

1891.

Legislative Council.

CHILDREN'S PROTECTION BILL.

(New Clauses and Amendments to be proposed in Committee of the Whole by DR. RENWICK).

Page 1, clause 2, line 13. *After* "house" *insert* "without first obtaining the consent of a Stipendiary or Police Magistrate or other persons who may be appointed by the Colonial Secretary for the purpose"

Page 1, clause 2, lines 15 and 16. *Omit* "for a longer period than three consecutive days"

Page 4, clause 9, line 18. *After* "house" *insert* "while occupied by such person"

Page 5, clause 12, to stand as the final clause to Part I.

Page 5. *After* clause 11 *insert* the following new clause:—

Any person receiving a pregnant woman into his or her house for confinement shall furnish or cause to be furnished to the District Registrar for births, deaths, and marriages for the District in which such person resides, within four weeks of the date of such reception, the information set forth in Schedule A of this Act, or, in default thereof, shall be guilty of a misdemeanour, and on conviction thereof shall be subject to a fine not exceeding *fifty* pounds, with or without imprisonment with hard labour for any term not exceeding *six* months. Provided that the provisions herein contained shall not be enforced in any case where any such person shall obtain the written authority of a Stipendiary Magistrate for exemption.

Persons receiving pregnant woman must register same.

Page 5, clause 13, line 28. *After* "station" *insert* "when more than one birth in the same house, within a period of six months, such house shall be registered by the District Registrar as a private lying-in home, and shall be subject to the provisions for inspection and otherwise contained in this Act in regard to houses where infants are received for care or adoption"

Page 5. *After* clause 13 *insert* the following new clauses:—

Every person in charge of a lying-in home shall furnish records as provided in Schedule B of this Act, and forward the same to the District Registrar for the district in which such person resides, within a period of four weeks from the occurrence of each birth in the said house, and in the event of the removal of such woman or such child shall supply to the said District Registrar particulars as required in Schedule C of this Act, within seven days of such removal; and should such person as aforesaid fail to comply with the provisions herein contained, or wilfully falsify such records so as to hinder or deceive the police in their endeavour to trace crime, or for any other similar purpose, he or she shall be guilty of a misdemeanour, and shall upon conviction thereof be subject to a fine not exceeding *one hundred* pounds, with or without imprisonment with hard labour for any term not exceeding *twelve* months.

Keepers of lying-in homes to furnish records.



Removal of infant from lying-in home forbidden in certain cases.

No person in charge of a lying-in home shall permit any infant to be taken from such home unless in the care and charge of the mother of such infant without first obtaining the written consent of a Justice of the Peace.

Still births to be registered.

The provisions of tenth Victoria number thirty-four in regard to the registration of deaths shall be applicable to the case of still-born children; and where a still birth is the result of confinement, no interment shall take place without the certificate of a duly qualified medical practitioner; and any person interring any such still-born child without first obtaining such certificate shall be subject to the penalties hereinafter contained.

Single woman being with child may summon alleged father during pregnancy.

Any single woman who may be pregnant with child may at any time before the birth of such child make a deposition upon oath before a Justice of the Peace stating who she alleges to be the father of such child, and such Justice of the Peace shall thereupon issue his summons to the person alleged to be the father of the child to appear before a Police Court, and upon the trial of the cause, if the evidence of the mother of the child be corroborated in some material particular by other evidence to the satisfaction of a Stipendiary or Police Magistrate or two Justices of the Peace, they may adjudge the man to be the putative father of such illegitimate child, and if the said Stipendiary or Police Magistrate or two Justices of the Peace see fit, having regard to all the circumstances of the case, they may proceed to make an order on the putative father for the payment to the mother of the child, or to any person named by her, of a sum of money weekly not exceeding the sum of *ten shillings and sixpence* for the maintenance and education of such child, and also of the expenses incidental to the birth of such child, and of such costs as may have been incurred in the obtaining of such order, such weekly sum as aforesaid to be made to become payable upon the birth of such child. All such orders shall be recoverable in the like manner as orders are recoverable under twenty-second Victoria number six.

Prosecutions may be undertaken without consent of mother in certain cases.

If a woman entitled to make a complaint refuses or neglects to take proceedings against the person whom she alleges to be the father of her child when requested so to do by the Superintendent of any public institution or by any person authorised by the Board of Management or Superintendent thereof, or either of her parents or guardians, the person so requesting may take proceedings and prosecute the case to final judgment for the benefit of such child. The mother of such child shall be admitted as a witness in support of the complaint, and may be compelled to testify, but her admissions shall not be used against her in any criminal prosecution except for perjury committed while so testifying. If a woman accuses any man of being the father of such illegitimate child, and being put upon the discovery of the truth respecting such accusation in the time of her travail, she accuses the same man of being the father of the child of which she is about to be delivered, and has continued constant in such accusation, the fact of such accusation in time of travail, may be put in evidence upon the trial to corroborate her testimony.

Page 10. *After* clause 29 *insert* the following Schedules:—

#### SCHEDULE A.

No.	District	Date
Name of woman—		
Age—		
Names of parents—		
Address of parents—		
Date of admission of woman—		
Name of person into whose house admitted—		
Address of same—		

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SCHEDULE B.



SCHEDULE B.

No.	District	Date
Name of woman—		
Age—		
Names of parents of the woman—		
Address of same—		
Date of woman's admission—		
Date of confinement—		

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SCHEDULE C.

No.	District	Date
Name of person discharged—		
Age—		
Address to which such person has been removed—		
Name of person furnishing record—		
Address of same.		

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ARTICLE 1

Section 1. The purpose of this Act is to provide for the protection of the child and to ensure that the child is brought up in a family environment. The child shall be brought up in a family environment, and if that is not possible, in a family environment as far as possible. The child shall be brought up in a family environment, and if that is not possible, in a family environment as far as possible.

Section 2. The child shall be brought up in a family environment, and if that is not possible, in a family environment as far as possible. The child shall be brought up in a family environment, and if that is not possible, in a family environment as far as possible. The child shall be brought up in a family environment, and if that is not possible, in a family environment as far as possible.

Section 3. If a woman entitled to make a complaint under section 1 of this Act has taken proceedings against the person who she alleges to be the father of her child, she shall not be treated as having taken such proceedings for the purposes of section 1 of this Act unless she has taken such proceedings in good faith and for the purpose of securing the best interests of the child. The mother of such child shall be entitled to be heard in relation to the complaint and may be required to give evidence. If a woman makes a complaint under section 1 of this Act, she shall not be treated as having taken such proceedings for the purposes of section 1 of this Act unless she has taken such proceedings in good faith and for the purpose of securing the best interests of the child.

ARTICLE 2

Section 4. The child shall be brought up in a family environment, and if that is not possible, in a family environment as far as possible. The child shall be brought up in a family environment, and if that is not possible, in a family environment as far as possible. The child shall be brought up in a family environment, and if that is not possible, in a family environment as far as possible.



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Name of person into whose house admitted—		
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SCHEDULE B.

No.	District	Date
Name of woman—		
Age—		
Names of parents of the woman—		
Address of same—		
Date of woman's admission—		
Date of confinement—		

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SCHEDULE C.

No.	District	Date
Name of person discharged—		
Age—		
Address to which such person has been removed—		
Name of person furnishing record—		
Address of same.		

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Legislative Council,

55<sup>o</sup> VICTORIÆ, 1891.

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## A BILL

For the Prevention of Cruelty to, and the better Protection of, Children; and to grant certain powers and make certain provisions in furtherance of those purposes.

[MR. SIMPSON;—9 September, 1891.]

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**B**E it enacted by the Queen'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:—

- 5     1. This Act may be cited as the "Children's Protection Act, 1891," and shall commence and come into operation on the first day of December, one thousand eight hundred and ninety-one. Short title and commencement.

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### PART I.

2. After the commencement of this Act, no person shall in consideration of any payment or reward at any time made or given or to be made or given to such person, or to any other person on behalf of such person, retain in or receive into his or her care or charge in any house any infant under the age of three years, either— Houses where infants received or adopted to be registered.

- 15     (a) for the purpose of nursing or maintaining such infant apart from its parents for a longer period than three consecutive days; or

c 53—A

(b)



(b) for the purpose of adopting such infant—  
unless such person be registered as the occupier of such house, and such house be also registered under this Act.

Any person offending against the provisions of this section shall, on conviction before a Court of summary jurisdiction, be liable to imprisonment for a period not exceeding *six* months, or to a penalty not exceeding *twenty-five* pounds.

Register of persons  
and houses to be  
kept.

3. The Inspector-General shall, subject to regulations to be made as hereinafter provided, cause a register or registers to be kept, in which shall be entered the name of any person who, being the occupier of any house, applies to have the same registered for the purposes of this Act.

Opposite the name of any person so registered in any such register shall be entered particulars of the situation of such house, and such other particulars with respect to such person and such house, the calling or occupation of such person, and, if she be a married woman, the calling or occupation of her husband, as may be directed by regulations to be made as hereinafter provided.

When registration to  
be renewed.

Every such registration shall, unless cancelled under the provisions of this Act, remain in force until the thirty-first day of the month of December next following the making of such registration, and no longer, unless the same be renewed. Registrations may be renewed during the month of December in which the same expire, and all such renewed registrations shall, unless cancelled under the provisions of this Act, remain in force for one year from the expiration of such month of December in which the same are made. No fee shall be charged or taken for the making of any registration or renewed registration under this section.

The person in whose charge such register shall be kept shall give to the person so registering a certificate under his hand of such registration or renewal, which shall in all matters be *prima facie* evidence of such registration or renewal.

Power to make  
regulations.

4. The Governor in Council may at any time and from time to time make regulations for all or any of the following purposes (that is to say):—

- For prescribing how many registers shall be kept under this Act, and where the same shall respectively be kept;
- For prescribing the mode in which applications for registration under this Act shall be made, the mode in which registration shall be effected, and that in which entries shall be made in registers kept under this Act;
- For directing what particulars as to the persons and houses registered, in addition to those hereinbefore required, shall be inserted in such registers;
- For arranging houses registered under this Act into classes in such manner as to the Governor in Council seems fit, and for fixing the maximum number of infants to be retained in or received into houses of any particular class;
- For regulating the inspection from time to time of such houses and infants;
- Generally for giving effect to and carrying out the provisions of this Act.

Any such regulations may impose a penalty not exceeding *twenty-five* pounds for any breach of the same, and any such penalty may be recovered before a Court of summary jurisdiction on the information of any member of the police force.

All regulations made under the authority of this section shall, within two weeks of the making thereof, be published in the *Government Gazette*.



5. The Inspector-General, or any member of the police force authorized in that behalf by the Inspector-General, and accompanied by a legally qualified medical practitioner, if the Inspector-General or such member of the police force (as the case may be) think fit, may from time to time, subject to regulations made as aforesaid, inspect any house registered under this Act, and any infant or infants retained in or received into any such house. Inspection.

6. The Inspector-General may refuse to register any person applying for registration under this Act, or to renew any registration, unless he be satisfied by the production of certificates, or if he think fit to dispense with certificates by the production of any other evidence, that the person applying to be registered or for a renewal of registration is of good character and able to properly nurse and maintain any infants retained in or received into his or her care or charge in such house; and the Inspector-General may refuse to register or renew the registration of any house unless he be satisfied that such house is suitable for the purpose for which it is to be registered, and situated in a suitable locality. Inspector-General may refuse to register.

7. Every person registered as aforesaid shall keep a roll, in which shall be forthwith entered by such person, the name, sex, and age of each infant under the age of three years retained in or received into the care or charge of such person for the purpose of being nursed or maintained apart from its parents for a longer period than three consecutive days or for the purpose of adoption. Registered persons to keep a roll containing certain particulars.

Every person registered as aforesaid shall forthwith also enter in such roll opposite the name of each infant the date at which such infant was so retained or received, and the names and addresses, calling, or occupation of the parents of such child, and of the person or persons by whom such infant was left, or from whom it was received; and if any such last-mentioned person be a married woman, the calling or occupation of her husband.

If any such infant be at any time removed from such registered house, whether before or after attaining the age of three years, such registered person as aforesaid shall forthwith after such removal enter in such roll the time of such removal, and the names and addresses, calling or occupation of the person or persons by whom such infant was so removed.

Every person registered as aforesaid shall cause the person from whom any such infant is received, or by whom any such infant is removed to sign such entry, and shall forward to the Inspector-General a copy of each such entry within three days of the reception or removal of each infant.

Every roll kept in pursuance of the provisions of this section shall be at all times produced when the production of the same is demanded by any member of the police force in charge of a station, if of the rank of senior-constable, or by any member of the police force being a sergeant or of higher rank, and may be by him examined and perused, and, if he think fit, by him retained. Roll to be produced.

If any person registered as aforesaid neglect, refuse, or omit to produce any such roll kept by him or her in pursuance of this section forthwith on being so required, or if any such person neglect, refuse, or omit to keep such a roll, or to insert therein all the particulars by this section required, or to obtain such signature thereto, or to forward a copy of such entry to the Inspector-General within three days of the reception or removal of each infant, such person shall be guilty of an offence against this Act, and shall be liable on conviction before a Court of summary jurisdiction to imprisonment for a period not exceeding six months, or to a penalty not exceeding twenty-five pounds. Penalty for neglecting to produce roll, or to keep it in proper form.



Forgery of certificate,  
&c.

8. If any person make any false representation, or forge any certificate, or make use of any forged 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 falsify any roll kept in pursuance of the provisions of the last preceding section, or furnish false particulars of any matter which is required to be entered in such roll, such person shall be guilty of an offence against this Act, and shall, on conviction before a Court of summary jurisdiction, be liable to imprisonment for a period not exceeding *six* months, or to a penalty not exceeding *twenty-five* pounds. 5 10

Names may be re-  
moved from register.

9. If at any time it be made to appear to the Inspector-General that any person registered as aforesaid has been guilty of neglecting to provide, or is incapable of providing, the infants retained in or received into the care or charge of such person with proper food or attention, or that the registered house of such person has become unfit for the reception of infants, or if for any other reason it appears to the Inspector-General desirable in the public interest so to do, he may strike the name of such person and such house off the register, and the registration thereof shall be thereby cancelled. 15

Ten days' previous notice in writing of his intention so to do shall be given by the Inspector-General to any such person whose name is about to be struck off the register, and such notice may be given by leaving the same at the registered house of such person. But the Inspector-General may at the time of giving such notice order the immediate removal of such infants from such registered house to the care of a State officer in charge for the time being of any department or institution for the relief of State or neglected children, who shall then be charged with the care of such infants until the removal of such infants by their respective parents or guardians, or the return of such infants to such first-mentioned registered house; and such officer may recover the cost of the removal, maintenance, and clothing of and medical attendance on such infants from their respective parents or guardians. 20 25 30

Notice to be given of  
death of infant;  
inquest to be held,  
and report made to  
Minister.

10. Every person registered, as aforesaid, shall within twenty-four hours after the death of an infant under the age of three years in his or her care or charge, other than his or her own children, give or cause to be given notice thereof to the police officer in charge of the nearest police station, and thereupon an inquest shall be held upon the body of such infant. 35

It shall be the duty of the Coroner holding such inquest to inquire not only into the immediate cause of death, but into all such circumstances as may throw any light upon the treatment and condition of the infant during life, and into any other matters into which in his opinion it is desirable in the interests of public justice that he should inquire; and the Coroner after holding such inquest shall report to the Minister the cause of death, and shall in such report make such remarks with respect to the matter as to him seems fit. 40 45

No infant dying under the age of three years whilst in the care or charge of a person registered as aforesaid, shall (unless such infant be the child of such person) be buried without the production of a certificate under the hand of such Coroner authorizing such burial. 50

If any person registered as aforesaid neglect, refuse, or omit to give notice of the death of an infant in accordance with the provisions of this section, such person shall be guilty of an offence against this Act, and shall, on conviction before a Court of summary jurisdiction, be liable to imprisonment for a period not exceeding *six* months, or to a penalty not exceeding *twenty-five* pounds. 55

Offenders against  
certain provisions of  
this Act not to be  
registered.

11. The name of every person convicted of an offence against this Act shall, if such person be registered under this Act, be at once removed from the register, and the registration of every such person and of the house of such person shall be thereby cancelled. 60



No person convicted of—

- (a) retaining or receiving into his or her care or charge any infant under the age of three years without being registered as required by this Act; or  
 5 (b) neglecting to give notice of the death of an infant as required by the last preceding section—

shall at any time thereafter be registered under this Act.

12. The Minister may at any time, by writing under his hand, order that the preceding provisions of this Act shall not apply in any particular case where he is satisfied that an infant is a near relative of the person in whose care or charge it is retained or received, or where for any other reason he is satisfied it is undesirable or unnecessary that the provisions of this Act should apply; and he may by any such writing as aforesaid order generally that such provisions of this Act shall not apply to any institution of a public nature established for the reception of infants. All such orders shall before being issued be recorded in a book to be kept for the purpose in the office of the Inspector-General. Provided that any Justice of the Peace may suspend in any particular case the operation of the preceding provisions of this Act for the period of eight days to enable such order to be obtained from the Minister.

Exemptions from operation of Act.

13. The occupier of every house or place in which an illegitimate child is born shall within seven days of the birth of such child give notice thereof in writing to the deputy-registrar of births and deaths for the district; but if such house or place be not situate within any city, town, or borough, then such notice may be given either to the deputy-registrar or to the officer or constable in charge of police at the nearest police station.

Notice to be given of birth of illegitimate child within seven days by occupier of house.

In country, notice may be given not later than one week.

If the occupier of such house or place is the mother of such new-born child, such notice may be given at any time within three weeks of the birth of the child.

If mother occupier, notice may be given not later than three weeks.

If any notice under this section is sent by post, it shall be posted at such time as to allow it in ordinary course of post to be delivered within the time hereinbefore specified.

35 Nothing in this section contained shall be construed to repeal or otherwise affect the provisions of the Acts relating to registering Births, Deaths, and Marriages.

14. The occupier of every house or place in which an illegitimate child under the age of five years dies, or to which the body of an illegitimate child who has died under the age of five years is brought, shall within three days of the death of such child give notice in writing of such death to the deputy-registrar of births and deaths for the district; but if such house or place be not situate within any city, town, or borough, then such notice may be given either to the deputy-registrar or to the officer or constable in charge of police at the nearest police station, and may be given at any time within one week of the death of such child.

Notice to be given within three days of the death of an illegitimate child under the age of five years.

In country, notice may be given not later than one week.

If any notice under this section is sent by post, it shall be posted at such time as to allow it, in ordinary course of post, to be delivered within the time hereinbefore specified.

50 Nothing in this section contained shall be construed to repeal or otherwise affect the provisions of the "Registration of Births, Deaths, and Marriages Act," nor the provisions of this Act hereinbefore contained, whereby persons registered under this Act are required to give notice of the death of an infant in their care or charge.

15. If any person wilfully or negligently omit to comply with the provisions of the last two preceding sections, such person shall be guilty of an offence against this Act, and shall, on conviction thereof before

Penalty for omitting to give notice of death of infant or of birth as required.

before



before a Court of summary jurisdiction, be liable to imprisonment for a period not exceeding *six* months, or to a penalty not exceeding *twenty-five* pounds.

When information on oath, warrant may be issued to search premises for infringement of this Act.

16. If it be made to appear to any Justice, on information laid before him on oath, that there is reason to believe that any person is offending against the provisions of this Act in any house or place, or that any of the provisions of this Act, except those contained in section seventeen, are being infringed in any house or place, such Justice may issue his warrant authorizing any member or members whatsoever of the police force to search any house, place, or premises therein named, at any hour of the day, or at any hour of the night, not later than ten of the clock for the purpose of ascertaining whether there is or has been therein or thereon an infringement of the provisions of this Act.

Registration of adopted children.

17. If any person adopt or take over the entire care and charge of any child under the age of three years from its parents or guardians, such person shall within fourteen days of so doing give or send notice thereof to the Inspector-General, and such person shall in such notice state his or her name and place of residence and occupation, and the name and age of such child. If any person neglect, refuse, or omit to comply with the provisions of this section, he shall on conviction before a Court of summary jurisdiction be liable to imprisonment for a period not exceeding *three* months, or to a penalty not exceeding *fifteen* pounds.

Nothing in this section shall excuse any person from making any other registration required by any other provision of this Act, or from any penalty for omitting so to do.

## PART II.

Penalty for neglecting, ill-treating, or exposing children.

18. If any person wilfully and without reasonable excuse neglect to provide adequate or proper food, nursing, clothing, medical aid, or lodging for any child in his or her care or custody, or wilfully ill-treat or expose any child, or cause or procure any child to be neglected, ill-treated, or exposed, then if such child, being a boy, be under the age of twelve years, or, being a girl, be under the age of fourteen years, and if any such neglect, ill-treatment, or exposure have resulted or appear likely to result in causing bodily suffering or permanent or serious injury to the health of such child, such person shall be guilty of an offence against this Act, and shall on conviction thereof before a Court of summary jurisdiction be liable to imprisonment for a period not exceeding *twelve* months, or to a penalty not exceeding *fifty* pounds.

Penalty for employment of any child in dangerous performances.  
42 & 43 Vict. c. 34  
s. 3.

19. Any person who causes any child under the age of fourteen years to take part in any public exhibition or performance whereby, in the opinion of any Court of summary jurisdiction, the life or limbs of such child is or are endangered, and the parent or guardian or any person having the custody of such child who aids or abets such first-mentioned person therein shall severally be guilty of an offence against this Act, and shall on conviction before a Court of summary jurisdiction be liable for each offence to imprisonment for a period not exceeding *twelve* months or to a penalty not exceeding *fifty* pounds.

Compensation for accident to any child.

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 therein, any accident causing actual bodily harm occurs to such child, the employer of such child, whether the parent of such child or not, shall be liable to be proceeded against

by



- by presentment, indictment, or information for, and to be convicted of an assault, and on conviction shall be liable to be imprisoned for a period not exceeding *twelve* months, or to a penalty not exceeding *fifty* pounds, and in addition if such employer be not the parent of such child the
- 5 Court before which such employer is convicted on such proceedings 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; provided that no person shall be punished twice for the same offence.
- 10 20. Any person who—
- (a) Causes or procures any child, being a boy under the age of fourteen years, or being a girl under the age of sixteen years, to be in any street for the purpose of begging or receiving alms, or of inducing the giving of alms, whether under the
- 15 pretence of singing, playing, performing, offering anything for sale, or otherwise; or
- (b) Causes or procures any child, being a boy under the age of fourteen years, or being a girl under the age of sixteen years, to be in any street, or in any premises licensed for the sale of any intoxicating liquor, other than premises licensed according to law for public entertainments, for the purpose of singing, playing, or performing for profit, or offering anything for
- 20 sale, between ten p.m. and five a.m.; or
- (c) Causes or procures any child under the age of ten years to be at any time in any street, or in any premises licensed for the sale of any intoxicating liquor, or in 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
- 25 performing for profit, or offering anything for sale,
- shall, on conviction thereof by a Court of summary jurisdiction, in manner aforesaid, be liable to a fine not exceeding *twenty-five* pounds, or alternatively, or in default of payment of the said fine, or in addition thereto, to imprisonment, with or without hard labour, for any term
- 35 not exceeding *three* months. 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
- 40 secure the health and kind treatment of any children proposed to be employed thereat, it shall be lawful for the said Minister, anything in this Act notwithstanding, to grant a license for such time and during such hours of the day, and subject to such restrictions and conditions as he may think fit for any child exceeding seven years of age, of
- 45 whose fitness to take part in such entertainment or series of entertainments without injury the said 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
- 50 protection to all persons acting under or in accordance with the same. And the Minister may appoint any person to see whether the restrictions and conditions of any license under this section are duly complied with, and any such person shall have power to enter, inspect, and examine any place of public entertainment at which the employment
- 55 of a child is for the time being licensed under this section. Nothing in this section shall affect the provisions of the "Public Instruction Act of 1880." So much of subsection (c) of this section as makes it an offence to cause or procure a child to be in premises licensed according to law for public entertainment, or in any circus or other place of public amusement,

Restrictions on  
employment of  
children.



amusement, for the purpose of singing, playing, or performing for profit, shall not come into operation until the first day of January, one thousand eight hundred and ninety-two.

Taking of offender into custody, and protection of child.

21. (I) Any constable may take into custody without warrant any person who within view of such constable commits an offence under this Act, where the name and residence of such person are unknown to such constable and cannot be ascertained by such constable; and any constable may take to a place of safety any child in respect of whom an offence under section eighteen or subsection (a) of section twenty of this Act has been committed, and the child may there be detained until it can be brought before a Court of summary jurisdiction, and such Court may cause the child to be dealt with as circumstances may admit and require until the charge made against any person in respect of the said offence has been determined by the committal for trial, or conviction, or discharge of such person.

(II) Where a constable arrests any person without warrant in pursuance of this section 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 against whom the offence is alleged to have been committed, release the person arrested on his entering into such a recognisance, with or without sureties, as may in his judgment be required to secure the attendance of such person upon the hearing of the charge.

Disposal of child by order of Court.

22. (I) Where a person having the custody or control of a child, being a boy under the age of fourteen or a girl under the age of sixteen years, has been

(a) convicted of committing in respect of such child an offence under section eighteen of this Act, or any offence involving bodily injury to the child and punishable with penal servitude; or

(b) committed for trial for any such offence; or

(c) bound over to keep the peace towards such child,

any person may bring such child before a Court of summary jurisdiction, as aforesaid, and the Court, if satisfied on inquiry that it is expedient so to deal with the child, may order that the child be taken out of the custody of such person and committed to the charge of a relation of the child, or some other fit person named by the Court, such relation or other person being willing to undertake such charge until it attains the age of fourteen years, or in the case of a girl sixteen years, or in either case for any shorter period, and may of his own motion, or on the application of any person, from time to time renew, vary, and revoke any such order: Provided that no order shall be made under this section unless a parent of the child is under committal for trial for having been, or has been proved to have been, party or privy to the offence, or has been bound over to keep the peace towards such child.

(II) Any person to whom a child is so committed shall, whilst the order is in force, have the like control over the child as if he were its parent, and shall be responsible for its maintenance, and the child shall continue under the control of such person, notwithstanding that it is claimed by its parent; and any Court having power so to commit a child shall have power to order the parent of the child to contribute to its maintenance during such period as aforesaid, and to enforce such order in like manner as any order of a Court of Petty Sessions is enforceable under the Acts relating to summary convictions and orders made by Justices of the Peace, and such orders may be made on the complaint or application of the person to whom the child is for the time being committed, and the sums contributed by the parent shall



shall be paid to such person as the Court may name, and be applied for the maintenance of the child. In determining on the person to whom the child shall be so committed, the Court shall endeavour to ascertain the religious persuasion to which the child belongs, and shall, if possible, 5 select a person of the same religious persuasion, and such religious persuasion shall be specified in the order; and in any case where the child has been placed pursuant to any such order with a person not of the same religious persuasion as that to which the child belongs, the Court shall, on the application of any person in that behalf, and on its 10 appearing that a fit person of the same religious persuasion is willing to undertake the charge, make an order to secure his being placed with a person of the same religious persuasion. Provided that if the order to commit the child to the charge of some relation or other person be made in respect of any person having been committed for trial for an 15 offence, as specified in subsection (1) (b) of this section, the Court shall not be empowered to order the parent of the child to contribute to its maintenance prior to the trial of such person; and if he be acquitted of such charge, or if such charge be dismissed for want of prosecution, then any order that may have been made under this 20 section shall forthwith be void, except with regard to anything which may have been lawfully done under it.

(III) The Minister may at any time in his discretion discharge a child from the custody of any person to whom it is committed, in pursuance of this section, either absolutely or on such conditions as he 25 approves, and may, if he shall think fit, from time to time make, alter, or revoke rules in relation to children so committed to any person, and to the duties of such persons with respect to such children.

23. (1) If it appears to any Stipendiary or Police Magistrate or 30 to any two Justices of the Peace, on information made before him or them on oath by any person who, in the opinion of the Magistrate or Justices, is *bonâ fide* acting in the interest of any child, that there is reasonable cause to suspect that such child, being a boy under the age of fourteen years, or a girl under the age of sixteen years, has been or is being ill-treated or neglected in any place within the jurisdiction 35 of such Magistrate or Justices in a manner likely to cause the child unnecessary suffering or to be injurious to its health, such Magistrate or Justices may issue a warrant authorizing any person named therein to search for such child, and if it is found to have been or to be ill-treated or neglected in manner aforesaid, to take it to and detain it 40 in a place of safety until it can be brought before a Court of summary jurisdiction; and the Court before whom the child is brought may cause it to be dealt with in the manner provided by section twenty-two. Provided always, that the powers hereinbefore conferred on any two Justices may be exercised by any one Justice, if upon the information 45 it appears to him to be a case of urgency.

(II) The Magistrate or Justices 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 brought before a Justice, and proceedings to be taken for punishing such person accord- 50 ing to law.

(III) Any person authorized 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.

55 (IV) Provided always, that every warrant issued under this section shall be addressed to and executed by some superintendent, inspector, or other superior officer of police, who shall be accompanied by the person making the information, if such person so desire, unless



the Magistrate, Justices, or Justice otherwise direct, and may also, if the Magistrate, Justices, or Justice so direct, be accompanied by a legally qualified medical practitioner.

Evidence of accused person.

24. In any proceeding against any person for an offence under this Act, such person shall be competent but not compellable to give evidence, and the wife or husband of such person may be required to attend to give evidence as an ordinary witness in the case, and shall be competent but not compellable to give evidence. 5

Evidence of child of tender years.

25. Where, in any proceeding against any person for an offence under this Act, the child in respect 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 or affirmation, 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 shall wilfully give false evidence shall be deemed guilty of a misdemeanour: Provided that no prosecution shall be instituted under or by virtue of this section without the leave of the Court before which such evidence was given. 10 15 20 25

Presumption of age of child.

26. Where a person is charged with an offence under this Act in respect of a child who is alleged in the 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. 30

Act not to take away right of parent, &c., to administer punishment.

27. 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. 35

Saving for proceedings under other laws.

28. Where an offence against this Act is also punishable under any other Act, or at common law, it may be prosecuted and punished either under this Act, or under the other Act, or at common law, so that no person be punished twice for the same offence. 40

Definitions.

29. In this Act—

The expression "Court of summary jurisdiction" means a Stipendiary or Police Magistrate, or any two Justices assembled and sitting as a Court of Petty Sessions.

The expression "Minister" shall mean the responsible Minister of the Crown administering this Act. 45

The expression "parent" when used in relation to a child includes guardian and every person who is by law liable to maintain the child.

The expression "street" includes any highway or other public place, whether a thoroughfare or not. 50

The expression "Inspector-General" means the person for the time being holding the office of Inspector-General of Police.



Legislative Council,

55<sup>o</sup> VICTORIÆ, 1891.

## A BILL

For the Prevention of Cruelty to, and the better Protection of, Children; and to grant certain powers and make certain provisions in furtherance of those purposes.

[MR. SIMPSON ;—9 *September*, 1891.]

**B**E it enacted by the Queen'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:—

- 5       1. This Act may be cited as the "Children's Protection Act, 1891," and shall commence and come into operation on the first day of December, one thousand eight hundred and ninety-one. Short title and commencement.

### PART I.

- 10       2. After the commencement of this Act, no person shall in consideration of any payment or reward at any time made or given or to be made or given to such person, or to any other person on behalf of such person, retain in or receive into his or her care or charge in any house any infant under the age of three years, either— Houses where infants received or adopted to be registered.

- 15       (a) for the purpose of nursing or maintaining such infant apart from its parents for a longer period than three consecutive days; or

c 53—A

(b)



(b) for the purpose of adopting such infant—  
unless such person be registered as the occupier of such house, and such house be also registered under this Act.

Any person offending against the provisions of this section shall, on conviction before a Court of summary jurisdiction, be liable to imprisonment for a period not exceeding *six* months, or to a penalty not exceeding *twenty-five* pounds.

Register of persons  
and houses to be  
kept.

3. The Inspector-General shall, subject to regulations to be made as hereinafter provided, cause a register or registers to be kept, in which shall be entered the name of any person who, being the occupier of any house, applies to have the same registered for the purposes of this Act.

Opposite the name of any person so registered in any such register shall be entered particulars of the situation of such house, and such other particulars with respect to such person and such house, the calling or occupation of such person, and, if she be a married woman, the calling or occupation of her husband, as may be directed by regulations to be made as hereinafter provided.

When registration to  
be renewed.

Every such registration shall, unless cancelled under the provisions of this Act, remain in force until the thirty-first day of the month of December next following the making of such registration, and no longer, unless the same be renewed. Registrations may be renewed during the month of December in which the same expire, and all such renewed registrations shall, unless cancelled under the provisions of this Act, remain in force for one year from the expiration of such month of December in which the same are made. No fee shall be charged or taken for the making of any registration or renewed registration under this section.

The person in whose charge such register shall be kept shall give to the person so registering a certificate under his hand of such registration or renewal, which shall in all matters be *prima facie* evidence of such registration or renewal.

Power to make  
regulations.

4. The Governor in Council may at any time and from time to time make regulations for all or any of the following purposes (that is to say):—

- For prescribing how many registers shall be kept under this Act, and where the same shall respectively be kept;
- For prescribing the mode in which applications for registration under this Act shall be made, the mode in which registration shall be effected, and that in which entries shall be made in registers kept under this Act;
- For directing what particulars as to the persons and houses registered, in addition to those hereinbefore required, shall be inserted in such registers;
- For arranging houses registered under this Act into classes in such manner as to the Governor in Council seems fit, and for fixing the maximum number of infants to be retained in or received into houses of any particular class;
- For regulating the inspection from time to time of such houses and infants;
- Generally for giving effect to and carrying out the provisions of this Act.

Any such regulations may impose a penalty not exceeding *twenty-five* pounds for any breach of the same, and any such penalty may be recovered before a Court of summary jurisdiction on the information of any member of the police force.

All regulations made under the authority of this section shall, within two weeks of the making thereof, be published in the *Government Gazette*.



5. The Inspector-General, or any member of the police force authorized in that behalf by the Inspector-General, and accompanied by a legally qualified medical practitioner, if the Inspector-General or such member of the police force (as the case may be) think fit, may from time to time, subject to regulations made as aforesaid, inspect any house registered under this Act, and any infant or infants retained in or received into any such house.

Inspection.

6. The Inspector-General may refuse to register any person applying for registration under this Act, or to renew any registration, unless he be satisfied by the production of certificates, or if he think fit to dispense with certificates by the production of any other evidence, that the person applying to be registered or for a renewal of registration is of good character and able to properly nurse and maintain any infants retained in or received into his or her care or charge in such house; and the Inspector-General may refuse to register or renew the registration of any house unless he be satisfied that such house is suitable for the purpose for which it is to be registered, and situated in a suitable locality.

Inspector-General may refuse to register.

7. Every person registered as aforesaid shall keep a roll, in which shall be forthwith entered by such person, the name, sex, and age of each infant under the age of three years retained in or received into the care or charge of such person for the purpose of being nursed or maintained apart from its parents for a longer period than three consecutive days or for the purpose of adoption.

Registered persons to keep a roll containing certain particulars.

Every person registered as aforesaid shall forthwith also enter in such roll opposite the name of each infant the date at which such infant was so retained or received, and the names and addresses, calling, or occupation of the parents of such child, and of the person or persons by whom such infant was left, or from whom it was received; and if any such last-mentioned person be a married woman, the calling or occupation of her husband.

If any such infant be at any time removed from such registered house, whether before or after attaining the age of three years, such registered person as aforesaid shall forthwith after such removal enter in such roll the time of such removal, and the names and addresses, calling or occupation of the person or persons by whom such infant was so removed.

Every person registered as aforesaid shall cause the person from whom any such infant is received, or by whom any such infant is removed to sign such entry, and shall forward to the Inspector-General a copy of each such entry within three days of the reception or removal of each infant.

Every roll kept in pursuance of the provisions of this section shall be at all times produced when the production of the same is demanded by any member of the police force in charge of a station, if of the rank of senior-constable, or by any member of the police force being a sergeant or of higher rank, and may be by him examined and perused, and, if he think fit, by him retained.

Roll to be produced.

If any person registered as aforesaid neglect, refuse, or omit to produce any such roll kept by him or her in pursuance of this section forthwith on being so required, or if any such person neglect, refuse, or omit to keep such a roll, or to insert therein all the particulars by this section required, or to obtain such signature thereto, or to forward a copy of such entry to the Inspector-General within three days of the reception or removal of each infant, such person shall be guilty of an offence against this Act, and shall be liable on conviction before a Court of summary jurisdiction to imprisonment for a period not exceeding six months, or to a penalty not exceeding twenty-five pounds.

Penalty for neglecting to produce roll, or to keep it in proper form.

8.



Forgery of certificate,  
&c.

8. If any person make any false representation, or forge any certificate, or make use of any forged 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 falsify any roll kept in pursuance of the provisions of the last preceding section, or furnish false particulars of any matter which is required to be entered in such roll, such person shall be guilty of an offence against this Act, and shall, on conviction before a Court of summary jurisdiction, be liable to imprisonment for a period not exceeding *six* months, or to a penalty not exceeding *twenty-five* pounds. 5 10

Names may be re-  
moved from register.

9. If at any time it be made to appear to the Inspector-General that any person registered as aforesaid has been guilty of neglecting to provide, or is incapable of providing, the infants retained in or received into the care or charge of such person with proper food or attention, or that the registered house of such person has become unfit for the reception of infants, or if for any other reason it appears to the Inspector-General desirable in the public interest so to do, he may strike the name of such person and such house off the register, and the registration thereof shall be thereby cancelled. 15

Ten days' previous notice in writing of his intention so to do shall be given by the Inspector-General to any such person whose name is about to be struck off the register, and such notice may be given by leaving the same at the registered house of such person. But the Inspector-General may at the time of giving such notice order the immediate removal of such infants from such registered house to the care of a State officer in charge for the time being of any department or institution for the relief of State or neglected children, who shall then be charged with the care of such infants until the removal of such infants by their respective parents or guardians, or the return of such infants to such first-mentioned registered house; and such officer may recover the cost of the removal, maintenance, and clothing of and medical attendance on such infants from their respective parents or guardians. 20 25 30

Notice to be given of  
death of infant;  
inquest to be held,  
and report made to  
Minister.

10. Every person registered, as aforesaid, shall within twenty-four hours after the death of an infant under the age of three years in his or her care or charge, other than his or her own children, give or cause to be given notice thereof to the police officer in charge of the nearest police station, and thereupon an inquest shall be held upon the body of such infant. 35

It shall be the duty of the Coroner holding such inquest to inquire not only into the immediate cause of death, but into all such circumstances as may throw any light upon the treatment and condition of the infant during life, and into any other matters into which in his opinion it is desirable in the interests of public justice that he should inquire; and the Coroner after holding such inquest shall report to the Minister the cause of death, and shall in such report make such remarks with respect to the matter as to him seems fit. 40 45

No infant dying under the age of three years whilst in the care or charge of a person registered as aforesaid, shall (unless such infant be the child of such person) be buried without the production of a certificate under the hand of such Coroner authorizing such burial. 50

If any person registered as aforesaid neglect, refuse, or omit to give notice of the death of an infant in accordance with the provisions of this section, such person shall be guilty of an offence against this Act, and shall, on conviction before a Court of summary jurisdiction, be liable to imprisonment for a period not exceeding *six* months, or to a penalty not exceeding *twenty-five* pounds. 55

Offenders against  
certain provisions of  
this Act not to be  
registered.

11. The name of every person convicted of an offence against this Act shall, if such person be registered under this Act, be at once removed from the register, and the registration of every such person and of the house of such person shall be thereby cancelled. 60



No person convicted of—

- (a) retaining or receiving into his or her care or charge any infant under the age of three years without being registered as required by this Act; or  
 5 (b) neglecting to give notice of the death of an infant as required by the last preceding section—  
 shall at any time thereafter be registered under this Act.

12. The Minister may at any time, by writing under his hand, order that the preceding provisions of this Act shall not apply in any particular case where he is satisfied that an infant is a near relative of the person in whose care or charge it is retained or received, or where for any other reason he is satisfied it is undesirable or unnecessary that the provisions of this Act should apply; and he may by any such writing as aforesaid order generally that such provisions of this Act shall not apply to any institution of a public nature established for the reception of infants. All such orders shall before being issued be recorded in a book to be kept for the purpose in the office of the Inspector-General. Provided that any Justice of the Peace may suspend in any particular case the operation of the preceding provisions of this Act for the period of eight days to enable such order to be obtained from the Minister.

Exemptions from operation of Act.

13. The occupier of every house or place in which an illegitimate child is born shall within seven days of the birth of such child give notice thereof in writing to the deputy-registrar of births and deaths for the district; but if such house or place be not situate within any city, town, or borough, then such notice may be given either to the deputy-registrar or to the officer or constable in charge of police at the nearest police station.

Notice to be given of birth of illegitimate child within seven days by occupier of house.

In country, notice may be given not later than one week.

If the occupier of such house or place is the mother of such new-born child, such notice may be given at any time within three weeks of the birth of the child.

If mother occupier, notice may be given not later than three weeks.

If any notice under this section is sent by post, it shall be posted at such time as to allow it in ordinary course of post to be delivered within the time hereinbefore specified.

35 Nothing in this section contained shall be construed to repeal or otherwise affect the provisions of the Acts relating to registering Births, Deaths, and Marriages.

14. The occupier of every house or place in which an illegitimate child under the age of five years dies, or to which the body of an illegitimate child who has died under the age of five years is brought, shall within three days of the death of such child give notice in writing of such death to the deputy-registrar of births and deaths for the district; but if such house or place be not situate within any city, town, or borough, then such notice may be given either to the deputy-registrar or to the officer or constable in charge of police at the nearest police station, and may be given at any time within one week of the death of such child.

Notice to be given within three days of the death of an illegitimate child under the age of five years.

In country, notice may be given not later than one week.

If any notice under this section is sent by post, it shall be posted at such time as to allow it, in ordinary course of post, to be delivered within the time hereinbefore specified.

55 Nothing in this section contained shall be construed to repeal or otherwise affect the provisions of the "Registration of Births, Deaths, and Marriages Act," nor the provisions of this Act hereinbefore contained, whereby persons registered under this Act are required to give notice of the death of an infant in their care or charge.

15. If any person wilfully or negligently omit to comply with the provisions of the last two preceding sections, such person shall be guilty of an offence against this Act, and shall, on conviction thereof before

Penalty for omitting to give notice of death of infant or of birth as required.



before a Court of summary jurisdiction, be liable to imprisonment for a period not exceeding *six* months, or to a penalty not exceeding *twenty-five* pounds.

When information on oath, warrant may be issued to search premises for infringement of this Act.

16. If it be made to appear to any Justice, on information laid before him on oath, that there is reason to believe that any person is offending against the provisions of this Act in any house or place, or that any of the provisions of this Act, except those contained in section seventeen, are being infringed in any house or place, such Justice may issue his warrant authorizing any member or members whatsoever of the police force to search any house, place, or premises therein named, at any hour of the day, or at any hour of the night, not later than ten of the clock for the purpose of ascertaining whether there is or has been therein or thereon an infringement of the provisions of this Act.

Registration of adopted children.

17. If any person adopt or take over the entire care and charge of any child under the age of three years from its parents or guardians, such person shall within fourteen days of so doing give or send notice thereof to the Inspector-General, and such person shall in such notice state his or her name and place of residence and occupation, and the name and age of such child. If any person neglect, refuse, or omit to comply with the provisions of this section, he shall on conviction before a Court of summary jurisdiction be liable to imprisonment for a period not exceeding *three* months, or to a penalty not exceeding *fifteen* pounds.

Nothing in this section shall excuse any person from making any other registration required by any other provision of this Act, or from any penalty for omitting so to do.

## PART II.

Penalty for neglecting, ill-treating, or exposing children.

18. If any person wilfully and without reasonable excuse neglect to provide adequate or proper food, nursing, clothing, medical aid, or lodging for any child in his or her care or custody, or wilfully ill-treat or expose any child, or cause or procure any child to be neglected, ill-treated, or exposed, then if such child, being a boy, be under the age of twelve years, or, being a girl, be under the age of fourteen years, and if any such neglect, ill-treatment, or exposure have resulted or appear likely to result in causing bodily suffering or permanent or serious injury to the health of such child, such person shall be guilty of an offence against this Act, and shall on conviction thereof before a Court of summary jurisdiction be liable to imprisonment for a period not exceeding *twelve* months, or to a penalty not exceeding *fifty* pounds.

Penalty for employment of any child in dangerous performances.

42 & 43 Vict. c. 34 s. 3.

19. Any person who causes any child under the age of fourteen years to take part in any public exhibition or performance whereby, in the opinion of any Court of summary jurisdiction, the life or limbs of such child is or are endangered, and the parent or guardian or any person having the custody of such child who aids or abets such first-mentioned person therein shall severally be guilty of an offence against this Act, and shall on conviction before a Court of summary jurisdiction be liable for each offence to imprisonment for a period not exceeding *twelve* months or to a penalty not exceeding *fifty* pounds.

Compensation for accident to any child.

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 therein, any accident causing actual bodily harm occurs to such child, the employer of such child, whether the parent of such child or not, shall be liable to be proceeded against by



by presentment, indictment, or information for, and to be convicted of an assault, and on conviction shall be liable to be imprisoned for a period not exceeding *twelve* months, or to a penalty not exceeding *fifty* pounds, and in addition if such employer be not the parent of such child the  
 5 Court before which such employer is convicted on such proceedings 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; provided that no person shall be punished twice for the same offence.

10 20. Any person who—

(a) Causes or procures any child, being a boy under the age of fourteen years, or being a girl under the age of sixteen years, to be in any street for the purpose of begging or receiving alms, or of inducing the giving of alms, whether under the  
 15 pretence of singing, playing, performing, offering anything for sale, or otherwise; or

(b) Causes or procures any child, being a boy under the age of fourteen years, or being a girl under the age of sixteen years, to be in any street, or in any premises licensed for the sale of any intoxicating liquor, other than premises licensed according  
 20 to law for public entertainments, for the purpose of singing, playing, or performing for profit, or offering anything for sale, between ten p.m. and five a.m.; or

(c) Causes or procures any child under the age of ten years to be at any time in any street, or in any premises licensed for the  
 25 sale of any intoxicating liquor, or in 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  
 30 performing for profit, or offering anything for sale,

shall, on conviction thereof by a Court of summary jurisdiction, in manner aforesaid, be liable to a fine not exceeding *twenty-five* pounds, or alternatively, or in default of payment of the said fine, or in addition thereto, to imprisonment, with or without hard labour, for any term  
 35 not exceeding *three* months. 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  
 40 secure the health and kind treatment of any children proposed to be employed thereat, it shall be lawful for the said Minister, anything in this Act notwithstanding, to grant a license for such time and during such hours of the day, and subject to such restrictions and conditions as he may think fit for any child exceeding seven years of age, of

45 whose fitness to take part in such entertainment or series of entertainments without injury the said 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

50 protection to all persons acting under or in accordance with the same. And the Minister may appoint any person to see whether the restrictions and conditions of any license under this section are duly complied with, and any such person shall have power to enter, inspect, and examine any place of public entertainment at which the employment

55 of a child is for the time being licensed under this section. Nothing in this section shall affect the provisions of the "Public Instruction Act of 1880." So much of subsection (c) of this section as makes it an offence to cause or procure a child to be in premises licensed according to law for public entertainment, or in any circus or other place of public

amusement,

Restrictions on employment of children.



amusement, for the purpose of singing, playing, or performing for profit, shall not come into operation until the first day of January, one thousand eight hundred and ninety-two.

Taking of offender into custody, and protection of child.

21. (I) Any constable may take into custody without warrant any person who within view of such constable commits an offence under this Act, where the name and residence of such person are unknown to such constable and cannot be ascertained by such constable; and any constable may take to a place of safety any child in respect of whom an offence under section eighteen or subsection (a) of section twenty of this Act has been committed, and the child may there be detained until it can be brought before a Court of summary jurisdiction, and such Court may cause the child to be dealt with as circumstances may admit and require until the charge made against any person in respect of the said offence has been determined by the committal for trial, or conviction, or discharge of such person.

(II) Where a constable arrests any person without warrant in pursuance of this section 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 against whom the offence is alleged to have been committed, release the person arrested on his entering into such a recognisance, with or without sureties, as may in his judgment be required to secure the attendance of such person upon the hearing of the charge.

Disposal of child by order of Court.

22. (I) Where a person having the custody or control of a child, being a boy under the age of fourteen or a girl under the age of sixteen years, has been

(a) convicted of committing in respect of such child an offence under section eighteen of this Act, or any offence involving bodily injury to the child and punishable with penal servitude; or

(b) committed for trial for any such offence; or

(c) bound over to keep the peace towards such child,

any person may bring such child before a Court of summary jurisdiction, as aforesaid, and the Court, if satisfied on inquiry that it is expedient so to deal with the child, may order that the child be taken out of the custody of such person and committed to the charge of a relation of the child, or some other fit person named by the Court, such relation or other person being willing to undertake such charge until it attains the age of fourteen years, or in the case of a girl sixteen years, or in either case for any shorter period, and may of his own motion, or on the application of any person, from time to time renew, vary, and revoke any such order: Provided that no order shall be made under this section unless a parent of the child is under committal for trial for having been, or has been proved to have been, party or privy to the offence, or has been bound over to keep the peace towards such child.

(II) Any person to whom a child is so committed shall, whilst the order is in force, have the like control over the child as if he were its parent, and shall be responsible for its maintenance, and the child shall continue under the control of such person, notwithstanding that it is claimed by its parent; and any Court having power so to commit a child shall have power to order the parent of the child to contribute to its maintenance during such period as aforesaid, and to enforce such order in like manner as any order of a Court of Petty Sessions is enforceable under the Acts relating to summary convictions and orders made by Justices of the Peace, and such orders may be made on the complaint or application of the person to whom the child is for the time being committed, and the sums contributed by the parent shall



shall be paid to such person as the Court may name, and be applied for the maintenance of the child. In determining on the person to whom the child shall be so committed, the Court shall endeavour to ascertain the religious persuasion to which the child belongs, and shall, if possible, 5 select a person of the same religious persuasion, and such religious persuasion shall be specified in the order; and in any case where the child has been placed pursuant to any such order with a person not of the same religious persuasion as that to which the child belongs, the Court shall, on the application of any person in that behalf, and on its 10 appearing that a fit person of the same religious persuasion is willing to undertake the charge, make an order to secure his being placed with a person of the same religious persuasion. Provided that if the order to commit the child to the charge of some relation or other person be made in respect of any person having been committed for trial for an 15 offence, as specified in subsection (1) (b) of this section, the Court shall not be empowered to order the parent of the child to contribute to its maintenance prior to the trial of such person; and if he be acquitted of such charge, or if such charge be dismissed for want of prosecution, then any order that may have been made under this 20 section shall forthwith be void, except with regard to anything which may have been lawfully done under it.

(III) The Minister may at any time in his discretion discharge a child from the custody of any person to whom it is committed, in pursuance of this section, either absolutely or on such conditions as he 25 approves, and may, if he shall think fit, from time to time make, alter, or revoke rules in relation to children so committed to any person, and to the duties of such persons with respect to such children.

23. (1) If it appears to any Stipendiary or Police Magistrate or 30 to any two Justices of the Peace, on information made before him or them on oath by any person who, in the opinion of the Magistrate or Justices, is *bonâ fide* acting in the interest of any child, that there is reasonable cause to suspect that such child, being a boy under the age of fourteen years, or a girl under the age of sixteen years, has been or is being ill-treated or neglected in any place within the jurisdiction 35 of such Magistrate or Justices in a manner likely to cause the child unnecessary suffering or to be injurious to its health, such Magistrate or Justices may issue a warrant authorizing any person named therein to search for such child, and if it is found to have been or to be ill-treated or neglected in manner aforesaid, to take it to and detain it 40 in a place of safety until it can be brought before a Court of summary jurisdiction; and the Court before whom the child is brought may cause it to be dealt with in the manner provided by section twenty-two. Provided always, that the powers hereinbefore conferred on any two Justices may be exercised by any one Justice, if upon the information 45 it appears to him to be a case of urgency.

(II) The Magistrate or Justices 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 brought before a Justice, and proceedings to be taken for punishing such person accord- 50 ing to law.

(III) Any person authorized 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.

55 (IV) Provided always, that every warrant issued under this section shall be addressed to and executed by some superintendent, inspector, or other superior officer of police, who shall be accompanied by the person making the information, if such person so desire, unless



the Magistrate, Justices, or Justice otherwise direct, and may also, if the Magistrate, Justices, or Justice so direct, be accompanied by a legally qualified medical practitioner.

Evidence of accused person.

24. In any proceeding against any person for an offence under this Act, such person shall be competent but not compellable to give evidence, and the wife or husband of such person may be required to attend to give evidence as an ordinary witness in the case, and shall be competent but not compellable to give evidence. 5

Evidence of child of tender years.

25. Where, in any proceeding against any person for an offence under this Act, the child in respect 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 or affirmation, 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 shall wilfully give false evidence shall be deemed guilty of a misdemeanour: Provided that no prosecution shall be instituted under or by virtue of this section without the leave of the Court before which such evidence was given. 10 15 20 25

Presumption of age of child.

26. Where a person is charged with an offence under this Act in respect of a child who is alleged in the 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. 30

Act not to take away right of parent, &c., to administer punishment.

27. 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. 35

Saving for proceedings under other laws.

28. Where an offence against this Act is also punishable under any other Act, or at common law, it may be prosecuted and punished either under this Act, or under the other Act, or at common law, so that no person be punished twice for the same offence. 40

Definitions.

29. In this Act—

The expression "Court of summary jurisdiction" means a Stipendiary or Police Magistrate, or any two Justices assembled and sitting as a Court of Petty Sessions.

The expression "Minister" shall mean the responsible Minister of the Crown administering this Act. 45

The expression "parent" when used in relation to a child includes guardian and every person who is by law liable to maintain the child.

The expression "street" includes any highway or other public place, whether a thoroughfare or not. 50

The expression "Inspector-General" means the person for the time being holding the office of Inspector-General of Police.