

Legislative Council.

No. , 1902.

A BILL

To make further and better provision for the protection, maintenance, and care of infants; to provide for the inspection, supervision, and control of places established or used for their reception and care; and to constitute children's courts.

[DR. MACKELLAR;—3 *December*, 1902.]

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:—

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PART I.

Preliminary.

1. This Act may be cited as the "Infant Protection Act, 1902." Short title.

2. In this Act, unless the context or subject-matter otherwise Interpretation. indicates or requires,—

10 "Board" means State Children's Relief Board appointed under the State Children Relief Act, 1901.

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"Court"

“ Court ” means children’s court established under this Act, or stipendiary or police magistrate in any place not within an area within which a children’s court has jurisdiction.

“ Infant ” means child under, or apparently under, the age of seven years. 5

“ Justice ” means justice of the peace.

“ Minister ” means the Colonial Secretary.

“ Prescribed ” means prescribed by this Act or by any regulations made hereunder.

PART II. 10

Maintenance of infants.

Unmarried woman with child may take proceedings against father, or may apply to board to take proceedings.

3. Where any unmarried woman is with child by any man who has made no adequate provision for the payment of the expenses of and incidental to the birth of the infant, or the maintenance of the mother before the birth of the infant, or the maintenance of the 15 mother or infant after the birth of the infant, she or any reputable person on her behalf may

(a) make complaint on oath to any justice that she is with child by the said man, and that he has made no adequate provision for the payment of the expenses aforesaid; or 20

(b) make application to the board or to any officer thereof requesting the board or officer to make such complaint, and the board or officer, upon making such inquiry into the matter as it or he thinks fit, may on behalf of the woman make such complaint. 25

Where any complaint is made as aforesaid the justice may 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.

Court may require defendant to find sureties for payment of expenses, &c.

4. The court shall hear and determine such complaint, and may 30 make an order requiring the defendant to find such good and sufficient surety or sureties as the court shall think fit that he will make such adequate provision as the court determines for the payment of the expenses of and incidental to the birth of the infant, and for the maintenance of the woman during a period of one month immediately 35 preceding the birth of the infant, and for the maintenance of the infant and of the mother during a period of six months immediately succeeding the birth, and by such order may require the defendant to pay the costs incurred in obtaining such order including the cost of bringing the defendant back to the place where the said order is made 40 from any other place where he may for the time being be residing.

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In default of such surety or sureties being found as aforesaid the court may commit the defendant to prison for any term not exceeding six months.

The court shall not find that the woman is with child by the defendant on her oath only, or if the court is satisfied that at the time the infant was begotten the mother was a common prostitute.

5 5. Where the father of any illegitimate infant has neglected or failed to pay the expenses of and incidental to the birth of the infant whether born alive or dead, or of the maintenance of the mother during a period of one month immediately preceding the birth of the infant or a period of six months immediately succeeding the birth, or the funeral expenses of the infant, the mother, or any reputable person on her behalf, may—

Mother of illegitimate infant may take proceedings against father for maintenance or may apply to board to take proceedings.

- 15 (a) make complaint or oath to any justice that the father of the child has neglected or failed to pay the said expenses; or
(b) make application to the board or to any officer thereof requesting the board or officer to make such complaint, and the board or officer, upon making such inquiry into the matter as it or he thinks fit, may, on behalf of the woman, make such
20 complaint.

Where any complaint is made as aforesaid, the justice may summon the father to appear before the court to answer such complaint, or if the circumstances seem to require it may issue a warrant for his apprehension.

25 6. Upon the hearing the court shall inquire into the matter of the complaint, and if it is satisfied that the defendant is the father of the infant and has neglected to pay the expenses respecting which the complaint is made the court shall make an order in writing directing the defendant to pay such expenses to such person and at such times as
30 it shall think fit, and by such order may further require the defendant to pay the costs incurred in obtaining such order, including the cost of bringing the defendant back to the place where the said order is made from the place where he may for the time being be residing :

Court may order defendant to pay expenses of birth or death of infant.

35 Provided that the defendant shall not be taken to be the father of the infant on the oath of the mother only, or if the court is satisfied that at the time the child was begotten the mother was a common prostitute.

40 7. The provisions of the Deserted Wives and Children Act, 1901, as to service of summons, proceedings in default of appearance, enforcement of orders, making further orders, punishment for disobedience of orders, issue of warrants and variation of orders, shall apply in respect of proceedings under this Act.

Provisions of Deserted Wives and Children Act to apply.

PART III.

Control of places established or used for reception of infants.

Person in charge of place established or used for reception of infants may apply for license for such place, and Minister, on report of board, may grant license.

8. The person in charge of any place established or used for the reception and care of two or more infants, apart from their mothers, may make application to the Minister in the prescribed form and manner for a license in respect of such place. 5

The Minister shall thereupon require the board to make inquiry and report respecting such place, and the board shall thereupon make such inquiry and report.

The Minister upon receiving a report from the board in respect of such place may grant to the person in charge a license in respect of such place. 10

Every license shall be granted subject to such conditions and requirements as are prescribed.

Board may inspect places established or used for reception of infants.

9. For the purpose of making any inquiry and report as aforesaid respecting any place, or for the purpose of ensuring that the prescribed conditions and requirements are complied with and fulfilled in respect of any licensed place, the board or any officer authorised by the board in that behalf, may, at any time, enter the place and inspect it and the infants who are inmates thereof, and the person in charge of the place shall, during the course of such inspection, afford the board all reasonable facilities for making such inspection. 15 20

Where conditions of license not observed, board may give directions or Minister may cancel license.

10. Where, on any inspection of a licensed place, the board or its officer finds that any of the prescribed conditions or requirements are not complied with or fulfilled, the board or officer may give such directions to the person in charge as to it or him seems fit in order to ensure a compliance with and fulfilment of such conditions or requirements, or the board in such case may recommend to the Minister the cancellation of the license of such place, and the Minister may thereupon cancel such license, and any infants or inmates of such place may be removed therefrom by the board and placed in such place as to the board seems fit. 25 30

Penalties on person in charge of unlicensed place.

11. Where at any time after the expiration of a period of *three* months from the commencement of this Act, any place is established or used for the reception and care of two or more infants 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 of not exceeding *one hundred* pounds, and any infants who are inmates of such place may be removed therefrom by the board and placed in such care as to the board seems fit. 35 40

PART IV.

Children's Courts.

12. For the purpose of dealing with complaints made under this Act, and with complaints made in respect of children deserted or left without means of support, the Governor shall by proclamation establish in Sydney, Newcastle, and Broken Hill, special courts to be called children's courts, and may in like manner establish such courts in other places.

Governor may establish special courts for dealing with children.

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

13. A children's court shall be held—

Children's courts must not be held in ordinary courts.

(a) in Sydney, Newcastle, Broken Hill, and such other place as the Governor by proclamation appoints, in some room or place approved of in that behalf by the Minister, and not in any police office or court-house ;

(b) in any other place at the court-house of such place, but so that the hearing or trial shall take place at an hour other than that at which the ordinary business of the court is taken, unless the Minister by writing under his hand otherwise directs.

14. At any hearing or trial under this Act the court may order that all persons not directly interested in the case shall be excluded from the court-room or place of hearing or trial.

Exclusion of persons from hearing.

15. (1) Every children's court shall—

Powers of court.

(a) exclusively exercise the powers and authorities which are possessed by stipendiary or police magistrates, courts of petty sessions, or justices in respect of complaints made respecting children deserted or left without means of support ;

(b) hear and determine all complaints and informations under this Act.

(2) The court so established shall, accordingly as it is constituted by a stipendiary or police magistrate, possess, within the area in which it has jurisdiction and in addition to the powers and authorities hereby conferred, all the powers and authorities possessed by a stipendiary or police magistrate within the said area.

Jurisdiction of other courts to cease.

16. Upon the publication of a proclamation as aforesaid, the jurisdiction of every magistrate, court of petty sessions, and justice as aforesaid shall, within the area named in the proclamation, cease and determine in respect of the powers and authorities hereby conferred upon the children's court :

Provided that no conviction, order, judgment, or proceeding whatsoever shall be invalidated or in any way affected by reason of the wrongful or erroneous exercise of any jurisdiction hereby made to cease and determine.

PART V.

Supplementary.

Recovery of penalties.

17. All penalties under this Act shall be imposed and recovered before the court in the same manner as penalties are imposed and recovered under the Justices Act, 1902. 5

Governor may make regulations.

18. (1) The Governor may make regulations—

- (a) providing for the inspection of places established or used for the reception and care of infants apart from their mothers; or
- (b) providing for the notification by persons in charge of such 10 places of the reception or death of infants, and of other particulars respecting infants received into such places;
- (c) prescribing generally the conditions and requirements subject to the observance and fulfilment of which licenses may be granted and continued under this Act; and 15
- (d) generally for carrying into effect the provisions of this Act.

(2) All regulations made under this Act shall be published in the Gazette, and shall thereupon be in force, and shall be laid upon the table of both Houses of Parliament within fourteen days of such publication, or if Parliament is not then sitting within fourteen days 20 of the commencement of the next ensuing session.

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