.
- **68.** The Minister as soon as practicable shall endorse Name of on the order of committal the name of the institution institution to be endorsed and the place where the child is to be detained.

PART X

AFFILIATION PROCEEDINGS.

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Proceedings begun before birth.

69. Where any single woman is with child by any Single woman man who has made no adequate provision for the pay-with child ment of preliminary expenses of and incidental to and proceedings immediately succeeding the birth of the child, or the against father.

15 expenses of the future maintenance of the child, she, or See Imperial with her consent the secretary, or any other reputable Act 35 & 36 person on her behalf, may make complaint in writing on s. 3. oath to a magistrate or court that she is with child by the said man, and that he has made no adequate provision for

20 the payment of the expenses aforesaid; and shall when making such complaint produce evidence on oath, either oral or on affidavit, in corroboration in some material particular of the allegation as to the paternity of the child.

25 The magistrate or court may thereupon summon the man to appear before the court to answer such complaint; or, if the circumstances seem to require it, may issue a warrant for his apprehension.

70. The court shall hear and determine so much of Court may such complaint as relates to the paternity of the child, require defendant to and may-(a) order the defendant to deposit with the court ary expenses. See S.A. Act, a sum not exceeding thirty pounds for pre-No. 702, ss. 3, liminary expenses; and (b) further order the defendant to enter into a ss. 2, 3: recognizance with one or more good and Imperial Act, sufficient sureties to the satisfaction of the Vic., c. 65, court for such amount as the court determines, s. 4. 10 as a security that within four months from the birth of the child, and on such day as any court, at any time not later than three months from the said birth, determines, and of 15 which at least fourteen days' notice shall be given to the defendant by or on behalf of the complainant, the defendant will appear and show cause why he should not make such adequate provision as the court determines for 20 the payment of the expenses of the maintenance and education of the child after it has reached the age of three months. Every such order See S.A. Act shall specify a date not later than six months 702, s. 7. thereafter when the order shall lapse if the child has not been born, and if upon such 25 date the child has not been born the order shall lapse and the defendant and his surety or sureties shall be deemed to be released from their recognizances, and the unexpended portion of any moneys paid by the defendant as 30 preliminary expenses shall be repaid to him: Provided that if the mother has been delivered of a still-born child within the date specified. the court may direct that the whole or such portion of the amount deposited, as it thinks 35 fit, be paid out to her.

The court shall not make an order under this section See S.A. Act against the defendant unless it be proved by the evidence 702, s. 6. of some medical practitioner or by the certificate of 40 some medical practitioner admitted as such evidence with the consent of the defendant that the woman is quick

quick with child, and unless her evidence be corroborated in some material particular, or if the court be satisfied that at the time the child was begotten the mother

was a common prostitute.

In default of compliance with any order as aforesaid, the court may commit the defendant to prison for any term not exceeding twelve months: Provided that upon compliance with such order, at any time during such term of imprisonment, the defendant shall be released 10 from prison.

71. If upon the day on which the defendant is bound Forfeiture of to show cause as aforesaid, or upon any later day to which recognizance where the proceedings are adjourned he does not appear, and it defendant is proved to the satisfaction of the court that the child does not appear.

- 15 has been born, and that the order binding the defendant to show cause has not lapsed, the recognizances entered into by the defendant and sureties before the birth shall be forfeited, and such recognizance shall be dealt with as a forfeited recognizance in the manner provided by
- 20 the Fines and Forfeited Recognizances Recovery Act, 1902; the moneys so secured shall be applicable for the benefit of the mother and child, and the court may proceed in the case ex parte and make an order for the payment by the defendant of a sum for the maintenance 25 and education of the child.

72. If upon the day or later day mentioned in the order after last preceding section the defendant appears, and it is birth where the defendant proved to the satisfaction of the court that the child does appear. has been born, and that the order binding the defendant

30 to show cause has not lapsed, the court shall make an order for the payment by the defendant of a sum for the maintenance and education of the child.

Proceedings begun after birth.

73. In any case where the father of an illegitimate Complaint may be made against 35 child has left it without means of support, the mother father of the child, or the secretary or any other reputable person is the without means in the secretary of the child, or the secretary or any other reputable person is the without means in the secretary of the secretary o on behalf of the child, may make complaint on oath to of support. a magistrate or court; and shall, when making such (See Local Act, No. 17, 1901, complaint, produce evidence on oath, either oral or on s. 4 Imperial Act, 35 & 36 Vic., 40 affidavit, in corroboration in some material particular of c. 65, s. 3.).

any allegation in such complaint as to the paternity of the child; and upon such complaint being made, the magistrate or court may summon the defendant to appear before the court to answer such complaint, or if the 5 circumstances seem to require it, may issue a warrant for his apprehension.

In any case where the mother of an illegitimate child has left it without means of support, the secretary or any reputable person on behalf of the infant may make 10 complaint in writing on oath to a magistrate or court, and upon such complaint being made the magistrate or court may summon the defendant to appear before the court to answer such complaint, or, if the circumstances seem to require it, may issue a warrant for her 15 apprehension.

74. The court shall hear and determine the com- Court shall plaint, and may make an order for the payment by the determine defendant of a sum for the maintenance and education complaint and may

of the child.

In any order made under this section against the for maintenance. father of an illegitimate child, the court may further order that the preliminary expenses to an amount not exceeding thirty pounds shall be paid by the defendant, and for the purposes of this and the preceding section 25 any defendant who has failed to pay an adequate sum for preliminary expenses shall be deemed to have left

the child without means of support.

75. Where any complaint has been made under this Women may Part by a woman for expenses in respect of a child of in certain 30 which she is about to be or has been delivered, she may, compelled to at the hearing of the complaint, be compelled to give evidence; and where complaint has been made by an officer or other reputable person on behalf of a woman for such expenses, she may, at the hearing of 35 the complaint, be compelled to give evidence if it has first been proved to the satisfaction of the court that she has made an allegation as to the paternity of the child. The admissions of a woman in giving evidence under this section shall not be used against her in any 40 criminal prosecution, except for perjury committed while so giving evidence.

make order

76. (1) Where after the fifth month of pregnancy Court may any illegitimate child has been still-born or having been order payment of born alive has died before attaining the age of sixteen funeral years, and where the mother of any such child has died expenses of mother and during parturition or in consequence of parturition child. within one month from the birth of such child, and the (See 35 & 36 father of such child has not paid an adequate sum—

s. 4.)

(a) for preliminary expenses;

(b) for funeral expenses of such mother or child;
10 any reputable person may make complaint in writing on oath to any magistrate or court that the defendant has failed to pay the same, and shall when making such complaint produce evidence upon oath either oral or on affidavit in corroboration in some material particular of 15 the allegation as to the paternity of the child.

(2) Such magistrate or court may thereupon summon the defendant to appear before the court to answer such complaint; or if the circumstances seem to require it, may issue a warrant for his apprehension.

20 (3) The court shall hear and determine the complaint and may make an order for payment by the

defendant of a sum—

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(a) not exceeding thirty pounds for preliminary expenses;

(b) a reasonable sum for the expenses of the funeral:

Provided that no order for preliminary expenses shall be made under this section unless the complaint be made within twelve months of the birth of such child, 30 and no order for funeral expenses shall be made unless complaint be made within twelve months of the death of such mother or child.

Any complaint under this section may include all or

any of the expenses mentioned therein.

(4) The provisions of section ninety-two of this Act shall apply to proceedings under this section as if the proceedings were in respect of the maintenance of an illegitimate child:

Provided that where the defendant has been adjudged 40 by any court of competent jurisdiction to be father of any such child this subsection shall not apply, and no further proof of paternity shall be required. 77.

77. In any order under this Part the court may Court may further order the payment of such costs by such persons ment of costs. as it thinks fit.

78. If it appears to the court that both the father Mother also 5 and mother of an illegitimate child are able to to contribute contribute to any of the expenses mentioned in the maintenance. preceding sections of this Part, the court, in making any (See Deserted order, may direct the payment of such expenses by both Children Act, the father and mother in such proportions and in such 5.7; N.Z. Act, the father as it thinks fit; and if it appears to the court s. 10.)

that the mother only is able to so contribute, it may

direct the payment by her alone.

79. Every order adjudging any sum to be paid for Period for the maintenance of a child may be made to take which orders for maintenance for maintenance and the carrier than three months and may be immediately preceding the date of the order, or, if a made. previous order has been made, from the date when the Act, 35 & 36 last preceding order ceased to have effect, and shall be Vic. 55; NZ. of full force and validity until the child has, if a male, Act, 58 Vic.

20 attained the age of fourteen years, or has, if a female, No. 22, s. 9.) attained the age of sixteen years, or until the death of such child if such death occurs within the respective

periods above mentioned:

Provided that the court may in the order direct that 25 the payments to be made under it in respect of a male child shall continue until the child attains the age of sixteen years, in which case such order shall be in force until that period:

Provided also that for the purpose of recovering money 30 previously due under an order it shall always remain of

full force and validity.

23—C

80. When an order is made under this Part for the Security for payment of any expenses other than preliminary expenses payment of amount may the court may, immediately after pronouncing its decibe ordered. 35 sion, or at any time during the currency of the order Deserted on notice being given to the defendant, require the Children Act, defendant to enter into a recognizance with sureties for No. 17, 1901, the due performance for a period not exceeding twelve months of such order, and in default of the defendant's 40 immediately entering into such recognizance with the required sureties the court may commit the defendant

te prison, there to remain for any term not exceeding twelve months or until such recognizance has been entered into or the said order complied with.

The court, on due proof that the conditions of such 5 recognizance have not been complied with by the defendant may ex parte forfeit such recognizance, which shall thereupon be dealt with as a forfeited recognizance in the manner provided for by the Fines and Forfeited Recognizances Recovery Act, 1902.

81. Where an order has been made under this Part Further for the payment of expenses, or of moneys secured under orders may be made as to recognizances, the court may, in a summary way and with mode of or without any application for that purpose, make such payment of expenses. orders in writing as it thinks necessary for better securing Deserted 15 the payment and regulating the receipt of the expenses Wives and Children Act, or moneys ordered to be paid, or for investing and No. 17, 1901,

directed to be sold or collected, or for ensuring the due appropriation of such expenses or moneys or for causing 20 the child in respect of whom the order was made to be properly brought up and educated.

applying the proceeds of the goods or rents ordered and s. 10.

82. In any order under this Part the court may, by Seizure of the said order, or at any time during the currency of such defendant's order, authorise and direct some person forthwith to seize Ibid. s. 9.

25 and sell the defendant's goods and to demand and to receive his rents, or any moneys to which he is entitled or about to become entitled, or such portions of the said goods or rents or moneys as the court thinks fit, and to appropriate the proceeds towards the payment of the moneys ordered

30 in such manner as it from time to time directs, and if it appears on oath that the defendent has theretofore usually resided in New South Wales and has left the said State, the like order may be made and authority given by such court although no summons or warrant has been 35 issued.

A copy of the orders provided for in sections eightyone and eighty-two, certified to by the clerk of the court, shall be served on any person affected thereby. Any person who disobeys or neglects to comply with any 40 such order served on him shall be guilty of an offence under this Act.

83. On complaint on oath being made to the court Disobedience or magistrate that any person has disobeyed or has not of order may be punished, complied with any order made under this Part such court or magistrate may summon such person or issue 5 his warrant for the apprehension of such person to answer such complaint. The court may at any time in a summary way inquire into any such disobedience or non-compliance with any such order, and may enforce compliance, or may punish non-compliance with such 10 order by the committal of the offender until such order has been complied with, and until the payment of any costs incidental to the hearing of the said complaint which may be awarded by the court.

84. The court from time to time may, upon applica- court may 15 tion made by or on behalf of the mother or child or by vary order. or on behalf of the father, and upon notice given in such manner as the court shall direct to all parties to be affected thereby, vary any order made under this Part. On the determination of such application the court may 20 award costs to the successful party.

85. (1) Every summons or notice shall be served by Service of a constable or other person upon the person to whom it summons or notice. is directed by delivering it to him personally, or if he cannot be conveniently met with, then by leaving it 25 with some person for him at his last or most usual place

(2) Service of a summons or notice in manner aforesaid may be proved by the oath of the police constable or other person who served it, or by affidavit, 30 or otherwise.

86. (1) If a defendant against whom a summons Court may has been issued under this Part does not appear in proceed ex parte. accordance therewith the court, upon proof of the service of the summons, may issue a warrant for his apprehen-

35 sion, or may proceed in the case ex parte.

of abode.

(2) In every case where a warrant has been issued, and the defendant cannot, after strict inquiry and search, be found to be taken thereon, the court may in like manner proceed in the case ex parte.

87. Any magistrate or court on being satisfied by Warrant may complaint on oath that any defendant has removed or issue in cases.

is about to remove out of New South Wales or to remote parts thereof to defeat any of the provisions of this Part or any order made hereunder may issue a warrant for the apprehension of such defendant to be dealt with

5 according to law:

Provided that in lieu of issuing such warrant the magistrate or court may issue a summons requiring such defendant to appear before the court to answer such complaint. Upon the appearance of such defendant

- 10 he may at the discretion of the court be ordered to enter into a recognizance with sureties for the due performance for a period not exceeding twelve months of such order. And in default of defendant immediately entering into such recognizance with the required sureties, the court
- 13 may commit the defendant to prison, there to remain for any term not exceeding twelve months or until such recognizance has been entered into or the said order complied with.

The court on due proof that the conditions of such 20 recognizance have not been complied with by the defendant may ex parte forfeit such recognizance, which shall thereupon be dealt with as a forfeited recognizance in the manner provided by the Fines and Forfeited Recognizances Recovery Act of 1902.

25 88. (1) Every person who wilfully refuses or Certain neglects to comply with an order made against him breaches of Actindictable under this Part, and goes or attempts or makes when offender preparation to go beyond New South Wales, or to leaves New South Wales.

reside or is resident either permanently or temporarily (See N.Z., 30 beyond New South Wales, shall be deemed to be guilty 1894, No. 22, s. 17; Vic. of an indictable offence, punishable by imprisonment 1901, No. with hard labour for a term not exceeding twelve 1,737, s. 4.) months.

(2) No person convicted of an offence against 35 this section shall be liable to any other penalty or punishment for such offence.

89. A committal to prison or conviction of an Committal to offence under this Part shall not prevent the making or prison not to operation of any order for the payment of money or the making or 40 doing of any act by such person which may be lawfully operation of made.

90. Whenever the Legislature of any British possession beyond the limits of the United Kingdom of deserting children in Great Britain and Ireland, the Channel Islands, and other colony, the Isle of Man, and other than New South Wales, arrested in the South wales, but the South wales arrested in the Children, and going to reside beyond the limits of such possession, is constituted an offence whether punishable spond indictment or otherwise by imprisonment for a term 1,737, s. 5; of twelve months or more, then and in every such case 58 Vic. No. 10 every person accused of such offence and coming to 22, s. 23.)

New South Wales may be there arrested and dealt with under and pursuant to the provisions of the Act of the Imperial Parliament of Great Britain and Ireland, 44 & 45 Vic. intituled the Fugitive Offenders Act, 1881, or any 7 V.S. 321.

91. Every person aggrieved by an order of a court Appeal to or by the dismissal of a complaint under this Part quarter sessions or may appeal to a court of quarter sessions against such district court, order in the manner provided by the Justices Act, 20 1902, in respect of appeals to courts of quarter sessions:

Provided that where an order is made by the court at any place, and a district court is held nearer to that place than a court of quarter sessions, such appeal may be made to such district court in the same manner as an 25 appeal may be made to a court of quarter sessions under the said Act:

Provided also that where an order is made before birth respecting the paternity of a child, and the party aggrieved by the order gives notice of intention to appeal 30 to a court of quarter sessions or district court, as the case may be, and desires that the appeal shall not be heard before the birth of the child, such party shall state his or her desire in the notice, and in such case the appeal shall be heard at the first court of quarter sessions or 35 district court, as the case may be, held after a period of one month from the birth has elapsed, or at any court of quarter sessions or district court succeeding such first held court and to which the hearing is postponed, but no appeal shall in such case be heard earlier than such 40 first held court:

Provided

Provided also that at the request of either party the child shall be produced in court. Where an appeal respecting the paternity of a child is to be heard after the birth of the child, no order shall be made under 5 sections seventy-one and seventy-two of this Act until and unless such appeal has been heard and determined.

92. Where any proceedings are taken under this Evidence Act, in respect of the maintenance of an illegitimate necessary for order for child, of which the defendant is alleged to be the father, maintenance. 10 no order shall be made—

- (a) upon the evidence of the mother, unless her evidence be corroborated in some material particular; or
- (b) if the court is satisfied that at the time the child was begotten the mother was a common 15 prostitute.

sixty-one, sixty-two, sixty-three, Application 93. Sections sixty-four, sixty-five, sixty-six, sixty-eight, sixty-nine, of Justices Act, No. 27, seventy, seventy-one, seventy-four, seventy-five, seventy-1902. 20 six, seventy-seven, seventy-eight, seventy-nine, eighty, eighty-one, eighty-two, eighty-three, eighty-four, eightyfive, eighty-seven, eighty-nine, ninety, ninety-two, ninety-three, ninety-four, ninety-five, ninety-six, ninetyseven, ninety-eight, ninety-nine, one hundred and one, 25 one hundred and two, one hundred and three, one hundred and four, one hundred and five, one hundred and six, one hundred and seven, one hundred and eight, one hundred and nine, one hundred and ten, one hundred and eleven, one hundred and twelve, one hundred and 30 thirteen, one hundred and fourteen, one hundred and fifteen, one hundred and sixteen, one hundred and seventeen, one hundred and eighteen, one hundred and nineteen, one hundred and twenty, one hundred and twenty-one, one hundred and fifty-two, and one hundred 35 and fifty-three of the Justices Act, 1902, shall mutatis mutandis apply to this Part of this Act, so far as such sections are not inconsistent with such Part or the Deserted Wives and Children Amending Act, 1913:

Provided that subsection two of section eighty-two shall 40 not affect the provision relating to periodical payments

under

under such Part, or to amounts ordered to be paid under sections seventy, seventy-four, and seventy-six of this Part.

PART XI.

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30

CHILDREN'S COURTS.

94. (1) The Governor shall by proclamation estab-Governor lish special courts to be called children's courts. Every such court shall consist of a special magistrate for dealing and shall have jurisdiction within the area named in a children. 10 proclamation.

(2) In places not within any such area the jurisdiction of a court shall be exercised by a special

magistrate, or any two justices.

(3) Such special magistrate shall possess the 15 qualifications required for the office of police or stipendiary magistrate under the Public Service Act, 1902.

95. Within the area so named a court and the Powers of

magistrate constituting such court— 20

(a) shall exercise the powers and authorities which are possessed by special, stipendiary or police magistrates, courts of petty sessions, or justices in respect of children and of offences committed by or against children;

(b) shall exercise the powers and authorities of a justice or justices to hear and determine complaints under the Deserted Wives and Children Act, 1901:

(c) shall hear and determine complaints, informa-

tions, and applications under this Act.

96. On and after the establishing of a court, the Jurisdiction jurisdiction of every court of petty sessions in respect of of other courts to the matters as to which the court has jurisdiction, except cease. those matters in which a justice or justices has or have

35 jurisdiction under the Deserted Wives and Children Act, 1901, shall cease to be exercised within the area proclaimed:

Provided

Provided that nothing in this section shall abridge or prejudice the ministerial powers of magistrates or justices in cases of committal for trial, or their powers to take any information or issue any summons, or grant, 5 issue, or endorse any warrant, or admit to bail:

Provided also that no conviction, order, judgment, or proceeding made or given by or had before a court of petty sessions in contravention of this section shall be invalidated or affected by reason only of such contra-

10 vention.

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97. A court shall be held—

(a) where practicable, in the proximity of a shelter; courts not held in

(b) in some building or room approved of in that ordinary behalf by the Minister: Provided that if a courts. court room or police office is so approved of, the hearing shall not take place at an hour when the ordinary court business is being transacted.

98. (1) At any hearing or trial by a court under Exclusion of 20 this Act, the court may order that any persons not persons from hearing. directly interested in the case shall be excluded from the court-room or place of hearing or trial.

(2) Upon and during the hearing of any complaint made under Part X of this Act, no person 25 shall be or be permitted to be present in court except the following-

> (a) the adjudicating magistrate, the secretary, or an officer deputed by him, the officers of the court, and a member of the police force:

(b) the complainant and the defendant, and their respective barristers and solicitors;

(c) the mother or sister, or other relative or friend of the complainant, if desired by such complainant;

(d) any person whilst being examined as a witness;

(e) the mother or sister or female friend of any female witness, if desired by such witness whilst being examined,

40 unless the court shall, in the interests of justice, permit any other person to be present.

99. Proceedings in the nature of appeal to the Appeal from Supreme Court or a judge thereof, or to a Court of children's court. Quarter Sessions or a District Court, from any determination, conviction, or order of a court may be taken 5 by a child or by a parent on behalf and in the name of his child under Part V of the Justices Act, 1902. The

provisions of the said Part applicable to justices in the exercise of their summary jurisdiction shall apply to a court:

10 Provided that in place of the release of the appellant from custody upon entering into recognizances or depositing any money with the court, he may be committed by the court from which the appeal is made to a shelter pending the determination of the appeal:

Provided also that this section shall not apply to an

order committing a child to take his trial.

The judge hearing the appeal may order that any person not directly interested in the case shall be

excluded from the court-room.

Further, the judge officiating in any court to which a case begun in a Children's Court has been transferred, may order that any person not directly interested in the case shall be excluded from the court-room.

PART XII.

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REGULATIONS.

100. (1) The Governor may make regulations for Governor may make carrying out the objects and purposes of this Act. regulations.

(2) Such regulations may provide for the payment of fees and may impose a penalty not exceeding 30 thirty pounds for any breach thereof. Any such penalty may be enforced by and recovered before a court.

> (3) Such regulations shall— (i) be published in the Gazette;

(ii) take effect from the date of publication or from a later date to be specified in such regulations; and (iii)

(iii) be laid before both Houses of Parliament within fourteen days after publication if Parliament is in session, and if not, then within fourteen days after the commencement of the next session. If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

PART XIII.

GENERAL AND SUPPLEMENTAL.

101. (1) Every person charged with committing an offences.

15 offence against the provisions of this Act may be prosecuted before a court.

(2) Every person guilty of an offence against the provisions of this Act shall be liable, upon conviction before a court, unless some other penalty or 20 punishment is expressly provided, to a penalty not exceeding one hundred pounds, or to imprisonment for a period not exceeding two years, or to both penalty and imprisonment.

102. If it be made to appear to any magistrate, on when information laid before him on oath, that there is information on oath, reason to believe that any person is offending against warrant may the provisions of this Act in any house or place, be issued to search or that any of the provisions of this Act are being premises. infringed in any house or place, such magistrate may

30 issue his warrant authorising an officer to search any house or place therein named, at any hour of the day, or at any hour of the night not later than ten o'clock, for the purpose of ascertaining whether there is or has been therein or thereor an infringement of the 35 provisions of this Act.

Such

Such officer may, if he thinks it necessary, be accompanied by a medical practitioner, or by a police officer, or by both.

103. (1) Whenever it appears to any magistrate, Power of 5 or to any justice, on information made before him arrest, and to on oath by any person who, in the opinion of the place child is magistrate or justice, is bona fide acting in the interest of any child, that there is reasonable cause to suspect that such child, being a child under the age of eighteen

that such child, being a child under the age of eighteen 10 years, has been or is being ill-treated or neglected in a manner likely to cause the child unnecessary suffering, or to be injurious to its health, such magistrate or justice may issue a warrant authorising any officer or constable of police named therein to search for such child; and if

15 it is found to have been or is then being ill-treated or neglected in manner aforesaid, to take it to and detain it in a place of safety until it can be brought before a court; and the court before whom the child is brought may commit the child to the custody of some person 20 named by the court, or make such other order as to the

custody of the child as the court may think fit.

(2) The magistrate or justice issuing such warrant may, by the same warrant, cause any person accused of any offence in respect of the child to be 25 apprehended, and proceedings to be taken for punishing such person according to law.

(3) Any person authorised by warrant under this section to search for any child, and to take it to and detain it in a place of safety, may enter (if need be by 30 force) any house, building, or other place specified in

the warrant, and may remove the child therefrom.

(4) Every warrant issued under this section shall be addressed to and executed by an officer of police, who shall be accompanied by the person giving the in35 formation, if such person so desire, unless the magistrate or justice otherwise directs; and the person to whom the warrant is addressed may be accompanied by a medical practitioner.

(5) It shall not be necessary in any information 40 or warrant issued under this section to name any particular child.

- 104. (1) If a Children's Court has reason to believe Child that a child, male or female, is suffering from venereal believed to be suffering from disease, the court may at any time, either before or venereal after committal of such child, order an examination to disease.

 5 be made of such child by a medical practitioner, either male or female.
- (2) In the event of the medical practitioner reporting that any child is so suffering, the court shall forthwith notify the Commissioner in writing, who may 10 thereupon deal with such child as provided in Act No. 46, 1918.
 - 105. (1) No child shall be apprenticed, boarded-out, Application or placed out under the provisions of this Act, unless of Act No. 46, the child has been—

 wards.

15 (a) examined by a medical practitioner; and

(b) certified by such medical practitioner as being free from venereal disease, or no longer liable to convey infection.

(2) Such certificate shall be obtained at the 20 expense of the Child Welfare Department, and retained by it.

(3) Any person contravening this section shall be liable to a penalty not exceeding twenty pounds.

- 106. (1) Where a person is charged with commit-Information ting an offence under this Act in respect of two or more or summons. children the same information or summons may charge the offence in respect of all or any of them, but the person charged shall not be liable to a separate penalty in respect of each child unless upon separate informations 30 or summonses.
- (2) The same information or summons may also charge the offences of assault, ill-treatment, neglect, abandonment or exposure, together or separately, but when charged together the person charged shall not be 35 liable to separate penalties.

(3) Where an offence charged is a continuous offence, it shall not be necessary to specify in the information or summons the date of the acts constituting the offence.

40 107. (1) Where in any proceeding against any Evidence in person for an offence under this Act the child in respect certain cases.

of whom the offence is charged to have been committed, or any other child of tender years who is tendered as a witness, does not in the opinion of the court understand the nature of an oath, the evidence of such child may 5 be received though not given upon oath if in the opinion of the court such child is possessed of sufficient intelligence to justify the reception of the evidence, and understands the duty of speaking the truth. And the evidence of such child, though not given on oath, but 10 otherwise taken and reduced into writing as a deposition, shall be deemed to be a deposition to all intents and purposes.

A person shall not be convicted of the offence charged unless the testimony admitted by virtue of this section, 15 and given on behalf of the prosecution, is corroborated by some other material evidence in support thereof

implicating the accused.

Any child whose evidence is received as aforesaid, and who wilfully gives false evidence, shall be guilty of a 20 misdemeanour, but no prosecution shall be instituted under this section without the leave of the court before which such evidence was given.

- (2) Where a justice is satisfied by the evidence of a medical practitioner that the attendance before a 25 court of any child in respect of whom an offence under this Act is alleged to have been committed would be injurious or dangerous to its health, the justice may take in writing the statement of such child in pursuance of section four hundred and six of the Crimes Act, 1900, as 30 if the child were dangerously ill, and in the opinion of the medical practitioner, not likely to recover.
- (3) Where in any proceedings with relation to an offence under this Act the court is satisfied by the evidence of a medical practitioner that the attendance 35 before the court of any child in respect of whom an offence is alleged to have been committed would be injurious or dangerous to its health, any deposition taken under section four hundred and six of the Crimes Act, 1900, or any statement of the child taken under 10 this section, may be read in evidence, and shall have effect in like manner as if it were proved that the child

were so ill as to be unable to travel, or (in the case of any such statement) that there was no reasonable probability that the child would ever be able to travel or give evidence; but the same proviso shall apply as 5 in the case of the reception of evidence under the first subsection.

- (4) Where in any proceedings with relation to an offence under this Act the court is satisfied by the evidence of a medical practitioner that the attendance 10 for the purpose of giving evidence before the court of any child in respect of whom the offence is alleged to have been committed would be injurious or dangerous to its health, and is further satisfied that the evidence of the child is not essential to the just hearing of the case, 15 the case may be proceeded with and determined in the absence of the child.
- 108. If any person makes any false representation, Forgery of or forges any certificate, or makes use of any forged certificate, certificate knowing it to be forged, with intent to obtain

 20 the registration either of such person or of any other person under this Act, or falsifies any register kept in pursuance of this Act, or furnishes false particulars of any matter which is required to be entered in such register, such person shall be guilty of an offence and on

 25 conviction thereof shall be liable to a penalty not exceeding twenty-five pounds or to imprisonment for a period not exceeding six months.
- 109. Any person who hinders or obstructs any obstruction of person in the exercise of his duty under this Act, shall out provisions 30 be guilty of an offence.
 - 110. Any justice may issue a warrant for the arrest Arrest of of any child boarded-out, placed-out, apprenticed, or absconding adopted who has absconded or been illegally removed.
- 111. Any person who ill-uses or neglects to perform Penalty for 35 his duty towards any child boarded-out, placed-out, ill-usage of apprenticed or adopted, or violates any regulation concerning such child, shall be guilty of an offence.
- 112. Where a person is charged with an offence Presumption under this Act in respect of a child who is alleged in the of age of a child age, and 40 charge or indictment to be under any specified age, and

the child appears to the court to be under that age, such child shall, for the purposes of this Act, be deemed to be under that age unless the contrary is proved.

113. Nothing in this Act contained shall be con-Saving 5 strued to take away or affect the right of any parent, parental together any of all parents of the parents of teacher, or other person having the lawful control or punishment. charge of a child to administer punishment to such child.

114. Where a person is charged with an offence A person not 10 under this Act, for which he is also punishable under to be twice any other Act or at Common Law, he may be prosecuted for the same and punished either under this Act or under any other offence. Act, or at Common Law, but no person shall be punished twice for the same offence.

115. Any person, whether the parent of the child or Neglect or not, who, without reasonable excuse, neglects to provide of child. adequate and proper food, nursing, clothing, medical aid, or lodging for any child in his care or custody, or assaults, ill-treats, or exposes any child, or causes or procures any 20 child to be neglected, assaulted, ill-treated, or exposed, if such neglect, assault, ill-treatment, or exposure has resulted, or appears likely to result, in bodily suffering

116. The Minister may institute legal proceedings— Minister 25

child, shall be guilty of an offence.

or permanent or serious injury to the health of such

(a) against any parents for moneys expended in may take proceedings the maintenance of their children, when for satisfied that such parents are in a position to maintenance. pay for such maintenance; and

(b) against the parents of illegitimate children for 36 the recovery of maintenance money, and such parents shall be liable jointly and severally.

117. All money and other property to which any Money of ward shall be entitled shall be placed to a separate fund ward to be 35 and shall be under the control of the Minister for the separate fund. benefit and maintenance of such ward.

118. The expenses incurred in respect of the adminis- Expenditure tration of this Act shall be defrayed from such moneys of money appropriated as Parliament shall appropriate for that purpose, and if by Parlia-40 there are no such moneys available, such expenses shall ment.

be defrayed out of the Consolidated Revenue Fund by warrant under the hand of the Governor directed to the Colonial Treasurer.

The said Treasurer shall pay out of the said fund only 5 such charges as are certified to be correct under the hand of the Minister and countersigned by the secretary, and all payments in pursuance of such warrants shall be credited to the said Treasurer, and the receipt of the person to whom the same are paid shall be his discharge

10 in respect of the sum therein mentioned in the passing of his accounts. All payments made under any such warrant shall be recouped out of the vote for the purpose of this Act so soon as there are sufficient funds to the credit of such vote.

119. The Minister shall furnish a report to Parlia-Report to be furnished to 15 ment every year on the working of this Act.

Parli ment

PART XIV.

ADOPTION OF CHILDREN.

120. In this Part, unless the context otherwise Interpre-20 requires,-

"Adopted child" means child in respect of whom

an order of adoption has been made. "Adopting parent" means any person who by an order of adoption is authorised to adopt a child, and in case of any such order being made in favour of a husband and wife on their joint application, includes both husband and wife.

"Court" means the Supreme Court in its equitable jurisdiction

121. Upon application made to the court by— 30

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By whom (a) husband and wife jointly; or female child (b) a married woman, with the written consent of adopted.

her husband; or (c) a woman, whether married or unmarried, who, No. 6, s. 3. in the opinion of the court, is at least eighteen years older than the child; or

(d)

(d) a married man who, in the opinion of the court, is at least thirty years older than the child, an order of adoption of a female child may be made in favour of the applicant in the form prescribed.

122. Upon application made to the court by—

(a) husband and wife jointly; or

male child Ibid. s. 4.

By whom

(b) a married man alone, but with the written adopted. consent of his wife; or

(c) a man, whether married or unmarried, who, in 10 the opinion of the court, is at least eighteen years older than the child; or

> (d) a woman, whether married or unmarried, who, in the opinion of the court, is at least thirty years older than the child,

15 an order of adoption of a male child may be made in favour of the applicant in the form prescribed.

123. An order of adoption shall not be made unless Matters to be the court is satisfied—

(a) that the person applying for the order is of See W.A. 20 good repute and a fit and proper person to have Act, 1896, the care and custody of the child, and of No. 6, s. 5. sufficient ability to bring up, maintain, and educate the child; and

> (b) that the welfare and interest of the child will be promoted by the adoption; and

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(c) if the child is over the age of twelve years, that the child consents to the adoption; and

(d) that the parents of the child or such one of them as is living consent or consents to the adoption, or if the child is illegitimate that the mother consents to the adoption, or if the child has a guardian, that such guardian consents to the adoption:

Provided that the consent of any person whose consent 35 is required to be given by this paragraph may be dispensed with if the court is of opinion that such person has deserted or abandoned the child.

124. When an order of adoption is made, for all Effect of purposes civil and criminal, and as regards all legal and order. 40 equitable rights and liabilities, the adopted child shall Ibid. ss. 7, 8. be deemed to be a child of the adopting parent, and the 23—D adopting

adopting parent shall be deemed to be a parent of the adopted child, as if such child had been born to such adopting parent in lawful wedlock, and the order of adoption shall terminate all rights and liabilities 5 existing between the child and his natural parents other than the right of the child to take property as heir or next of kin of his natural parents or of their lineal or collateral kindred:

Provided always that such adopted child shall not by

10 such adoption—

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(a) acquire any right, title, or interest in any property under any deed, will, or instrument whatsoever made or executed prior to the date of such order of adoption unless it is expressly so stated in such deed, will, or instrument; nor

(b) be entitled to take any property limited to the heirs of the body of the adopting parent; nor

- (c) be entitled to take any property as next of kin to any lineal or collateral kindred of the adopting parent; nor
- (d) be entitled to take any property as next of kin to any child of the adopting parent.
- 125. When an order of adoption is made the Child to take adopted child shall take the surname of the adopting adopting parent. 25 parent in addition to his proper name.

126. (1) The judges of the Supreme Court or any Power to three of them may make rules for carrying into effect the provisions and objects of this Part and for providing for the registration of orders of adoption and the pay-30 ment of fees.

(2) Until such rules are made any application under this Part shall be by motion, and the practice of the Equity Court shall apply thereto.

THE SCHEDULE

THE SCHEDULE.

	Date of Act.	Name of Act.	Extent of repeal.
5	Act No. 40, 1900	Crimes Act, 1900	So much of s. 429 as is inconsistent with this Act.
10	Act No. 17, 1901	Deserted Wives and Children Act, 1901.	So much of the Act as relates to complaints in respect of illegitimate children, and to proceedings consequent upon or incidental to such complaints.
	Act No. 61, 1901	State Children Relief Act, 1901.	The whole.
15	Act No. 47, 1902	Children's Protection Act, 1902.	The whole.
	Act No. 27, 1904	Infant Protection Act, 1904.	The whole.
20	Act No. 16, 1905	Neglected Children and Juvenile Offenders Act, 1905.	The whole.

Sydney: Alfred James Kent, Government Printer-1923.

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