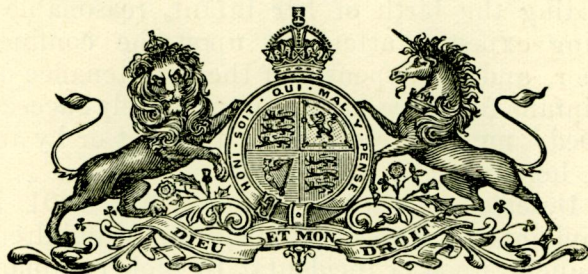


New South Wales.



ANNO QUARTO

EDWARDI VII REGIS.

Act No. 27, 1904.

An Act to make further and better provision for the protection, maintenance, education, and care of infants; and to provide for the inspection, supervision, and control of places established or used for their reception and care. [Assented to, 17th December, 1904.]

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:—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Infant Protection Act, 1904." Short title.
2. In this Act, unless the context or subject-matter otherwise Interpretation. indicates or requires,—
"Board" means State Children's Relief Board appointed under the State Children Relief Act, 1901.

A

• "Chief

Infant Protection.

“Chief officer” means the chief officer within the meaning of the Children’s Protection Act, 1902.

“Justice” means justice of the peace.

“Magistrate” means stipendiary or police magistrate.

“Minister” means the Minister for the time being administering the State Children Relief Act, 1901.

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

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

Repeal of Deserted
Wives and
Children Act.

3. The Deserted Wives and Children Act, 1901, in so far as it relates to complaints in respect of illegitimate children, and to proceedings consequent upon or incidental to such complaints, is hereby repealed.

PART II.

MAINTENANCE OF INFANTS.

Proceedings begun before birth.

Single woman
with child may take
proceedings against
father.

See Imperial Act
35 & 36 Vic. c. 65,
s. 3.

4. Where any single woman is with child by any man who has made no adequate provision for the payment of preliminary expenses of and incidental to and immediately succeeding the birth of the infant, or the expenses of the future maintenance of the infant, she, or with her consent the chief officer or, any other reputable person on her behalf, may make complaint in writing on oath to any magistrate that she is with child by the said man, and that he has made no adequate provision for the payment of the expenses aforesaid; and shall when making such complaint produce evidence on oath, either oral or on affidavit, in corroboration in some material particular of the allegation as to the paternity of the infant.

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

5. The court shall hear and determine so much of such complaint as relates to the paternity of the infant, and may—

(a) order the defendant to deposit with the court a sum not exceeding twenty pounds for preliminary expenses; and

(b)

Court may require
defendant to pay
preliminary expenses.
See S.A. Act No. 702,
ss. 3, 4; Vic. Act,
No. 1,684, ss. 2, 3;
Imperial Act, 35 and 36
Vic., c. 65, s. 4.

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(b) further order the defendant to enter into a recognizance with one or more good and sufficient sureties to the satisfaction of the court for such amount as the court determines, as a security that within four months from the birth of the infant, and on such day as any magistrate, at any time not later than three months from the said birth, determines, and of which at least fourteen days' notice shall be given to the defendant by or on behalf of the complainant, the defendant will appear and show cause why he should not make such adequate provision as the court determines for the payment of the expenses of the maintenance and education of the infant after it has reached the age of three months. Every such order shall specify a date not later than six months thereafter when the order shall lapse if the infant has not been born, and if upon such date the infant has not been born the order shall lapse and the defendant and his surety or sureties shall be deemed to be released from their recognizances, and the unexpended portion of any moneys paid by the defendant as preliminary expenses shall be repaid to him. See S.A. Act 702, s. 7.

The court shall not make an order under this section against the defendant unless it be proved by the evidence of some legally qualified medical practitioner that the woman is quick with child, and unless her evidence be corroborated in some material particular, or if the court be satisfied that at the time the infant was begotten the mother was a common prostitute. See S.A. Act 702, s. 6.

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

6. If upon the day on which the defendant is bound to show cause as aforesaid, or upon any later day to which the proceedings are adjourned he does not appear, and it is proved to the satisfaction of the court that the infant has been born, and that the order binding the defendant to show cause has not lapsed, the recognizances entered into by the defendant and sureties before the birth shall be forfeited, and the moneys so secured shall be applicable for the benefit of the mother and infant. Forfeiture of recognizance where defendant does not appear.

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

Proceedings

*Infant Protection.**Proceedings begun after birth.*

Complaint may be made against father of illegitimate infant for leaving it without means of support.

(See local Act No. 17, 1901, s. 4; Imperial Act, 35 & 36 Vic., c. 65, s. 3.)

8. In any case where the father of an illegitimate infant has left it without means of support, the mother of the infant, or the chief officer, or any other reputable person on behalf of the infant, may make complaint on oath to a magistrate; and shall, when making such complaint, produce evidence on oath, either oral or on affidavit, in corroboration in some material particular of any allegation in such complaint as to the paternity of the infant; and upon such complaint being made, the magistrate may summon the defendant to appear before the court to answer such complaint, or, if the circumstances seem to require it, may issue a warrant for his apprehension.

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

Court shall hear and determine complaint and may make order for maintenance.

9. The Court shall hear and determine the complaint, and may make an order for the payment by the defendant of a sum for the maintenance and education of the infant.

In any order made under this section in respect of a complaint brought within twelve months from the birth of the infant, the court may further order that the preliminary expenses to an amount not exceeding twenty pounds shall be paid by the defendant.

Women may in certain cases be compelled to testify.

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

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

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

11. In any order made after the birth of an infant under this Act in respect of proceedings begun before or after birth, the court may further order the payment by the defendant of the funeral expenses of the mother if she has died during parturition, or in consequence of parturition, within one month from the birth of the child, and the funeral expenses of the child if it has died prior to the making of the order.

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12. In any order under this Act, the court may further order the payment of such costs by such persons as it thinks fit. Court may order payment of costs.

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

14. Every order adjudging any sum to be paid for the maintenance of an infant may be made to take effect from a date not earlier than three months immediately preceding the date of the order, or, if a previous order has been made, from the date when the last preceding order ceased to have effect, and shall be of full force and validity until the infant has, if a male, attained the age of fourteen years, or has, if a female, attained the age of sixteen years, or until the death of such infant if such death occurs within the respective periods above mentioned: Provided that the court may in the order direct that the payments to be made under it in respect of a male infant shall continue until the infant attains the age of sixteen years, in which case such order shall be in force until that period: Provided also that for the purpose of recovering money previously due under an order it shall always remain of full force and validity. Period for which orders for maintenance may be made. (c.f. Imperial Act 35 & 36 Vic., c. 65, s. 5; N.Z. Act 58 Vic. No. 22, s. 9.)

15. When an order is made under this Act for the payment of any expenses other than preliminary expenses the court may, immediately after pronouncing its decision, require the defendant to enter into a recognizance with sureties for the due performance, for a period not exceeding twelve months of such order, and in default of the defendant's immediately entering into such recognizance with the required sureties the court may commit the defendant to prison, there to remain for any term not exceeding twelve months or until such recognizance has been entered into or the said order complied with. Security for payment of amount may be ordered. Deserted Wives and Children Act No. 17, 1901, s. 8.

16. Where an order has been made under this Act for the payment of expenses, or of moneys secured under recognizances, the court may, in a summary way and with or without any application for that purpose, make such orders in writing as it thinks necessary for better securing the payment and regulating the receipt of the expenses or moneys ordered to be paid, or for investing and applying the proceeds of the goods or rents ordered and directed to be sold or collected, or for ensuring the due appropriation of such expenses or moneys or for causing the child in respect of whom the order was made to be properly brought up and educated. Further orders may be made as to mode of payment of expenses. *Ibid.* s. 10.

17. In making any order under this Act, the court may further, by the said order, authorise and direct some person forthwith to seize and sell the defendant's goods and to demand and receive his Seizure of defendant's goods. *Ibid.* s. 9.

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his rents or such portions of the said goods or rents as the court thinks fit, and to appropriate the proceeds towards the payment of the expenses aforesaid in such manner as it from time to time directs, and if it appears on oath that the defendant has theretofore usually resided in New South Wales and has left the said State, the like order may be made and authority given by such court although no warrant or summons has been issued.

Disobedience of order may be punished.
Deserted Wives and Children Act No. 17, 1901, s. 11.

18. The court may at any time, in a summary way, inquire into any alleged disobedience of or non-compliance with any order made under this Act, and for such purpose may summon and examine all proper parties and witnesses, and may enforce compliance or may punish non-compliance with such order, by the committal of the offender until such order has been complied with, or by the infliction of a penalty not exceeding fifty pounds.

Court may vary order.
Ibid. s. 21.

19. The court from time to time may, upon application made by or on behalf of the mother or infant or by or on behalf of the father, and upon notice given in such manner as the court shall direct to all parties to be affected thereby, vary any order made under this Act.

Service of summons or notice.
Ibid. s. 5.

20. (1) Every summons or notice under this Act may be served on the defendant personally, or, if he cannot be found, by leaving the same at his last or most usual place of residence.

(2) The person serving the summons or notice may make an affidavit stating the mode and time and place of such service, and such affidavit may be received by the court as proof of the due service of the summons or notice.

Court may proceed ex parte.
Ibid. s. 6.

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

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

Warrant may issue in certain cases.
Ibid. s. 13.

22. Any magistrate on being satisfied by oath that any defendant is about to remove out of New South Wales, or to remote parts thereof, to defeat any of the provisions of this Act or any order made hereunder, may issue his warrant for the apprehension of such defendant to be dealt with under this Act.

Certain breaches of Act indictable when offender leaves New South Wales.

(See N.Z., 1894, No. 22, s. 17; Vic., 1901 No. 1737, s. 4.)

23. (1) Every person who wilfully refuses or neglects to comply with an order made against him under this Act, and goes or attempts or makes preparation to go beyond New South Wales, or to reside or is resident either permanently or temporarily beyond New South Wales, shall be deemed to be guilty of an indictable offence, punishable by imprisonment with hard labour for a term of not exceeding twelve months.

(2)

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(2) No person convicted of an offence against this section shall be liable to any other penalty or punishment for such offence.

24. A committal to prison or conviction of an offence under this Act shall not prevent the making or operation of any order for the payment of money or the doing of any act by such person which may be lawfully made.

Committal to prison not to prevent making or operation of orders.

25. Whenever the Legislature of any British possession beyond the limits of the United Kingdom of Great Britain and Ireland, the Channel Islands, and the Isle of Man, and other than New South Wales, makes provision whereby the offence of desertion of children, and going to reside beyond the limits of such possession, is constituted an offence whether punishable on indictment or otherwise by imprisonment for a term of twelve months or more, then and in every such case every person accused of such offence and coming to New South Wales may be there arrested and dealt with under and pursuant to the provisions of the Act of the Imperial Parliament of Great Britain and Ireland, intituled the Fugitive Offenders Act, 1881, or any Act amending the same.

Persons deserting children in other colony, &c., may be arrested in New South Wales. (See Vic., 1901, No. 1737, s. 5; N.Z. Act, 58 Vic. No. 22, s. 23.)

44 & 45 Vic., c. 69; 7 V.S. 321.

26. Every person aggrieved by an order of a court under this Act may appeal to a court of quarter sessions against such order in the manner provided by the Justices Act, 1902, in respect of appeals to courts of quarter sessions: Provided that where an order is made by the court at any place, and a district court is held nearer to that place than a court of quarter sessions, such appeal may be made to such district court in the same manner as an appeal may be made to a court of quarter sessions under the said Act: Provided also that where an order is made before birth respecting the paternity of an infant, and the party aggrieved by the order gives notice of intention to appeal to a court of quarter sessions or district court, as the case may be, and desires that the appeal shall not be heard before the birth of the infant, such party shall state his or her desire in the notice, and in such case the appeal shall be heard at the first court of quarter sessions or district court, as the case may be, held after a period of one month from the birth has elapsed, or at any court of quarter sessions or district court succeeding such first held court and to which the hearing is postponed, but no appeal shall in such case be heard earlier than such first held court: Provided also that at the request of either party the infant shall be produced in court. Where an appeal respecting the paternity of an infant is to be heard after the birth of the infant, no order shall be made under section seven of this Act until and unless such appeal has been heard and determined.

Appeal to quarter sessions or district court.

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PART III.

CARE OF INFANTS IN INSTITUTIONS.

Control of places established or used for reception of infants.

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

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

The Minister shall thereupon require the board to make inquiry and report respecting such place, and the board shall thereupon make such inquiry, through the president or chief officer, 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.

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

President of board or chief officer may inspect places established or used for reception of infants.

28. 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 president of the board or the chief officer or his deputy duly appointed by the president 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 president or chief officer or his deputy all reasonable facilities for making such inspection.

Any person who delays, hinders, or obstructs the president or chief officer or his deputy in making any such inspection as aforesaid shall be liable to a penalty not exceeding twenty-five pounds.

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

29. Where, on any inspection of a licensed place, the president of the board or the chief officer or his deputy finds that any of the prescribed conditions or requirements are not complied with or fulfilled, the president or chief officer or his deputy 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.

Penalties on person in charge of unlicensed place.

30. 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 under the age of seven years apart from their mothers, and is not licensed under the provisions of this Act, the person in charge of such place shall be liable

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liable to a penalty of not exceeding twenty-five 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: Provided always that nothing in Part III of this Act shall apply when bona fide blood relationship or guardianship approved by the board exists between the said infants and the persons by whom they are cared for.

PART IV.**CHILDREN'S COURTS.**

31. For the purposes of dealing with complaints made under this Act or in respect of children deserted and left without means of support the court shall be constituted by a magistrate. Court shall be constituted by a magistrate.

32. Upon and during the hearing of any complaint made under this Act, or any complaint in respect of a child deserted or left without means of support, no person shall be or be permitted to be present in court except the following— Only certain persons to be present at hearing. Vic. Act No. 1809, s. 2.

- (a) the adjudicating magistrate, the chief officer, the officers of the court, and a member of the police force;
 - (b) the complainant and the defendant, and their respective barristers and solicitors;
 - (c) the mother or sister, or other relative or friend of the complainant, if desired by such complainant;
 - (d) any person whilst being examined as a witness; and
 - (e) the mother or sister, or female friend of any female witness, if desired by such witness whilst being examined,
- unless the court shall, in the interest of justice, permit any other person to be present.

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PART V.

SUPPLEMENTARY.

Recovery of
penalties.

33. 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.

Governor may
make regulations.

34. (1) The Governor may make regulations—

- (a) providing for the inspection of places established or used for the reception and care of infants under the age of seven years apart from their mothers ; or
- (b) providing for the notification by persons in charge of such 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
- (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 of the commencement of the next ensuing session.

By Authority : WILLIAM APPLIGATE GULLICK, Government Printer, Sydney, 1904.

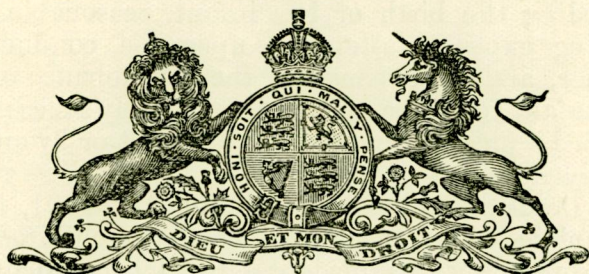
[9d.]

I Certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Legislative Council Chamber,
Sydney, 8th December, 1904. }*

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO QUARTO

EDWARDI VII REGIS.

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PRELIMINARY.

1. This Act may be cited as the "Infant Protection Act, 1904." Short title.
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“Chief officer” means the chief officer within the meaning of the Children’s Protection Act, 1902.

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“Magistrate” means stipendiary or police magistrate.

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

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

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3. The Deserted Wives and Children Act, 1901, in so far as it relates to complaints in respect of illegitimate children, and to proceedings consequent upon or incidental to such complaints, is hereby repealed.

PART II.

MAINTENANCE OF INFANTS.

Proceedings begun before birth.

Single woman with child may take proceedings against father.

See Imperial Act 35 & 36 Vic. c. 65, s. 3.

4. Where any single woman is with child by any man who has made no adequate provision for the payment of preliminary expenses of and incidental to and immediately succeeding the birth of the infant, or the expenses of the future maintenance of the infant, she, or with her consent the chief officer or, any other reputable person on her behalf, may make complaint in writing on oath to any magistrate that she is with child by the said man, and that he has made no adequate provision for the payment of the expenses aforesaid; and shall when making such complaint produce evidence on oath, either oral or on affidavit, in corroboration in some material particular of the allegation as to the paternity of the infant.

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

5. The court shall hear and determine so much of such complaint as relates to the paternity of the infant, and may—

(a) order the defendant to deposit with the court a sum not exceeding twenty pounds for preliminary expenses; and

(b)

Court may require defendant to pay preliminary expenses. See S.A. Act No. 702, ss. 3, 4; Vic. Act, No. 1,684, ss. 2, 3; Imperial Act, 35 and 36 Vic., c. 65, s. 4.

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(b) further order the defendant to enter into a recognizance with one or more good and sufficient sureties to the satisfaction of the court for such amount as the court determines, as a security that within four months from the birth of the infant, and on such day as any magistrate, at any time not later than three months from the said birth, determines, and of which at least fourteen days' notice shall be given to the defendant by or on behalf of the complainant, the defendant will appear and show cause why he should not make such adequate provision as the court determines for the payment of the expenses of the maintenance and education of the infant after it has reached the age of three months. Every such order shall specify a date not later than six months thereafter when the order shall lapse if the infant has not been born, and if upon such date the infant has not been born the order shall lapse and the defendant and his surety or sureties shall be deemed to be released from their recognizances, and the unexpended portion of any moneys paid by the defendant as preliminary expenses shall be repaid to him. See S.A. Act 702, s. 7.

The court shall not make an order under this section against the defendant unless it be proved by the evidence of some legally qualified medical practitioner that the woman is quick with child, and unless her evidence be corroborated in some material particular, or if the court be satisfied that at the time the infant was begotten the mother was a common prostitute. See S.A. Act 702, s. 6.

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

6. If upon the day on which the defendant is bound to show cause as aforesaid, or upon any later day to which the proceedings are adjourned he does not appear, and it is proved to the satisfaction of the court that the infant has been born, and that the order binding the defendant to show cause has not lapsed, the recognizances entered into by the defendant and sureties before the birth shall be forfeited, and the moneys so secured shall be applicable for the benefit of the mother and infant. Forfeiture of recognizance where defendant does not appear.

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

Proceedings

*Infant Protection.**Proceedings begun after birth.*

Complaint may be made against father of illegitimate infant for leaving it without means of support.

(See local Act No. 17, 1901, s. 4; Imperial Act, 35 & 36 Vic., c. 65, s. 3.)

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

Court shall hear and determine complaint and may make order for maintenance.

9. The Court shall hear and determine the complaint, and may make an order for the payment by the defendant of a sum for the maintenance and education of the infant.

In any order made under this section in respect of a complaint brought within twelve months from the birth of the infant, the court may further order that the preliminary expenses to an amount not exceeding twenty pounds shall be paid by the defendant.

Women may in certain cases be compelled to testify.

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

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

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

11. In any order made after the birth of an infant under this Act in respect of proceedings begun before or after birth, the court may further order the payment by the defendant of the funeral expenses of the mother if she has died during parturition, or in consequence of parturition, within one month from the birth of the child, and the funeral expenses of the child if it has died prior to the making of the order.

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Court may order payment of costs.

13. If it appears to the court that both the father and mother of an illegitimate infant are able to contribute to any of the expenses mentioned in the preceding sections, the court, in making any order, may direct the payment of such expenses by both the father and mother in such proportions and in such manner as it thinks fit; and if it appears to the court that the mother only is able to so contribute, it may direct the payment by her alone.

Mother also to contribute to expenses of maintenance.

(See Deserted Wives and Children Act No. 17, 1901, s. 7; N.Z. Act 58 Vic. No. 22, s. 10.)

14. Every order adjudging any sum to be paid for the maintenance of an infant may be made to take effect from a date not earlier than three months immediately preceding the date of the order, or, if a previous order has been made, from the date when the last preceding order ceased to have effect, and shall be of full force and validity until the infant has, if a male, attained the age of fourteen years, or has, if a female, attained the age of sixteen years, or until the death of such infant if such death occurs within the respective periods above mentioned: Provided that the court may in the order direct that the payments to be made under it in respect of a male infant shall continue until the infant attains the age of sixteen years, in which case such order shall be in force until that period: Provided also that for the purpose of recovering money previously due under an order it shall always remain of full force and validity.

Period for which orders for maintenance may be made.

(c.f. Imperial Act 35 & 36 Vic., c. 65, s. 5; N.Z. Act 58 Vic. No. 22, s. 9.)

15. When an order is made under this Act for the payment of any expenses other than preliminary expenses the court may, immediately after pronouncing its decision, require the defendant to enter into a recognizance with sureties for the due performance, for a period not exceeding twelve months of such order, and in default of the defendant's immediately entering into such recognizance with the required sureties the court may commit the defendant to prison, there to remain for any term not exceeding twelve months or until such recognizance has been entered into or the said order complied with.

Security for payment of amount may be ordered.

Deserted Wives and Children Act No. 17, 1901, s. 8.

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

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

Ibid. s. 10.

17. In making any order under this Act, the court may further, by the said order, authorise and direct some person forthwith to seize and sell the defendant's goods and to demand and receive his

Seizure of defendant's goods.

Deserted Wives and Children Act No. 17, 1901, s. 9.

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his rents or such portions of the said goods or rents as the court thinks fit, and to appropriate the proceeds towards the payment of the expenses aforesaid in such manner as it from time to time directs, and if it appears on oath that the defendant has theretofore usually resided in New South Wales and has left the said State, the like order may be made and authority given by such court although no warrant or summons has been issued.

Disobedience of order may be punished.
Deserted Wives and Children Act No. 17, 1901, s. 11.

18. The court may at any time, in a summary way, inquire into any alleged disobedience of or non-compliance with any order made under this Act, and for such purpose may summon and examine all proper parties and witnesses, and may enforce compliance or may punish non-compliance with such order, by the committal of the offender until such order has been complied with, or by the infliction of a penalty not exceeding fifty pounds.

Court may vary order.
Ibid. s. 21.

19. The court from time to time may, upon application made by or on behalf of the mother or infant or by or on behalf of the father, and upon notice given in such manner as the court shall direct to all parties to be affected thereby, vary any order made under this Act.

Service of summons or notice.
Ibid. s. 5.

20. (1) Every summons or notice under this Act may be served on the defendant personally, or, if he cannot be found, by leaving the same at his last or most usual place of residence.

(2) The person serving the summons or notice may make an affidavit stating the mode and time and place of such service, and such affidavit may be received by the court as proof of the due service of the summons or notice.

Court may proceed ex parte.
Ibid. s. 6.

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

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

Warrant may issue in certain cases.
Ibid. s. 13.

22. Any magistrate on being satisfied by oath that any defendant is about to remove out of New South Wales, or to remote parts thereof, to defeat any of the provisions of this Act or any order made hereunder, may issue his warrant for the apprehension of such defendant to be dealt with under this Act.

Certain breaches of Act indictable when offender leaves New South Wales.
(See N.Z., 1894, No. 22, s. 17; Vic., 1901 No. 1737, s. 4.)

23. (1) Every person who wilfully refuses or neglects to comply with an order made against him under this Act, and goes or attempts or makes preparation to go beyond New South Wales, or to reside or is resident either permanently or temporarily beyond New South Wales, shall be deemed to be guilty of an indictable offence, punishable by imprisonment with hard labour for a term of not exceeding twelve months.

(2)

Infant Protection.

(2) No person convicted of an offence against this section shall be liable to any other penalty or punishment for such offence.

24. A committal to prison or conviction of an offence under this Act shall not prevent the making or operation of any order for the payment of money or the doing of any act by such person which may be lawfully made.

Committal to prison not to prevent making or operation of orders.

25. Whenever the Legislature of any British possession beyond the limits of the United Kingdom of Great Britain and Ireland, the Channel Islands, and the Isle of Man, and other than New South Wales, makes provision whereby the offence of desertion of children, and going to reside beyond the limits of such possession, is constituted an offence whether punishable on indictment or otherwise by imprisonment for a term of twelve months or more, then and in every such case every person accused of such offence and coming to New South Wales may be there arrested and dealt with under and pursuant to the provisions of the Act of the Imperial Parliament of Great Britain and Ireland, intituled the Fugitive Offenders Act, 1881, or any Act amending the same.

Persons deserting children in other colony, &c., may be arrested in New South Wales. (See Vic., 1901, No. 1737, s. 5; N.Z. Act, 58 Vic. No. 22, s. 23.)

44 & 45 Vic., c. 69; 7 V.S. 321.

26. Every person aggrieved by an order of a court under this Act may appeal to a court of quarter sessions against such order in the manner provided by the Justices Act, 1902, in respect of appeals to courts of quarter sessions: Provided that where an order is made by the court at any place, and a district court is held nearer to that place than a court of quarter sessions, such appeal may be made to such district court in the same manner as an appeal may be made to a court of quarter sessions under the said Act: Provided also that where an order is made before birth respecting the paternity of an infant, and the party aggrieved by the order gives notice of intention to appeal to a court of quarter sessions or district court, as the case may be, and desires that the appeal shall not be heard before the birth of the infant, such party shall state his or her desire in the notice, and in such case the appeal shall be heard at the first court of quarter sessions or district court, as the case may be, held after a period of one month from the birth has elapsed, or at any court of quarter sessions or district court succeeding such first held court and to which the hearing is postponed, but no appeal shall in such case be heard earlier than such first held court: Provided also that at the request of either party the infant shall be produced in court. Where an appeal respecting the paternity of an infant is to be heard after the birth of the infant, no order shall be made under section seven of this Act until and unless such appeal has been heard and determined.

Appeal to quarter sessions or district court.

Infant Protection.

PART III.

CARE OF INFANTS IN INSTITUTIONS.

Control of places established or used for reception of infants.

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

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

The Minister shall thereupon require the board to make inquiry and report respecting such place, and the board shall thereupon make such inquiry, through the president or chief officer, 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.

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

President of board or chief officer may inspect places established or used for reception of infants.

28. 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 president of the board or the chief officer or his deputy duly appointed by the president 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 president or chief officer or his deputy all reasonable facilities for making such inspection.

Any person who delays, hinders, or obstructs the president or chief officer or his deputy in making any such inspection as aforesaid shall be liable to a penalty not exceeding twenty-five pounds.

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

29. Where, on any inspection of a licensed place, the president of the board or the chief officer or his deputy finds that any of the prescribed conditions or requirements are not complied with or fulfilled, the president or chief officer or his deputy 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.

Penalties on person in charge of unlicensed place.

30. 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 under the age of seven years apart from their mothers, and is not licensed under the provisions of this Act, the person in charge of such place shall be liable

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liable to a penalty of not exceeding twenty-five 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: Provided always that nothing in Part III of this Act shall apply when bona fide blood relationship or guardianship approved by the board exists between the said infants and the persons by whom they are cared for.

PART IV.**CHILDREN'S COURTS.**

31. For the purposes of dealing with complaints made under this Act or in respect of children deserted and left without means of support the court shall be constituted by a magistrate. Court shall be constituted by a magistrate.

32. Upon and during the hearing of any complaint made under this Act, or any complaint in respect of a child deserted or left without means of support, no person shall be or be permitted to be present in court except the following— Only certain persons to be present at hearing. Vic. Act No. 1809, s. 2.

- (a) the adjudicating magistrate, the chief officer, the officers of the court, and a member of the police force;
 - (b) the complainant and the defendant, and their respective barristers and solicitors;
 - (c) the mother or sister, or other relative or friend of the complainant, if desired by such complainant;
 - (d) any person whilst being examined as a witness; and
 - (e) the mother or sister, or female friend of any female witness, if desired by such witness whilst being examined,
- unless the court shall, in the interest of justice, permit any other person to be present.

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PART V.

SUPPLEMENTARY.

Recovery of
penalties.

33. 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.

Governor may
make regulations.

34. (1) The Governor may make regulations—

- (a) providing for the inspection of places established or used for the reception and care of infants under the age of seven years apart from their mothers ; or
- (b) providing for the notification by persons in charge of such 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
- (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 of the commencement of the next ensuing session.

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

HARRY H. RAWSON,

State Government House,

Sydney, 17th December, 1904.

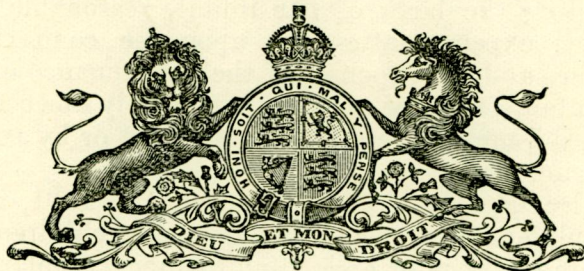
Governor.

I Certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Legislative Council Chamber,
Sydney, 8th December, 1904.* }

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO QUARTO

EDWARDI VII REGIS.

Act No. 27, 1904.

An Act to make further and better provision for the protection, maintenance, education, and care of infants; and to provide for the inspection, supervision, and control of places established or used for their reception and care. [Assented to, 17th December, 1904.]

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:—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Infant Protection Act, 1904." Short title.
2. In this Act, unless the context or subject-matter otherwise Interpretation. indicates or requires,—

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

"Chief

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“Chief officer” means the chief officer within the meaning of the Children’s Protection Act, 1902.

“Justice” means justice of the peace.

“Magistrate” means stipendiary or police magistrate.

“Minister” means the Minister for the time being administering the State Children Relief Act, 1901.

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

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

Repeal of Deserted Wives and Children Act.

3. The Deserted Wives and Children Act, 1901, in so far as it relates to complaints in respect of illegitimate children, and to proceedings consequent upon or incidental to such complaints, is hereby repealed.

PART II.

MAINTENANCE OF INFANTS.

Proceedings begun before birth.

Single woman with child may take proceedings against father.

See Imperial Act 35 & 36 Vic. c. 65, s. 3.

4. Where any single woman is with child by any man who has made no adequate provision for the payment of preliminary expenses of and incidental to and immediately succeeding the birth of the infant, or the expenses of the future maintenance of the infant, she, or with her consent the chief officer or, any other reputable person on her behalf, may make complaint in writing on oath to any magistrate that she is with child by the said man, and that he has made no adequate provision for the payment of the expenses aforesaid; and shall when making such complaint produce evidence on oath, either oral or on affidavit, in corroboration in some material particular of the allegation as to the paternity of the infant.

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

5. The court shall hear and determine so much of such complaint as relates to the paternity of the infant, and may—

(a) order the defendant to deposit with the court a sum not exceeding twenty pounds for preliminary expenses; and

(b)

Court may require defendant to pay preliminary expenses. See S. A. Act No. 702, ss. 3, 4; Vic. Act, No. 1,684, ss. 2, 3; Imperial Act, 35 and 36 Vic., c. 65, s. 4.

Infant Protection.

(b) further order the defendant to enter into a recognizance with one or more good and sufficient sureties to the satisfaction of the court for such amount as the court determines, as a security that within four months from the birth of the infant, and on such day as any magistrate, at any time not later than three months from the said birth, determines, and of which at least fourteen days' notice shall be given to the defendant by or on behalf of the complainant, the defendant will appear and show cause why he should not make such adequate provision as the court determines for the payment of the expenses of the maintenance and education of the infant after it has reached the age of three months. Every such order shall specify a date not later than six months thereafter when the order shall lapse if the infant has not been born, and if upon such date the infant has not been born the order shall lapse and the defendant and his surety or sureties shall be deemed to be released from their recognizances, and the unexpended portion of any moneys paid by the defendant as preliminary expenses shall be repaid to him. See S.A. Act 702, s. 7.

The court shall not make an order under this section against the defendant unless it be proved by the evidence of some legally qualified medical practitioner that the woman is quick with child, and unless her evidence be corroborated in some material particular, or if the court be satisfied that at the time the infant was begotten the mother was a common prostitute. See S.A. Act 702, s. 6.

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

6. If upon the day on which the defendant is bound to show cause as aforesaid, or upon any later day to which the proceedings are adjourned he does not appear, and it is proved to the satisfaction of the court that the infant has been born, and that the order binding the defendant to show cause has not lapsed, the recognizances entered into by the defendant and sureties before the birth shall be forfeited, and the moneys so secured shall be applicable for the benefit of the mother and infant. Forfeiture of recognizance where defendant does not appear.

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

Proceedings

*Infant Protection.**Proceedings begun after birth.*

Complaint may be made against father of illegitimate infant for leaving it without means of support.

(See local Act No. 17, 1901, s. 4; Imperial Act, 35 & 36 Vic., c. 65, s. 3.)

8. In any case where the father of an illegitimate infant has left it without means of support, the mother of the infant, or the chief officer, or any other reputable person on behalf of the infant, may make complaint on oath to a magistrate; and shall, when making such complaint, produce evidence on oath, either oral or on affidavit, in corroboration in some material particular of any allegation in such complaint as to the paternity of the infant; and upon such complaint being made, the magistrate may summon the defendant to appear before the court to answer such complaint, or, if the circumstances seem to require it, may issue a warrant for his apprehension.

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

Court shall hear and determine complaint and may make order for maintenance.

9. The Court shall hear and determine the complaint, and may make an order for the payment by the defendant of a sum for the maintenance and education of the infant.

In any order made under this section in respect of a complaint brought within twelve months from the birth of the infant, the court may further order that the preliminary expenses to an amount not exceeding twenty pounds shall be paid by the defendant.

Women may in certain cases be compelled to testify.

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

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

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

11. In any order made after the birth of an infant under this Act in respect of proceedings begun before or after birth, the court may further order the payment by the defendant of the funeral expenses of the mother if she has died during parturition, or in consequence of parturition, within one month from the birth of the child, and the funeral expenses of the child if it has died prior to the making of the order.

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12. In any order under this Act, the court may further order the payment of such costs by such persons as it thinks fit.

Court may order payment of costs.

13. If it appears to the court that both the father and mother of an illegitimate infant are able to contribute to any of the expenses mentioned in the preceding sections, the court, in making any order, may direct the payment of such expenses by both the father and mother in such proportions and in such manner as it thinks fit; and if it appears to the court that the mother only is able to so contribute, it may direct the payment by her alone.

Mother also to contribute to expenses of maintenance.

(See Deserted Wives and Children Act No. 17, 1901, s. 7; N.Z. Act 58 Vic. No. 22, s. 10.)

14. Every order adjudging any sum to be paid for the maintenance of an infant may be made to take effect from a date not earlier than three months immediately preceding the date of the order, or, if a previous order has been made, from the date when the last preceding order ceased to have effect, and shall be of full force and validity until the infant has, if a male, attained the age of fourteen years, or has, if a female, attained the age of sixteen years, or until the death of such infant if such death occurs within the respective periods above mentioned: Provided that the court may in the order direct that the payments to be made under it in respect of a male infant shall continue until the infant attains the age of sixteen years, in which case such order shall be in force until that period: Provided also that for the purpose of recovering money previously due under an order it shall always remain of full force and validity.

Period for which orders for maintenance may be made.

(c.f. Imperial Act 35 & 36 Vic., c. 65, s. 5; N.Z. Act 58 Vic. No. 22, s. 9.)

15. When an order is made under this Act for the payment of any expenses other than preliminary expenses the court may, immediately after pronouncing its decision, require the defendant to enter into a recognizance with sureties for the due performance, for a period not exceeding twelve months of such order, and in default of the defendant's immediately entering into such recognizance with the required sureties the court may commit the defendant to prison, there to remain for any term not exceeding twelve months or until such recognizance has been entered into or the said order complied with.

Security for payment of amount may be ordered.

Deserted Wives and Children Act No. 17, 1901, s. 8.

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

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

Ibid. s. 10.

17. In making any order under this Act, the court may further, by the said order, authorise and direct some person forthwith to seize and sell the defendant's goods and to demand and receive his

Seizure of defendant's goods.

Deserted Wives and Children Act No. 17, 1901, s. 9.

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his rents or such portions of the said goods or rents as the court thinks fit, and to appropriate the proceeds towards the payment of the expenses aforesaid in such manner as it from time to time directs, and if it appears on oath that the defendant has theretofore usually resided in New South Wales and has left the said State, the like order may be made and authority given by such court although no warrant or summons has been issued.

Disobedience of order may be punished.

Deserted Wives and Children Act No. 17, 1901, s. 11.

18. The court may at any time, in a summary way, inquire into any alleged disobedience of or non-compliance with any order made under this Act, and for such purpose may summon and examine all proper parties and witnesses, and may enforce compliance or may punish non-compliance with such order, by the committal of the offender until such order has been complied with, or by the infliction of a penalty not exceeding fifty pounds.

Court may vary order.

Ibid. s. 21.

19. The court from time to time may, upon application made by or on behalf of the mother or infant or by or on behalf of the father, and upon notice given in such manner as the court shall direct to all parties to be affected thereby, vary any order made under this Act.

Service of summons or notice.

Ibid. s. 5.

20. (1) Every summons or notice under this Act may be served on the defendant personally, or, if he cannot be found, by leaving the same at his last or most usual place of residence.

(2) The person serving the summons or notice may make an affidavit stating the mode and time and place of such service, and such affidavit may be received by the court as proof of the due service of the summons or notice.

Court may proceed ex parte.

Ibid. s. 6.

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

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

Warrant may issue in certain cases.

Ibid. s. 13.

22. Any magistrate on being satisfied by oath that any defendant is about to remove out of New South Wales, or to remote parts thereof, to defeat any of the provisions of this Act or any order made hereunder, may issue his warrant for the apprehension of such defendant to be dealt with under this Act.

Certain breaches of Act indictable when offender leaves New South Wales.

(See N.Z., 1894, No. 22, s. 17; Vic., 1901 No. 1737, s. 4.)

23. (1) Every person who wilfully refuses or neglects to comply with an order made against him under this Act, and goes or attempts or makes preparation to go beyond New South Wales, or to reside or is resident either permanently or temporarily beyond New South Wales, shall be deemed to be guilty of an indictable offence, punishable by imprisonment with hard labour for a term of not exceeding twelve months.

Infant Protection.

(2) No person convicted of an offence against this section shall be liable to any other penalty or punishment for such offence.

24. A committal to prison or conviction of an offence under this Act shall not prevent the making or operation of any order for the payment of money or the doing of any act by such person which may be lawfully made.

Committal to prison not to prevent making or operation of orders.

25. Whenever the Legislature of any British possession beyond the limits of the United Kingdom of Great Britain and Ireland, the Channel Islands, and the Isle of Man, and other than New South Wales, makes provision whereby the offence of desertion of children, and going to reside beyond the limits of such possession, is constituted an offence whether punishable on indictment or otherwise by imprisonment for a term of twelve months or more, then and in every such case every person accused of such offence and coming to New South Wales may be there arrested and dealt with under and pursuant to the provisions of the Act of the Imperial Parliament of Great Britain and Ireland, intituled the Fugitive Offenders Act, 1881, or any Act amending the same.

Persons deserting children in other colony, &c., may be arrested in New South Wales. (See Vic., 1901, No. 1737, s. 5; N.Z. Act, 58 Vic. No. 22, s. 23.)

44 & 45 Vic., c. 69; 7 V.S. 321.

26. Every person aggrieved by an order of a court under this Act may appeal to a court of quarter sessions against such order in the manner provided by the Justices Act, 1902, in respect of appeals to courts of quarter sessions: Provided that where an order is made by the court at any place, and a district court is held nearer to that place than a court of quarter sessions, such appeal may be made to such district court in the same manner as an appeal may be made to a court of quarter sessions under the said Act: Provided also that where an order is made before birth respecting the paternity of an infant, and the party aggrieved by the order gives notice of intention to appeal to a court of quarter sessions or district court, as the case may be, and desires that the appeal shall not be heard before the birth of the infant, such party shall state his or her desire in the notice, and in such case the appeal shall be heard at the first court of quarter sessions or district court, as the case may be, held after a period of one month from the birth has elapsed, or at any court of quarter sessions or district court succeeding such first held court and to which the hearing is postponed, but no appeal shall in such case be heard earlier than such first held court: Provided also that at the request of either party the infant shall be produced in court. Where an appeal respecting the paternity of an infant is to be heard after the birth of the infant, no order shall be made under section seven of this Act until and unless such appeal has been heard and determined.

Appeal to quarter sessions or district court.

Infant Protection.

PART III.

CARE OF INFANTS IN INSTITUTIONS.

Control of places established or used for reception of infants.

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

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

The Minister shall thereupon require the board to make inquiry and report respecting such place, and the board shall thereupon make such inquiry, through the president or chief officer, 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.

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

President of board or chief officer may inspect places established or used for reception of infants.

28. 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 president of the board or the chief officer or his deputy duly appointed by the president 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 president or chief officer or his deputy all reasonable facilities for making such inspection.

Any person who delays, hinders, or obstructs the president or chief officer or his deputy in making any such inspection as aforesaid shall be liable to a penalty not exceeding twenty-five pounds.

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

29. Where, on any inspection of a licensed place, the president of the board or the chief officer or his deputy finds that any of the prescribed conditions or requirements are not complied with or fulfilled, the president or chief officer or his deputy 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.

Penalties on person in charge of unlicensed place.

30. 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 under the age of seven years apart from their mothers, and is not licensed under the provisions of this Act, the person in charge of such place shall be liable

Infant Protection.

liable to a penalty of not exceeding twenty-five 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: Provided always that nothing in Part III of this Act shall apply when bona fide blood relationship or guardianship approved by the board exists between the said infants and the persons by whom they are cared for.

 PART IV.

CHILDREN'S COURTS.

31. For the purposes of dealing with complaints made under this Act or in respect of children deserted and left without means of support the court shall be constituted by a magistrate. Court shall be constituted by a magistrate.

32. Upon and during the hearing of any complaint made under this Act, or any complaint in respect of a child deserted or left without means of support, no person shall be or be permitted to be present in court except the following— Only certain persons to be present at hearing. Vic. Act No. 1809, s. 2.

- (a) the adjudicating magistrate, the chief officer, the officers of the court, and a member of the police force;
- (b) the complainant and the defendant, and their respective barristers and solicitors;
- (c) the mother or sister, or other relative or friend of the complainant, if desired by such complainant;
- (d) any person whilst being examined as a witness; and
- (e) the mother or sister, or female friend of any female witness, if desired by such witness whilst being examined,

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

Infant Protection.

PART V.

SUPPLEMENTARY.

Recovery of
penalties.

Governor may
make regulations.

33. 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.

34. (1) The Governor may make regulations—

- (a) providing for the inspection of places established or used for the reception and care of infants under the age of seven years apart from their mothers ; or
- (b) providing for the notification by persons in charge of such 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
- (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 of the commencement of the next ensuing session.

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

State Government House,

Sydney, 17th December, 1904.

HARRY H. RAWSON,

Governor.

INFANT PROTECTION BILL.

SCHEDULE of Amendments referred to in Message of 8 December, 1904.

- Page 2, clause 4, line 25. *After* "or" (second occurring) *insert* "with her consent"
- Page 2, clause 4, line 26. *Omit* "with her consent"
- Page 3, clause 5, lines 24 and 25. *Omit* "find that the woman is with child by" *insert*
"make an order under this section against"
- Page 3, clause 5, line 27. *Omit* "she" *insert* "the woman"
- Page 4, clause 7, lines 4 and 5. *Omit* "not less than five shillings and not more than
"twenty shillings per week"
- Page 4, clause 9, lines 26 and 27. *Omit* "not less than the rate of five shillings per
"week and not exceeding the rate of twenty shillings per week"
- Page 9, clause 30. At end of clause *add* "Provided always that nothing in Part III
"of this Act shall apply when bona fide blood relationship or guardianship
"approved by the board exists between the said infants and the persons
"by whom they are cared for"
-

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

*Legislative Council Chamber,
Sydney, 6th October, 1904. }*

JOHN J. CALVERT,
Clerk of the Parliaments.

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

*Legislative Assembly Chamber,
Sydney, 8 December, 1904. }*

RICHD. A. ARNOLD,
Clerk of the Legislative Assembly.

New South Wales.



ANNO QUARTO

EDWARDI VII REGIS.

Act No. , 1904.

An Act to make further and better provision for the protection, maintenance, education, and care of infants; and to provide for the inspection, supervision, and control of places established or used for their reception and care.

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:—

5

PART I.

PRELIMINARY.

1. This Act may be cited as the "Infant Protection Act, 1904." 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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"Chief

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

Infant Protection.

“Chief officer” means the chief officer within the meaning of the Children’s Protection Act, 1902.

“Justice” means justice of the peace.

“Magistrate” means stipendiary or police magistrate.

5 “Minister” means the Minister for the time being administering the State Children Relief Act, 1901.

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

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

15 3. The Deserted Wives and Children Act, 1901, in so far as it relates to complaints in respect of illegitimate children, and to proceedings consequent upon or incidental to such complaints, is hereby repealed. Repeal of Deserted Wives and Children Act.

PART II.

20

MAINTENANCE OF INFANTS.

Proceedings begun before birth.

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

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

35

Infant Protection.

5. The court shall hear and determine so much of such complaint as relates to the paternity of the infant, and may—

- (a) order the defendant to deposit with the court a sum not exceeding twenty pounds for preliminary expenses; and
- 5 (b) further order the defendant to enter into a recognizance with one or more good and sufficient sureties to the satisfaction of the court for such amount as the court determines, as a security that within four months from the birth of the infant, and on such day as any magistrate, at any time not later than
- 10 three months from the said birth, determines, and of which at least fourteen days' notice shall be given to the defendant by or on behalf of the complainant, the defendant will appear and show cause why he should not make such adequate provision as the court determines for the payment of the
- 15 expenses of the maintenance and education of the infant after it has reached the age of three months. Every such order shall specify a date not later than six months thereafter when the order shall lapse if the infant has not been born, and if upon such date the infant has not been born the
- 20 order shall lapse and the defendant and his surety or sureties shall be deemed to be released from their recognizances, and the unexpended portion of any moneys paid by the defendant as preliminary expenses shall be repaid to him.

Court may require defendant to pay preliminary expenses.

See S.A. Act No. 702, ss. 3, 4; Vic. Act, No. 1,084, ss. 2, 3; Imperial Act, 35 and 36 Vic., c. 65, s. 4.

See S.A. Act 702, s. 7.

25 The court shall not ~~find that the woman is with child by~~ make an order under this section against the defendant unless it be proved by the evidence of some legally qualified medical practitioner that she the woman is quick with child, and unless her evidence be corroborated in some material particular, or if the court be satisfied that at the time the infant was begotten the mother was a common

30 prostitute.

See S.A. Act 702, s. 6.

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

35 from prison.

6. If upon the day on which the defendant is bound to show cause as aforesaid, or upon any later day to which the proceedings are adjourned he does not appear, and it is proved to the satisfaction of the court that the infant has been born, and that the order binding

40 the defendant to show cause has not lapsed, the recognizances entered into by the defendant and sureties before the birth shall be forfeited, and the moneys so secured shall be applicable for the benefit of the mother and infant.

Forfeiture of recognizance where defendant does not appear.

7. If upon the day or later day mentioned in the last preceding

45 section the defendant appears, and it is proved to the satisfaction of the

Order after birth where the defendant does appear.

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the court that the infant has been born and that the order binding the defendant to show cause has not lapsed, the court shall make an order for the payment by the defendant of a sum for the maintenance and education of the infant ~~not less than five shillings and not more than~~ **5** ~~twenty shillings per week.~~

Proceedings begun after birth.

8. In any case where the father of an illegitimate infant has left it without means of support, the mother of the infant, or the chief officer, or any other reputable person on behalf of the infant, may **10** make complaint on oath to a magistrate; and shall, when making such complaint, produce evidence on oath, either oral or on affidavit, in corroboration in some material particular of any allegation in such complaint as to the paternity of the infant; and upon such complaint being made, the magistrate may summon the defendant to appear **15** before the court to answer such complaint, or, if the circumstances seem to require it, may issue a warrant for his apprehension.

Complaint may be made against father of illegitimate infant for leaving it without means of support.

(See local Act No. 17, 1901, s. 4; Imperial Act, 35 & 36 Vic., c. 65, s. 3.)

In any case where the mother of an illegitimate infant has left it without means of support, the chief officer or any reputable person on behalf of the infant may make complaint in writing on **20** oath to a magistrate, and upon such complaint being made the magistrate may summon the defendant to appear before the court to answer such complaint, or, if the circumstances seem to require it, may issue a warrant for her apprehension.

9. The Court shall hear and determine the complaint, and **25** may make an order for the payment by the defendant of a sum for the maintenance and education of the infant ~~not less than the rate of five shillings per week and not exceeding the rate of twenty shillings per week.~~

Court shall hear and determine complaint and may make order for maintenance.

In any order made under this section in respect of a complaint brought within twelve months from the birth of the infant, the court **30** may further order that the preliminary expenses to an amount not exceeding twenty pounds shall be paid by the defendant.

10. Where any complaint has been made under this Act by a woman for expenses in respect of an infant of which she is about to be or has been delivered, she may, at the hearing of the complaint, be **35** compelled to give evidence; and where complaint has been made under the Act with her consent by the chief officer or other reputable person on behalf of a woman for such expenses, she may, at the hearing of the complaint, be compelled to give evidence if it has first been proved to the satisfaction of the court that she has made an allegation **40** as to the paternity of the infant. The admissions of a woman in giving evidence under this section shall not be used against her in any criminal prosecution, except for perjury committed while so giving evidence.

Women may in certain cases be compelled to testify.

Infant Protection.

11. In any order made after the birth of an infant under this Act in respect of proceedings begun before or after birth, the court may further order the payment by the defendant of the funeral expenses of the mother if she has died during parturition, or in consequence of parturition, within one month from the birth of the child, and the funeral expenses of the child if it has died prior to the making of the order.
12. In any order under this Act, the court may further order the payment of such costs by such persons as it thinks fit.
13. If it appears to the court that both the father and mother of an illegitimate infant are able to contribute to any of the expenses mentioned in the preceding sections, the court, in making any order, may direct the payment of such expenses by both the father and mother in such proportions and in such manner as it thinks fit; and if it appears to the court that the mother only is able to so contribute, it may direct the payment by her alone.
14. Every order adjudging any sum to be paid for the maintenance of an infant may be made to take effect from a date not earlier than three months immediately preceding the date of the order, or, if a previous order has been made, from the date when the last preceding order ceased to have effect, and shall be of full force and validity until the infant has, if a male, attained the age of fourteen years, or has, if a female, attained the age of sixteen years, or until the death of such infant if such death occurs within the respective periods above mentioned: Provided that the court may in the order direct that the payments to be made under it in respect of a male infant shall continue until the infant attains the age of sixteen years, in which case such order shall be in force until that period: Provided also that for the purpose of recovering money previously due under an order it shall always remain of full force and validity.
15. When an order is made under this Act for the payment of any expenses other than preliminary expenses the court may, immediately after pronouncing its decision, require the defendant to enter into a recognizance with sureties for the due performance, for a period not exceeding twelve months of such order, and in default of the defendant's immediately entering into such recognizance with the required sureties the court may commit the defendant to prison, there to remain for any term not exceeding twelve months or until such recognizance has been entered into or the said order complied with.
16. Where an order has been made under this Act for the payment of expenses, or of moneys secured under recognizances, the court may, in a summary way and with or without any application for that purpose, make such orders in writing as it thinks necessary for better securing the payment and regulating the receipt of the expenses or moneys ordered to be paid, or for investing and applying the proceeds
- Court may order payment of funeral expenses of mother and child. (See 35 & 36 Vic., c. 65, s. 4.)
- Court may order payment of costs.
- Mother also to contribute to expenses of maintenance. (See Deserted Wives and Children Act No. 17, 1901, s. 7; N.Z. Act 58 Vic. No. 22, s. 10.)
- Period for which orders for maintenance may be made. (c.f. Imperial Act 35 & 36 Vic., c. 65, s. 5; N.Z. Act 58 Vic. No. 22, s. 9.)
- Security for payment of amount may be ordered. Deserted Wives and Children Act No. 17, 1901, s. 8.
- Further orders may be made as to mode of payment of expenses. *Ibid.* s. 10.

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proceeds of the goods or rents ordered and directed to be sold or collected, or for ensuring the due appropriation of such expenses or moneys or for causing the child in respect of whom the order was made to be properly brought up and educated.

- 5 **17.** In making any order under this Act, the court may further, by the said order, authorise and direct some person forthwith to seize and sell the defendant's goods and to demand and receive his rents or such portions of the said goods or rents as the court thinks fit, and to appropriate the proceeds towards the payment of the
10 expenses aforesaid in such manner as it from time to time directs, and if it appears on oath that the defendant has theretofore usually resided in New South Wales and has left the said State, the like order may be made and authority given by such court although no warrant or summons has been issued.
- 15 **18.** The court may at any time, in a summary way, inquire into any alleged disobedience of or non-compliance with any order made under this Act, and for such purpose may summon and examine all proper parties and witnesses, and may enforce compliance or may punish non-compliance with such order, by the committal of the
20 offender until such order has been complied with, or by the infliction of a penalty not exceeding fifty pounds.
- 19.** The court from time to time may, upon application made by or on behalf of the mother or infant or by or on behalf of the father, and upon notice given in such manner as the court shall direct to all
25 parties to be affected thereby, vary any order made under this Act.
- 20.** (1) Every summons or notice under this Act may be served on the defendant personally, or, if he cannot be found, by leaving the same at his last or most usual place of residence.
- (2) The person serving the summons or notice may make
30 an affidavit stating the mode and time and place of such service, and such affidavit may be received by the court as proof of the due service of the summons or notice.
- 21.** (1) If a defendant against whom a summons has been issued does not appear in accordance therewith, the court, upon proof
35 of the service of the summons, may issue a warrant for his apprehension, or may proceed in the case *ex parte*.
- (2) In every case where a warrant has been issued, and the defendant cannot, after strict inquiry and search, be found to be taken thereon, the court may in like manner proceed in the case *ex parte*.
- 40 **22.** Any magistrate on being satisfied by oath that any defendant is about to remove out of New South Wales, or to remote parts thereof, to defeat any of the provisions of this Act or any order made hereunder, may issue his warrant for the apprehension of such defendant to be dealt with under this Act.

Seizure of defendant's goods.
Deserted Wives and Children Act No. 17, 1901, s. 9.

Disobedience of order may be punished.
Ibid. s. 11.

Court may vary order.
Ibid. s. 21.

Service of summons or notice.
Ibid. s. 5.

Court may proceed *ex parte*.
Ibid. s. 6.

Warrant may issue in certain cases.
Ibid. s. 13.

Infant Protection.

23. (1) Every person who wilfully refuses or neglects to comply with an order made against him under this Act, and goes or attempts or makes preparation to go beyond New South Wales, or to reside or is resident either permanently or temporarily beyond New South Wales, shall be deemed to be guilty of an indictable offence, punishable by imprisonment with hard labour for a term of not exceeding twelve months.

Certain breaches of Act indictable when offender leaves New South Wales.

(See N.Z., 1894, No. 22, s. 17; Vic., 1901, No. 1737, s. 4)

(2) No person convicted of an offence against this section shall be liable to any other penalty or punishment for such offence.

10 24. A committal to prison or conviction of an offence under this Act shall not prevent the making or operation of any order for the payment of money or the doing of any act by such person which may be lawfully made.

Committal to prison not to prevent making or operation of orders.

15 25. Whenever the Legislature of any British possession beyond the limits of the United Kingdom of Great Britain and Ireland, the Channel Islands, and the Isle of Man, and other than New South Wales, makes provision whereby the offence of desertion of children, and going to reside beyond the limits of such possession, is constituted an offence whether punishable on indictment or otherwise by imprisonment for a term of twelve months or more, then and in every such case every person accused of such offence and coming to New South Wales may be there arrested and dealt with under and pursuant to the provisions of the Act of the Imperial Parliament of Great Britain and Ireland, intituled the Fugitive Offenders Act, 1881, or any Act amending the same.

Persons deserting children in other colony, &c., may be arrested in New South Wales.

(See Vic., 1901, No. 1737, s. 5; N.Z. Act, 58 Vic. No. 22, s. 23.)

44 & 45 Vic., c. 69; 7 V.S. 321.

26. Every person aggrieved by an order of a court under this Act may appeal to a court of quarter sessions against such order in the manner provided by the Justices Act, 1902, in respect of appeals to courts of quarter sessions: Provided that where an order is made by the court at any place, and a district court is held nearer to that place than a court of quarter sessions, such appeal may be made to such district court in the same manner as an appeal may be made to a court of quarter sessions under the said Act: Provided also that where an order is made before birth respecting the paternity of an infant, and the party aggrieved by the order gives notice of intention to appeal to a court of quarter sessions or district court, as the case may be, and desires that the appeal shall not be heard before the birth of the infant, such party shall state his or her desire in the notice, and in such case the appeal shall be heard at the first court of quarter sessions or district court, as the case may be, held after a period of one month from the birth has elapsed, or at any court of quarter sessions or district court succeeding such first held court and to which the hearing is postponed, but no appeal shall in such case be heard earlier than such first held court: Provided also that

Appeal to quarter sessions or district court.

Infant Protection.

that at the request of either party the infant shall be produced in court. Where an appeal respecting the paternity of an infant is to be heard after the birth of the infant, no order shall be made under section seven of this Act until and unless such appeal has been heard and determined.

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PART III.

CARE OF INFANTS IN INSTITUTIONS.

Control of places established or used for reception of infants.

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

10 The Minister shall thereupon require the board to make inquiry and report respecting such place, and the board shall thereupon make such inquiry, through the president or chief officer, and report.

15 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.

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

20 28. 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 president of the board or the chief officer or his deputy duly appointed by the president in that behalf

25 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 president or chief officer or his deputy all reasonable facilities for making such inspection.

30 Any person who delays, hinders, or obstructs the president or chief officer or his deputy in making any such inspection as aforesaid shall be liable to a penalty not exceeding twenty-five pounds.

29. Where, on any inspection of a licensed place, the president of the board or the chief officer or his deputy finds that any of the prescribed conditions or requirements are not complied with or fulfilled, the president or chief officer or his deputy 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,

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

President of board or chief officer may inspect places established or used for reception of infants.

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

Infant Protection.

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 5 such place as to the board seems fit.

30. 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 under the age of seven years apart from their mothers, and is not licensed under 10 the provisions of this Act, the person in charge of such place shall be liable to a penalty of not exceeding twenty-five 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: **Provided** always that nothing in Part III of this Act shall apply when bona fide 15 blood relationship or guardianship approved by the board exists between the said infants and the persons by whom they are cared for.

Penalties on person in charge of unlicensed place.

PART IV.

CHILDREN'S COURTS.

31. For the purposes of dealing with complaints made under 20 this Act or in respect of children deserted and left without means of support the court shall be constituted by a magistrate.

Court shall be constituted by a magistrate.

32. Upon and during the hearing of any complaint made under this Act, or any complaint in respect of a child deserted or left without means of support, no person shall be or be permitted to be present in 25 court except the following—

Only certain persons to be present at hearing.
Vic. Act No. 1809, s. 2.

- (a) the adjudicating magistrate, the chief officer, the officers of the court, and a member of the police force;
- (b) the complainant and the defendant, and their respective barristers and solicitors;
- 30 (c) the mother or sister, or other relative or friend of the complainant, if desired by such complainant;
- (d) any person whilst being examined as a witness; and
- (e) the mother or sister, or female friend of any female witness, if desired by such witness whilst being examined,
- 35 unless the court shall, in the interest of justice, permit any other person to be present.

Infant Protection.

PART V.

SUPPLEMENTARY.

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

34. (1) The Governor may make regulations— Governor may make regulations.

- (a) providing for the inspection of places established or used for the reception and care of infants under the age of seven years apart from their mothers ; or
- 10 (b) providing for the notification by persons in charge of such 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
- 15 (d) generally for carrying into effect the provisions of this Act.

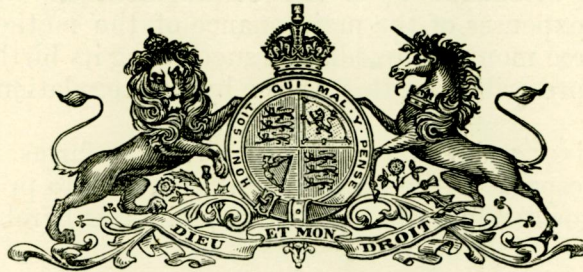
(2) All regulations made under this Act shall be published in the Gazette, and shall thereupon be in force, and shall be laid upon the table of both Houses of Parliament within fourteen days of such 20 publication, or if Parliament is not then sitting within fourteen days of the commencement of the next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

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

*Legislative Council Chamber,
Sydney, 6th October, 1904.* }

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO QUARTO

EDWARDI VII REGIS.

Act No. , 1904.

An Act to make further and better provision for the protection, maintenance, education, and care of infants; and to provide for the inspection, supervision, and control of places established or used for their reception and care.

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:—

5

PART I.

PRELIMINARY.

1. This Act may be cited as the "Infant Protection Act, 1904." 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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"Chief

Infant Protection.

- “Chief officer” means the chief officer within the meaning of the Children’s Protection Act, 1902.
- “Justice” means justice of the peace.
- “Magistrate” means stipendiary or police magistrate.
- 5 “Minister” means the Minister for the time being administering the State Children Relief Act, 1901.
- “Preliminary expenses” means the expenses of the maintenance of the mother during a period of one month immediately preceding the birth of her infant, reasonable medical and nursing expenses attendant upon the confinement of the mother, and the expenses of the maintenance of the mother and infant for three months immediately succeeding its birth.
- 10 “Prescribed” means prescribed by this Act or by any regulations made hereunder.
- 15 **3.** The Deserted Wives and Children Act, 1901, in so far as it relates to complaints in respect of illegitimate children, and to proceedings consequent upon or incidental to such complaints, is hereby repealed. Repeal of Deserted Wives and Children Act.

PART II.

20

MAINTENANCE OF INFANTS.

Proceedings begun before birth.

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

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

5.

Infant Protection.

5. The court shall hear and determine so much of such complaint as relates to the paternity of the infant, and may—

- (a) order the defendant to deposit with the court a sum not exceeding twenty pounds for preliminary expenses; and
- 5 (b) further order the defendant to enter into a recognizance with one or more good and sufficient sureties to the satisfaction of the court for such amount as the court determines, as a security that within four months from the birth of the infant, and on such day as any magistrate, at any time not later than 10 three months from the said birth, determines, and of which at least fourteen days' notice shall be given to the defendant by or on behalf of the complainant, the defendant will appear and show cause why he should not make such adequate provision as the court determines for the payment of the 15 expenses of the maintenance and education of the infant after it has reached the age of three months. Every such order shall specify a date not later than six months there- 20 after when the order shall lapse if the infant has not been born, and if upon such date the infant has not been born the order shall lapse and the defendant and his surety or sureties shall be deemed to be released from their recognizances, and the unexpended portion of any moneys paid by the defendant as preliminary expenses shall be repaid to him.

Court may require defendant to pay preliminary expenses.

See S.A. Act No. 702, ss. 3, 4; Vic. Act, No. 1,684, ss. 2, 3; Imperial Act, 35 and 36 Vic., c. 65, s. 4.

See S.A. Act 702, s. 7.

The court shall not find that the woman is with child by the 25 defendant unless it be proved by the evidence of some legally qualified medical practitioner that she is quick with child, and unless her evidence be corroborated in some material particular, or if the court be satisfied that at the time the infant was begotten the mother was a common prostitute.

See S.A. Act 702, s. 6.

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

35 6. If upon the day on which the defendant is bound to show cause as aforesaid, or upon any later day to which the proceedings are adjourned he does not appear, and it is proved to the satisfaction of the court that the infant has been born, and that the order binding the defendant to show cause has not lapsed, the recognizances entered 40 into by the defendant and sureties before the birth shall be forfeited, and the moneys so secured shall be applicable for the benefit of the mother and infant.

Forfeiture of recognizance where defendant does not appear.

45 7. If upon the day or later day mentioned in the last preceding section the defendant appears, and it is proved to the satisfaction of the court that the infant has been born and that the order binding the defendant

Order after birth where the defendant does appear.

Infant Protection.

defendant to show cause has not lapsed, the court shall make an order for the payment by the defendant of a sum for the maintenance and education of the infant not less than five shillings and not more than twenty shillings per week.

5

Proceedings begun after birth.

8. In any case where the father of an illegitimate infant has left it without means of support, the mother of the infant, or the chief officer, or any other reputable person on behalf of the infant, may make complaint on oath to a magistrate; and shall, when making such complaint, produce evidence on oath, either oral or on affidavit, in corroboration in some material particular of any allegation in such complaint as to the paternity of the infant; and upon such complaint being made, the magistrate may summon the defendant to appear before the court to answer such complaint, or, if the circumstances seem to require it, may issue a warrant for his apprehension.

Complaint may be made against father of illegitimate infant for leaving it without means of support.

(See local Act No. 17, 1901, s. 4; Imperial Act, 35 & 36 Vic., c. 65, s. 3.)

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

9. The Court shall hear and determine the complaint, and may make an order for the payment by the defendant of a sum for the maintenance and education of the infant not less than the rate of five shillings per week and not exceeding the rate of twenty shillings per week.

Court shall hear and determine complaint and may make order for maintenance.

In any order made under this section in respect of a complaint brought within twelve months from the birth of the infant, the court may further order that the preliminary expenses to an amount not exceeding twenty pounds shall be paid by the defendant.

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

Women may in certain cases be compelled to testify.

11.

Infant Protection.

11. In any order made after the birth of an infant under this Act in respect of proceedings begun before or after birth, the court may further order the payment by the defendant of the funeral expenses of the mother if she has died during parturition, or in consequence of parturition, within one month from the birth of the child, and the funeral expenses of the child if it has died prior to the making of the order. Court may order payment of funeral expenses of mother and child. (See 35 & 36 Vic., c. 65, s. 4.)
12. In any order under this Act, the court may further order the payment of such costs by such persons as it thinks fit. Court may order payment of costs.
13. If it appears to the court that both the father and mother of an illegitimate infant are able to contribute to any of the expenses mentioned in the preceding sections, the court, in making any order, may direct the payment of such expenses by both the father and mother in such proportions and in such manner as it thinks fit; and if it appears to the court that the mother only is able to so contribute, it may direct the payment by her alone. Mother also to contribute to expenses of maintenance. (See Deserted Wives and Children Act No. 17, 1901, s. 7; N.Z. Act 58 Vic. No. 22, s. 10.)
14. Every order adjudging any sum to be paid for the maintenance of an infant may be made to take effect from a date not earlier than three months immediately preceding the date of the order, or, if a previous order has been made, from the date when the last preceding order ceased to have effect, and shall be of full force and validity until the infant has, if a male, attained the age of fourteen years, or has, if a female, attained the age of sixteen years, or until the death of such infant if such death occurs within the respective periods above mentioned: Provided that the court may in the order direct that the payments to be made under it in respect of a male infant shall continue until the infant attains the age of sixteen years, in which case such order shall be in force until that period: Provided also that for the purpose of recovering money previously due under an order it shall always remain of full force and validity. Period for which orders for maintenance may be made. (c.f. Imperial Act 35 & 36 Vic., c. 65, s. 5; N.Z. Act 58 Vic. No. 22, s. 9.)
15. When an order is made under this Act for the payment of any expenses other than preliminary expenses the court may, immediately after pronouncing its decision, require the defendant to enter into a recognizance with sureties for the due performance, for a period not exceeding twelve months of such order, and in default of the defendant's immediately entering into such recognizance with the required sureties the court may commit the defendant to prison, there to remain for any term not exceeding twelve months or until such recognizance has been entered into or the said order complied with. Security for payment of amount may be ordered. Deserted Wives and Children Act No. 17, 1901, s. 8.
16. Where an order has been made under this Act for the payment of expenses, or of moneys secured under recognizances, the court may, in a summary way and with or without any application for that purpose, make such orders in writing as it thinks necessary for better securing the payment and regulating the receipt of the expenses or moneys ordered to be paid, or for investing and applying the proceeds. Further orders may be made as to mode of payment of expenses. *Ibid.* s. 10.

Infant Protection.

proceeds of the goods or rents ordered and directed to be sold or collected, or for ensuring the due appropriation of such expenses or moneys or for causing the child in respect of whom the order was made to be properly brought up and educated.

- 5 17. In making any order under this Act, the court may further, by the said order, authorise and direct some person forthwith to seize and sell the defendant's goods and to demand and receive his rents or such portions of the said goods or rents as the court thinks fit, and to appropriate the proceeds towards the payment of the
10 expenses aforesaid in such manner as it from time to time directs, and if it appears on oath that the defendant has theretofore usually resided in New South Wales and has left the said State, the like order may be made and authority given by such court although no warrant or summons has been issued.
- 15 18. The court may at any time, in a summary way, inquire into any alleged disobedience of or non-compliance with any order made under this Act, and for such purpose may summon and examine all proper parties and witnesses, and may enforce compliance or may punish non-compliance with such order, by the committal of the
20 offender until such order has been complied with, or by the infliction of a penalty not exceeding fifty pounds.
19. The court from time to time may, upon application made by or on behalf of the mother or infant or by or on behalf of the father, and upon notice given in such manner as the court shall direct to all
25 parties to be affected thereby, vary any order made under this Act.
20. (1) Every summons or notice under this Act may be served on the defendant personally, or, if he cannot be found, by leaving the same at his last or most usual place of residence.
- (2) The person serving the summons or notice may make
30 an affidavit stating the mode and time and place of such service, and such affidavit may be received by the court as proof of the due service of the summons or notice.
21. (1) If a defendant against whom a summons has been issued does not appear in accordance therewith, the court, upon proof
35 of the service of the summons, may issue a warrant for his apprehension, or may proceed in the case *ex parte*.
- (2) In every case where a warrant has been issued, and the defendant cannot, after strict inquiry and search, be found to be taken thereon, the court may in like manner proceed in the case *ex parte*.
- 40 22. Any magistrate on being satisfied by oath that any defendant is about to remove out of New South Wales, or to remote parts thereof, to defeat any of the provisions of this Act or any order made hereunder, may issue his warrant for the apprehension of such defendant to be dealt with under this Act.

Seizure of
defendant's goods.
Deserted Wives and
Children Act No. 17,
1901, s. 9.

Disobedience of
order may be
punished.
Ibid. s. 11.

Court may vary
order.
Ibid. s. 21.

Service of summons
or notice.
Ibid. s. 5.

Court may proceed
ex parte.
Ibid. s. 6.

Warrant may issue
in certain cases.
Ibid. s. 13.

Infant Protection.

23. (1) Every person who wilfully refuses or neglects to comply with an order made against him under this Act, and goes or attempts or makes preparation to go beyond New South Wales, or to reside or is resident either permanently or temporarily beyond New South Wales, shall be deemed to be guilty of an indictable offence, punishable by imprisonment with hard labour for a term of not exceeding twelve months.

Certain breaches of Act indictable when offender leaves New South Wales. (See N.Z., 1894, No. 22, s. 17; Vic., 1901, No. 1737, s. 4.)

(2) No person convicted of an offence against this section shall be liable to any other penalty or punishment for such offence.

10 24. A committal to prison or conviction of an offence under this Act shall not prevent the making or operation of any order for the payment of money or the doing of any act by such person which may be lawfully made.

Committal to prison not to prevent making or operation of orders.

15 25. Whenever the Legislature of any British possession beyond the limits of the United Kingdom of Great Britain and Ireland, the Channel Islands, and the Isle of Man, and other than New South Wales, makes provision whereby the offence of desertion of children, and going to reside beyond the limits of such possession, is constituted an offence whether punishable on indictment or otherwise by imprisonment for a term of twelve months or more, then and in every such case every person accused of such offence and coming to New South Wales may be there arrested and dealt with under and pursuant to the provisions of the Act of the Imperial Parliament of Great Britain and Ireland, intituled the Fugitive Offenders Act, 1881, or any Act amending the same.

Persons deserting children in other colony, &c., may be arrested in New South Wales. (See Vic., 1901, No. 1737, s. 5; N.Z. Act, 58 Vic. No. 22, s. 23.) 44 & 45 Vic., c. 69; 7 V.S. 321.

20 26. Every person aggrieved by an order of a court under this Act may appeal to a court of quarter sessions against such order in the manner provided by the Justices Act, 1902, in respect of appeals to courts of quarter sessions: Provided that where an order is made by the court at any place, and a district court is held nearer to that place than a court of quarter sessions, such appeal may be made to such district court in the same manner as an appeal may be made to a court of quarter sessions under the said Act: Provided also that where an order is made before birth respecting the paternity of an infant, and the party aggrieved by the order gives notice of intention to appeal to a court of quarter sessions or district court, as the case may be, and desires that the appeal shall not be heard before the birth of the infant, such party shall state his or her desire in the notice, and in such case the appeal shall be heard at the first court of quarter sessions or district court, as the case may be, held after a period of one month from the birth has elapsed, or at any court of quarter sessions or district court succeeding such first held court and to which the hearing is postponed, but no appeal shall in such case be heard earlier than such first held court: Provided also

Appeal to quarter sessions or district court.

that

Infant Protection.

that at the request of either party the infant shall be produced in court. Where an appeal respecting the paternity of an infant is to be heard after the birth of the infant, no order shall be made under section seven of this Act until and unless such appeal has been heard and determined.

5

PART III.

CARE OF INFANTS IN INSTITUTIONS.

Control of places established or used for reception of infants.

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

The Minister shall thereupon require the board to make inquiry and report respecting such place, and the board shall thereupon make such inquiry, through the president or chief officer, and report.

15 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.

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

20 28. 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 president of the board or the chief officer or his deputy duly appointed by the president in that behalf

25 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 president or chief officer or his deputy all reasonable facilities for making such inspection.

30 Any person who delays, hinders, or obstructs the president or chief officer or his deputy in making any such inspection as aforesaid shall be liable to a penalty not exceeding twenty-five pounds.

35 29. Where, on any inspection of a licensed place, the president of the board or the chief officer or his deputy finds that any of the prescribed conditions or requirements are not complied with or fulfilled, the president or chief officer or his deputy 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,

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

President of board or chief officer may inspect places established or used for reception of infants.

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

Infant Protection.

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 5 such place as to the board seems fit.

30. 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 under the age of seven years apart from their mothers, and is not licensed under 10 the provisions of this Act, the person in charge of such place shall be liable to a penalty of not exceeding twenty-five 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.

Penalties on person
in charge of
unlicensed place.

PART IV.

CHILDREN'S COURTS.

15

31. For the purposes of dealing with complaints made under this Act or in respect of children deserted and left without means of support the court shall be constituted by a magistrate.

Court shall be
constituted by a
magistrate.

20 32. Upon and during the hearing of any complaint made under this Act, or any complaint in respect of a child deserted or left without means of support, no person shall be or be permitted to be present in court except the following—

Only certain persons
to be present at
hearing.
Vic. Act No. 1809,
s. 2.

- 25 (a) the adjudicating magistrate, the chief officer, the officers of the court, and a member of the police force ;
- (b) the complainant and the defendant, and their respective barristers and solicitors ;
- (c) the mother or sister, or other relative or friend of the complainant, if desired by such complainant ;
- 30 (d) any person whilst being examined as a witness ; and
- (e) the mother or sister, or female friend of any female witness, if desired by such witness whilst being examined,
- unless the court shall, in the interest of justice, permit any other person to be present.

Infant Protection.

PART V.

SUPPLEMENTARY.

33. 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. Recovery of penalties.

34. (1) The Governor may make regulations — Governor may make regulations
- (a) providing for the inspection of places established or used for the reception and care of infants under the age of seven years apart from their mothers ; or
 - 10 (b) providing for the notification by persons in charge of such 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.

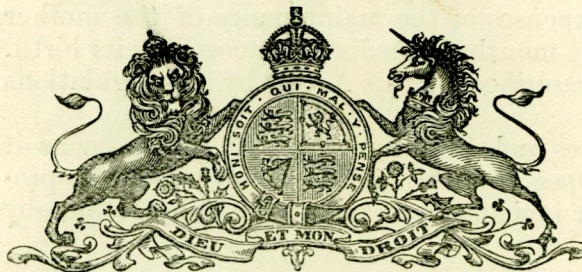
(2) All regulations made under this Act shall be published in the Gazette, and shall thereupon be in force, and shall be laid upon the table of both Houses of Parliament within fourteen days of such publication, or if Parliament is not then sitting within fourteen days of the commencement of the next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

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

*Legislative Council Chamber,
Sydney, October, 1904. }*

Clerk of the Parliaments.

New South Wales.



ANNO QUARTO

EDWARDI VII REGIS.

Act No. , 1904.

An Act to make further and better provision for the protection, maintenance, education, and care of infants; and to provide for the inspection, supervision, and control of places established or used for their reception and care.

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:—

5

PART I.

PRELIMINARY.

1. This Act may be cited as the "Infant Protection Act, 1904." 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.

Infant Protection.

- “Chief officer” means the chief officer within the meaning of the Children’s Protection Act, 1902.
- “Justice” means justice of the peace.
- “Magistrate” means stipendiary or police magistrate.
- 5 “Minister” means the Minister for the time being administering the State Children Relief Act, 1901.
- “Preliminary expenses” means the expenses of the maintenance of the mother during a period of one month immediately preceding the birth of her infant, reasonable medical and nursing expenses attendant upon the confinement of the mother, and the expenses of the maintenance of the mother and infant for three months immediately succeeding its birth.
- 10 “Prescribed” means prescribed by this Act or by any regulations made hereunder.
- 15 **3.** The Deserted Wives and Children Act, 1901, in so far as it relates to complaints in respect of illegitimate children, and to proceedings consequent upon or incidental to such complaints, is hereby repealed. Repeal of Deserted Wives and Children Act.

PART II.

20 MAINTENANCE OF INFANTS.

Proceedings begun before birth.

4. Where any single woman is with child by any man who has made no adequate provision for the payment of preliminary expenses of and incidental to and immediately succeeding the birth of the infant, or the expenses of the future maintenance of the infant, she, or the chief officer or, with her consent, any other reputable person on her behalf, may make complaint in writing on oath to any magistrate that she is with child by the said man, and that he has made no adequate provision for the payment of the expenses aforesaid; and shall when making such complaint produce evidence on oath, either oral or on affidavit, in corroboration in some material particular of the allegation as to the paternity of the infant.
- 25 or the expenses of the future maintenance of the infant, she, or the chief officer or, with her consent, any other reputable person on her behalf, may make complaint in writing on oath to any magistrate that she is with child by the said man, and that he has made no adequate provision for the payment of the expenses aforesaid; and shall when making such complaint produce evidence on oath, either oral or on affidavit, in corroboration in some material particular of the allegation as to the paternity of the infant.
- 30 making such complaint produce evidence on oath, either oral or on affidavit, in corroboration in some material particular of the allegation as to the paternity of the infant.

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

35

Infant Protection.

5. The court shall hear and determine so much of such complaint as relates to the paternity of the infant, and may—

- (a) order the defendant to deposit with the court a sum not exceeding twenty pounds for preliminary expenses; and
- 5 (b) further order the defendant to enter into a recognizance with one or more good and sufficient sureties to the satisfaction of the court for such amount as the court determines, as a security that within four months from the birth of the infant, and on such day as any magistrate, at any time not later than
- 10 three months from the said birth, determines, and of which at least fourteen days' notice shall be given to the defendant by or on behalf of the complainant, the defendant will appear and show cause why he should not make such adequate provision as the court determines for the payment of the
- 15 expenses of the maintenance and education of the infant after it has reached the age of three months. Every such order shall specify a date not later than six months there-
- 20 after when the order shall lapse if the infant has not been born, and if upon such date the infant has not been born the order shall lapse and the defendant and his surety or sureties shall be deemed to be released from their recognizances, and the unexpended portion of any moneys paid by the defendant as preliminary expenses shall be repaid to him.

Court may require defendant to pay preliminary expenses.

See S.A. Act No. 702, ss. 3, 4; Vic. Act, No. 1,084, ss. 2 3; Imperial Act, 35 and 36 Vic., c. 65, s. 4.

See S.A. Act 702, s. 7.

The court shall not find that the woman is with child by the defendant unless it be proved by the evidence of some legally qualified medical practitioner that she is quick with child, and unless her evidence be corroborated in some material particular, or if the court be satisfied that at the time the infant was begotten the mother was a common prostitute.

See S.A. Act 702, s. 6.

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

35 6. If upon the day on which the defendant is bound to show cause as aforesaid, or upon any later day to which the proceedings are adjourned he does not appear, and it is proved to the satisfaction of the court that the infant has been born, and that the order binding the defendant to show cause has not lapsed, the recognizances entered

40 into by the defendant and sureties before the birth shall be forfeited, and the moneys so secured shall be applicable for the benefit of the mother and infant.

Forfeiture of recognizance where defendant does not appear.

45 7. If upon the day or later day mentioned in the last preceding section the defendant appears, and it is proved to the satisfaction of the court that the infant has been born and that the order binding the defendant

Order after birth where the defendant does appear.

Infant Protection.

defendant to show cause has not lapsed, the court shall make an order for the payment by the defendant of a sum for the maintenance and education of the infant not less than five shillings and not more than twenty shillings per week.

5

Proceedings begun after birth.

8. In any case where the father of an illegitimate infant has left it without means of support, the mother of the infant, or the chief officer, or any other reputable person on behalf of the infant, may make complaint on oath to a magistrate; and shall, when making such
 10 complaint, produce evidence on oath, either oral or on affidavit, in corroboration in some material particular of any allegation in such complaint as to the paternity of the infant; and upon such complaint being made, the magistrate may summon the defendant to appear before the court to answer such complaint, or, if the circumstances
 15 seem to require it, may issue a warrant for his apprehension.

Complaint may be made against father of illegitimate infant for leaving it without means of support.
 (See Local Act No. 17, 1901, s. 4; Imperial Act, 35 & 36 Vic., c. 63, s. 3.)

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

9. The Court shall hear and determine the complaint, and may make an order for the payment by the defendant of a sum for the
 25 maintenance and education of the infant not less than the rate of five shillings per week and not exceeding the rate of twenty shillings per week.

Court shall hear and determine complaint and may make order for maintenance.

In any order made under this section in respect of a complaint brought within twelve months from the birth of the infant, the court
 30 may further order that the preliminary expenses to an amount not exceeding twenty pounds shall be paid by the defendant.

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

Women may in certain cases be compelled to testify.

11.

Infant Protection.

11. In any order made after the birth of an infant under this Act in respect of proceedings begun before or after birth, the court may further order the payment by the defendant of the funeral expenses of the mother if she has died during parturition, or in consequence of parturition, within one month from the birth of the child, and the funeral expenses of the child if it has died prior to the making of the order.
12. In any order under this Act, the court may further order the payment of such costs by such persons as it thinks fit.
13. If it appears to the court that both the father and mother of an illegitimate infant are able to contribute to any of the expenses mentioned in the preceding sections, the court, in making any order, may direct the payment of such expenses by both the father and mother in such proportions and in such manner as it thinks fit; and if it appears to the court that the mother only is able to so contribute, it may direct the payment by her alone.
14. Every order adjudging any sum to be paid for the maintenance of an infant may be made to take effect from a date not earlier than three months immediately preceding the date of the order, or, if a previous order has been made, from the date when the last preceding order ceased to have effect, and shall be of full force and validity until the infant has, if a male, attained the age of fourteen years, or has, if a female, attained the age of sixteen years, or until the death of such infant if such death occurs within the respective periods above mentioned: Provided that the court may in the order direct that the payments to be made under it in respect of a male infant shall continue until the infant attains the age of sixteen years, in which case such order shall be in force until that period: Provided also that for the purpose of recovering money previously due under an order it shall always remain of full force and validity.
15. When an order is made under this Act for the payment of any expenses other than preliminary expenses the court may, immediately after pronouncing its decision, require the defendant to enter into a recognizance with sureties for the due performance, for a period not exceeding twelve months of such order, and in default of the defendant's immediately entering into such recognizance with the required sureties the court may commit the defendant to prison, there to remain for any term not exceeding twelve months or until such recognizance has been entered into or the said order complied with.
16. Where an order has been made under this Act for the payment of expenses, or of moneys secured under recognizances, the court may, in a summary way and with or without any application for that purpose, make such orders in writing as it thinks necessary for better securing the payment and regulating the receipt of the expenses or moneys ordered to be paid, or for investing and applying the proceeds

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

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

Court may order payment of costs.

Mother also to contribute to expenses of maintenance.

(See Deserted Wives and Children Act No. 17, 1901, s. 7; N.Z. Act 58 Vic. No. 22, s. 10.)

Period for which orders for maintenance may be made.

(c.f. Imperial Act 35 & 36 Vic., c. 65, s. 5; N.Z. Act 58 Vic. No. 22, s. 9.)

Security for payment of amount may be ordered.

Deserted Wives and Children Act No. 17, 1901, s. 8.

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

Ibid. s. 10.

Infant Protection.

proceeds of the goods or rents ordered and directed to be sold or collected, or for ensuring the due appropriation of such expenses or moneys or for causing the child in respect of whom the order was made to be properly brought up and educated.

- 5 **17.** In making any order under this Act, the court may further, by the said order, authorise and direct some person forthwith to seize and sell the defendant's goods and to demand and receive his rents or such portions of the said goods or rents as the court thinks fit, and to appropriate the proceeds towards the payment of the
10 expenses aforesaid in such manner as it from time to time directs, and if it appears on oath that the defendant has theretofore usually resided in New South Wales and has left the said State, the like order may be made and authority given by such court although no warrant or summons has been issued.
- 15 **18.** The court may at any time, in a summary way, inquire into any alleged disobedience of or non-compliance with any order made under this Act, and for such purpose may summon and examine all proper parties and witnesses, and may enforce compliance or may punish non-compliance with such order, by the committal of the
20 offender until such order has been complied with, or by the infliction of a penalty not exceeding fifty pounds.
- 19.** The court from time to time may, upon application made by or on behalf of the mother or infant or by or on behalf of the father, and upon notice given in such manner as the court shall direct to all
25 parties to be affected thereby, vary any order made under this Act.
- 20.** (1) Every summons or notice under this Act may be served on the defendant personally, or, if he cannot be found, by leaving the same at his last or most usual place of residence.
 (2) The person serving the summons or notice may make
30 an affidavit stating the mode and time and place of such service, and such affidavit may be received by the court as proof of the due service of the summons or notice.
- 21.** (1) If a defendant against whom a summons has been issued does not appear in accordance therewith, the court, upon proof
35 of the service of the summons, may issue a warrant for his apprehension, or may proceed in the case *ex parte*.
- (2) In every case where a warrant has been issued, and the defendant cannot, after strict inquiry and search, be found to be taken thereon, the court may in like manner proceed in the case *ex parte*.
- 40 **22.** Any magistrate on being satisfied by oath that any defendant is about to remove out of New South Wales, or to remote parts thereof, to defeat any of the provisions of this Act or any order made hereunder, may issue his warrant for the apprehension of such defendant to be dealt with under this Act.

Seizure of defendant's goods.

Deserted Wives and Children Act No. 17, 1901, s. 9.

Disobedience of order may be punished.

Ibid. s. 11.

Court may vary order.

Ibid. s. 21.

Service of summons or notice.

Ibid. s. 5.

Court may proceed *ex parte*.

Ibid. s. 6.

Warrant may issue in certain cases.

Ibid. s. 13.

Infant Protection.

23. (1) Every person who wilfully refuses or neglects to comply with an order made against him under this Act, and goes or attempts or makes preparation to go beyond New South Wales, or to reside or is resident either permanently or temporarily beyond New South Wales, shall be deemed to be guilty of an indictable offence, punishable by imprisonment with hard labour for a term of not exceeding twelve months.

Certain breaches of Act indictable when offender leaves New South Wales.

(See N.Z., 1894, No. 22, s. 17; Vic., 1901, No. 1737, s. 4.)

(2) No person convicted of an offence against this section shall be liable to any other penalty or punishment for such offence.

10 24. A committal to prison or conviction of an offence under this Act shall not prevent the making or operation of any order for the payment of money or the doing of any act by such person which may be lawfully made.

Committal to prison not to prevent making or operation of orders.

15 25. Whenever the Legislature of any British possession beyond the limits of the United Kingdom of Great Britain and Ireland, the Channel Islands, and the Isle of Man, and other than New South Wales, makes provision whereby the offence of desertion of children, and going to reside beyond the limits of such possession, is constituted an offence whether punishable on indictment or otherwise by imprisonment for a term of twelve months or more, then and in every such case every person accused of such offence and coming to New South Wales may be there arrested and dealt with under and pursuant to the provisions of the Act of the Imperial Parliament of Great Britain and Ireland, intituled the Fugitive Offenders Act, 1881, or any Act amending the same.

Persons deserting children in other colony, &c., may be arrested in New South Wales.

(See Vic., 1901, No. 1737, s. 5; N.Z. Act, 58 Vic. No. 22, s. 23.)

44 & 45 Vic., c. 69; 7 V.S. 321.

26. Every person aggrieved by an order of a court under this Act may appeal to a court of quarter sessions against such order in the manner provided by the Justices Act, 1902, in respect of appeals to courts of quarter sessions: Provided that where an order is made by the court at any place, and a district court is held nearer to that place than a court of quarter sessions, such appeal may be made to such district court in the same manner as an appeal may be made to a court of quarter sessions under the said Act: Provided also that where an order is made before birth respecting the paternity of an infant, and the party aggrieved by the order gives notice of intention to appeal to a court of quarter sessions or district court, as the case may be, and desires that the appeal shall not be heard before the birth of the infant, such party shall state his or her desire in the notice, and in such case the appeal shall be heard at the first court of quarter sessions or district court, as the case may be, held after a period of one month from the birth has elapsed, or at any court of quarter sessions or district court succeeding such first held court and to which the hearing is postponed, but no appeal shall in such case be heard earlier than such first held court: Provided also that

Appeal to quarter sessions or district court.

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that at the request of either party the infant shall be produced in court. Where an appeal respecting the paternity of an infant is to be heard after the birth of the infant, no order shall be made under section seven of this Act until and unless such appeal has been heard and determined.

5

PART III.

CARE OF INFANTS IN INSTITUTIONS.

Control of places established or used for reception of infants.

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

The Minister shall thereupon require the board to make inquiry and report respecting such place, and the board shall thereupon make such inquiry, through the president or chief officer, and report.

15 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.

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

20 28. 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 president of the board or the chief officer or his deputy duly appointed by the president in that behalf

25 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 president or chief officer or his deputy all reasonable facilities for making such inspection.

30 Any person who delays, hinders, or obstructs the president or chief officer or his deputy in making any such inspection as aforesaid shall be liable to a penalty not exceeding twenty-five pounds.

29. Where, on any inspection of a licensed place, the president of the board or the chief officer or his deputy finds that any of the prescribed conditions or requirements are not complied with or fulfilled, the president or chief officer or his deputy 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 and requirements,

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

President of board or chief officer may inspect places established or used for reception of infants.

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

Infant Protection.

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
5 such place as to the board seems fit.

30. 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 under the age of seven years apart from their mothers, and is not licensed under
10 the provisions of this Act, the person in charge of such place shall be liable to a penalty of not exceeding twenty-five 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.

Penalties on person in charge of unlicensed place.

PART IV.

CHILDREN'S COURTS.

15

31. For the purposes of dealing with complaints made under this Act or in respect of children deserted and left without means of support the court shall be constituted by a magistrate.

Court shall be constituted by a magistrate.

32. Upon and during the hearing of any complaint made under
20 this Act, or any complaint in respect of a child deserted or left without means of support, no person shall be or be permitted to be present in court except the following—

Only certain persons to be present at hearing:
Vic. Act No. 1809,
s. 2.

- (a) the adjudicating magistrate, the chief officer, the officers of the court, and a member of the police force;
 - 25 (b) the complainant and the defendant, and their respective barristers and solicitors;
 - (c) the mother or sister, or other relative or friend of the complainant, if desired by such complainant;
 - (d) any person whilst being examined as a witness; and
 - 30 (e) the mother or sister, or female friend of any female witness, if desired by such witness whilst being examined,
- unless the court shall, in the interest of justice, permit any other person to be present.

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PART V.

SUPPLEMENTARY.

33. 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. Recovery of penalties.

34. (1) The Governor may make regulations — Governor may make regulations

- (a) providing for the inspection of places established or used for the reception and care of infants under the age of seven years apart from their mothers ; or
- 10 (b) providing for the notification by persons in charge of such 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
- 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 of the commencement of the next ensuing session.

Legislative Council.

No. , 1904.

A BILL

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

(As amended in Committee of the Whole.)

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:—

5

PART I.

PRELIMINARY.

1. This Act may be cited as the "Infant Protection Act, 1904." 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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c 52—A

"Chief

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

- “Chief officer” means the chief officer within the meaning of the Children’s Protection Act, 1902.
- “Justice” means justice of the peace.
- “Magistrate” means stipendiary or police magistrate.
- “Minister” means the Colonial Secretary. **Minister for the time being administering the State Children Relief Act, 1901.**
- “Preliminary expenses” means the expenses of the maintenance of the mother during a period of one month immediately preceding the birth of her infant, reasonable medical and nursing expenses attendant upon the confinement of the mother, and the expenses of the maintenance of the mother and infant for three months immediately succeeding its birth.
- “Prescribed” means prescribed by this Act or by any regulations made hereunder.

Repeal of Deserted Wives and Children Act.

3. The Deserted Wives and Children Act, 1901, in so far as it relates to complaints in respect of illegitimate children **against the fathers of such children**, and to proceedings consequent upon or incidental to such complaints, is hereby repealed.

PART II.

MAINTENANCE OF INFANTS.

20

Proceedings begun before birth.

Single woman with child may take proceedings against father.

See Imperial Act 35 & 36 Vic. c. 65, s. 3.

4. Where any single woman is with child by any man who has made no adequate provision for the payment of preliminary expenses of and incidental to and immediately succeeding the birth of the infant, or the expenses of the future maintenance of the infant, she, or the chief officer or, **with her consent**, any other reputable person on her behalf, may make complaint **in writing** on oath to any magistrate that she is with child by the said man, and that he has made no adequate provision for the payment of the expenses aforesaid; and shall when making such complaint produce evidence on oath, either oral or on affidavit, in corroboration in some material particular of the allegation as to the paternity of the infant.

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

Court may require defendant to pay preliminary expenses.

See S.A. Act No. 702, ss. 3, 4; Vic. Act, No. 1,684, ss. 2, 3; Imperial Act, 35 and 36 Vic., c. 65, s. 4.

5. The court shall hear and determine so much of such complaint as relates to the paternity of the infant, and may—

- (a) order the defendant to deposit **with the court** a sum not exceeding twenty pounds for preliminary expenses; and

(b)

(b) further order the defendant to enter into a recognizance with one or more good and sufficient sureties to the satisfaction of the court for such amount as the court determines, as a security that within four months from the birth of the infant, and on such day as any magistrate, at any time not later than three months from the said birth, determines, and of which at least fourteen days' notice shall be given to the defendant by or on behalf of the complainant, the defendant will appear and show cause why he should not make such adequate provision as the court determines for the payment of the expenses of the maintenance and education of the infant after it has reached the age of three months. Every such order shall specify a date not later than six months thereafter when the order shall lapse if the infant has not been born, and if upon such date the infant has not been born the order shall lapse and the defendant and his surety or sureties shall be deemed to be released from their recognizances, and the unexpended portion of any moneys paid by the defendant as preliminary expenses shall be repaid to him.

The court shall not find that the woman is with child by the defendant unless it be proved by the evidence of some legally qualified medical practitioner that she is quick with child, and unless her evidence be corroborated in some material particular, or if the court be satisfied that at the time the infant was begotten the mother was a common prostitute.

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

6. If upon the day on which the defendant is bound to show cause as aforesaid, or upon any later day to which the proceedings are adjourned he does not appear, and it is proved to the satisfaction of the court that the infant has been born, and that the order binding the defendant to show cause has not lapsed, the recognizances entered into by the defendant and sureties before the birth shall be forfeited, and the moneys paid on behalf of the mother and infant.

7. If upon the day or later day mentioned in the last preceding section the defendant appears, and it is proved to the satisfaction of the court that the infant has been born and that the order binding the defendant to show cause has not lapsed, the court shall make an order for the payment by the defendant of a sum for the maintenance and education of the infant not less than five shillings and not more than twenty shillings per week.

Proceedings

Proceedings begun after birth.

Complaint may be made against father of illegitimate infant for leaving it without means of support.

(See local Act No. 17, 1901, s. 4; Imperial Act, 35 & 36 Vic., c. 65, s. 3.)

Court shall hear and determine complaint and may make order for maintenance.

8. In any case where the father of an illegitimate infant has left it without means of support, the mother of the infant, or the chief officer, or any other reputable person on behalf of the infant, may make complaint on oath to a magistrate; and shall, when making such complaint, produce evidence on oath, either oral or on affidavit, in corroboration in some material particular of any allegation in such complaint as to the paternity of the infant; and upon such complaint being made, the magistrate may summon the defendant to appear before the court to answer such complaint, or, if the circumstances seem to require it, may issue a warrant for his apprehension. 5 10

9. The Court shall hear and determine the complaint, and may make an order for the payment by the defendant of a sum for the maintenance and education of the infant not less than the rate of five shillings per week and not exceeding the rate of twenty shillings per week. 15

In any order made under this section in respect of a complaint brought within twelve months from the birth of the infant, the court may further order that the preliminary expenses to an amount not exceeding *twenty* pounds shall be paid by the defendant. 20

Miscellaneous.

Person in charge of institution may require mother to make declaration as to paternity of infant.

c.f. S.A. Act No. 210, s. 96.

10. Where any woman has been received into an institution established for the reception of women for confinement, and wholly or partly supported by the public funds or public subscription, and has there been delivered of an infant, or where a mother and her infant, or an infant apart from its mother, have or has been received into an institution established for the reception and care of infants with or without their mothers, and supported in like manner as aforesaid, the person in charge of the institution or the chief officer may, for the purpose of identifying the father of the infant of which the mother has been delivered, or which has been received with or without its mother into the institution, require the mother to make a declaration before a magistrate respecting the paternity of the infant: 25 30

Provided that no woman shall be required to make a declaration under this section, and no magistrate shall receive such declaration unless the magistrate is satisfied that the reasonable expenses of the maintenance of the mother and infant, or of the infant, as the case may be, in the institution have not been paid by or on behalf of the mother or infant for a period of two weeks immediately preceding the making of such declaration. 35 40

The mother of any infant who being required by a person in charge of such an institution as aforesaid, or by the chief officer, to make

make a declaration as aforesaid, shall refuse or neglect so to do, shall for every such offence, on conviction, forfeit and pay a sum not exceeding *twenty-five* pounds.

The mother of any infant who shall wilfully make a false
5 declaration before a magistrate respecting the paternity of her infant shall be deemed guilty of perjury.

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

12. In any order made after the birth of an infant under this
Act in respect of proceedings begun before or after birth, the court
20 may further order the payment by the defendant of the funeral
expenses of the mother if she has died during parturition, or in
consequence of parturition, within one month from the birth of the
child, and the funeral expenses of the child if it has died prior to the
making of the order.

23. In any order under this Act, the court may further order
the payment of such costs by such persons as it thinks fit.

14. If it appears to the court that both the father and mother
of an illegitimate infant are able to contribute to any of the expenses
mentioned in the preceding sections, the court, in making any order,
30 may direct the payment of such expenses by both the father and mother
in such proportions and in such manner as it thinks fit.

15. Every order adjudging any sum to be paid for the
maintenance of an infant may be made to take effect from a date not
earlier than three months immediately preceding the date of the order,
35 or, if a previous order has been made, from the date when the last
preceding order ceased to have effect, and shall be of full force and
validity until the infant has, if a male, attained the age of fourteen
years, or has, if a female, attained the age of sixteen years, or until the
death of such infant if such death occurs within the respective periods
40 above mentioned: Provided that the court may in the order direct
that the payments to be made under it in respect of a male infant
shall continue until the infant attains the age of sixteen years, in
which case such order shall be in force until that period: Provided
also that for the purpose of recovering money previously due under
45 an order it shall always remain of full force and validity.

Security for payment of amount may be ordered.

Deserted Wives and Children Act No. 17, 1901, s. 8.

16. When an order is made under this Act for the payment of any expenses other than preliminary expenses the court may, immediately after pronouncing its decision, require the defendant to enter into a recognizance with sureties for the due performance, for a period not exceeding *twelve* months of such order, and in default of the defendant's immediately entering into such recognizance with the required sureties the court may commit the defendant to prison, there to remain for any term not exceeding *twelve* months or until such recognizance has been entered into or the said order complied with. 5

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

Ibid. s. 10.

17. Where an order has been made under this Act for the payment of expenses, or of moneys secured under recognizances, the court may, in a summary way and with or without any application for that purpose, make such orders in writing as it thinks necessary for better securing the payment and regulating the receipt of the expenses or moneys ordered to be paid, or for investing and applying the proceeds of the goods or rents ordered and directed to be sold or collected, or for ensuring the due appropriation of such expenses or moneys or for causing the child in respect of whom the order was made to be properly brought up and educated. 10

Seizure of defendant's goods. *Ibid.* s. 9.

18. In making any order under this Act, the court may further, by the said order, authorise and direct some person forthwith to seize and sell the defendant's goods and to demand and receive his rents or such portions of the said goods or rents as the court thinks fit, and to appropriate the proceeds towards the payment of the expenses aforesaid in such manner as it from time to time directs, and if it appears on oath that the defendant has theretofore usually resided in New South Wales and has left the said State, the like order may be made and authority given by such court although no warrant or summons has been issued. 20

Disobedience of order may be punished.

Ibid. s. 11.

19. The court may at any time, in a summary way, inquire into any alleged disobedience of or non-compliance with any order made under this Act, and for such purpose may summon and examine all proper parties and witnesses, and may enforce compliance or may punish non-compliance with such order, by the committal of the offender until such order has been complied with, or by the infliction of a penalty not exceeding *fifty* pounds. 25

Court may vary order.

(See Deserted Wives and Children Act No. 17, 1901, s. 21.)

20. The court from time to time may, upon application made by or on behalf of the mother or infant or by or on behalf of the father, and upon notice given in such manner as the court shall direct to all parties to be affected thereby, vary any order made under this Act. 40

Service of summons or notice.

Ibid. s. 5.

21. (1) Every summons or notice under this Act may be served on the defendant personally, or, if he cannot be found, by leaving the same at his last or most usual place of residence.

(2) The person serving the summons or notice may make an affidavit stating the mode and time and place of such service, and such affidavit may be received by the court as proof of the due service of the summons or notice. 45

22. (1) If a defendant against whom a summons has been issued does not appear in accordance therewith, the court, upon proof of the service of the summons, may issue a warrant for his apprehension, or may proceed in the case *ex parte*.
- 5 (2) In every case where a warrant has been issued, and the defendant cannot, after strict inquiry and search, be found to be taken thereon, the court may in like manner proceed in the case *ex parte*.
23. Any magistrate on being satisfied by oath that any defendant is about to remove out of New South Wales, or to remote parts thereof, to defeat any of the provisions of this Act or any order made hereunder, may issue his warrant for the apprehension of such defendant to be dealt with under this Act.
- 10 24. (1) Every person who wilfully refuses or neglects to comply with an order made against him under this Act, and goes or attempts or makes preparation to go beyond New South Wales, or to reside or is resident either permanently or temporarily beyond New South Wales, shall be deemed to be guilty of an indictable offence, punishable by imprisonment with hard labour for a term of not exceeding *twelve* months.
- 15 (2) No person convicted of an offence against this section shall be liable to any other penalty or punishment for such offence.
25. A committal to prison or conviction of an offence under this Act shall not prevent the making or operation of any order for the payment of money or the doing of any act by such person which may be lawfully made.
- 25 26. Whenever the Legislature of any British possession beyond the limits of the United Kingdom of Great Britain and Ireland, the Channel Islands, and the Isle of Man, and other than New South Wales, makes provision whereby the offence of desertion of children, and going to reside beyond the limits of such possession, is constituted an offence whether punishable on indictment or otherwise by imprisonment for a term of *twelve* months or more, then and in every such case every person accused of such offence and coming to New South Wales may be there arrested and dealt with under and pursuant to the provisions of the Act of the Imperial Parliament of Great Britain and Ireland, intituled the Fugitive Offenders Act, 1881, or any Act amending the same.
- 30 27. Every person aggrieved by an order of a court under this Act may appeal to a court of quarter sessions against such order in the manner provided by the Justices Act, 1902, in respect of appeals to courts of quarter sessions: Provided that where an order is made by the court at any place, and a district court is held nearer to that place than a court of quarter sessions, such appeal may be made to such district court in the same manner as an appeal may be made to a court of quarter sessions under the said Act: Provided

Court may proceed *ex parte*.

Deserted Wives and Children Act No 17, 1901, s. 6.

Warrant may issue in certain cases.

Ibid. s. 13.

Certain breaches of Act indictable when offender leaves New South Wales.

(See N.Z., 1894, No. 22, s. 17; Vic., 1901, No. 1737, s. 4.)

Committal to prison not to prevent making or operation of orders.

Persons deserting children in other colony, &c., may be arrested in New South Wales.

(See Vic., 1901, No. 1737, s. 5; N.Z. Act, 58 Vic. No. 22, s. 23.)

44 & 45 Vic., c. 69; 7 V.S. 321.

Appeal to quarter sessions or district court.

Provided also that where an order is made before birth respecting the paternity of an infant, and the party aggrieved by the order gives notice of intention to appeal to a court of quarter sessions or district court, as the case may be, and desires that the appeal shall not be heard before the birth of the infant, such party shall state his or her desire in the notice, and in such case the appeal shall be heard at the first court of quarter sessions or district court, as the case may be, held after a period of one month from the birth has elapsed, or at any court of quarter sessions or district court succeeding such first held court and to which the hearing is postponed, but no appeal shall in such case be heard earlier than such first held court: **Provided also that at the request of either party the infant shall be produced in court.** Where an appeal respecting the paternity of an infant is to be heard after the birth of the infant, no order shall be made under section seven of this Act until and unless such appeal has been heard and determined.

PART III.

CARE OF INFANTS IN INSTITUTIONS.

Control of places established or used for reception of infants.

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

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

The Minister shall thereupon require the board to make inquiry and report respecting such place, and the board shall thereupon make such inquiry, through the president or chief officer, 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.

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

President of board or chief officer may inspect places established or used for reception of infants.

29. 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 president of the board or the chief officer or his deputy duly appointed by the president on 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 president or chief officer or his deputy all reasonable facilities for making such inspection.

Any person who delays, hinders, or obstructs the president or chief officer or his deputy in making any such inspection as aforesaid shall be liable to a penalty not exceeding *twenty-five* pounds.

30. Where, on any inspection of a licensed place, the president of the board or the chief officer or his deputy finds that any of the prescribed conditions or requirements are not complied with or fulfilled, the president or chief officer or his deputy may give such 5 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 10 such place may be removed therefrom by the board and placed in such place as to the board seems fit.

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

31. 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 under the 15 age of seven years apart from their mothers, and is not licensed under the provisions of this Act, the person in charge of such place shall be liable to a penalty of not exceeding *twenty-five* 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.

Penalties on person in charge of unlicensed place.

20

PART IV.

CHILDREN'S COURTS.

32. All complaints made under this Act or in respect of children deserted and left without means of support shall be dealt with by a magistrate, in this Act termed "the court."

Complaints shall be dealt with by magistrate.

25 33. Upon and during the hearing of any complaint made under this Act, or any complaint in respect of a child deserted or left without means of support, no person shall be or be permitted to be present in the court except the following—

Only certain persons to be present at hearing.
Vic. Act No 1809, s. 2

- 30 (a) the adjudicating magistrate, the chief officer, the officers of the court, and a member of the police force;
- (b) the complainant and the defendant, and their respective barristers and solicitors;
- (c) the mother or sister, or other relative or friend of the complainant, if desired by such complainant;
- 35 (d) any person whilst being examined as a witness; and
- (e) the mother or sister, or female friend of any female witness, if desired by such witness whilst being examined,
- unless the court shall, in the interest of justice, permit any other person to be present.

PART V.

SUPPLEMENTARY.

Recovery of
penalties.

Governor may
make regulations

34. 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

35. (1) The Governor may make regulations—

- (a) providing for the inspection of places established or used for the reception and care of infants under the age of seven years 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.

[9d.]

Legislative Council.

No. , 1904.

A BILL

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

[MR. HUGHES;—21 *September*, 1904.]

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:—

5

PART I.

PRELIMINARY.

1. This Act may be cited as the "Infant Protection Act, 1904." 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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"Chief

“Chief officer” means the chief officer within the meaning of the Children’s Protection Act, 1902.

“Justice” means justice of the peace.

“Magistrate” means stipendiary or police magistrate.

“Minister” means the Colonial Secretary. 5

“Preliminary expenses” means the expenses of the maintenance of the mother during a period of one month immediately preceding the birth of her infant, reasonable medical and nursing expenses attendant upon the confinement of the mother, and the expenses of the maintenance of the mother 10 and infant for three months immediately succeeding its birth.

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

Repeal of Deserted
Wives and
Children Act.

3. The Deserted Wives and Children Act, 1901, in so far as it relates to complaints in respect of illegitimate children and to pro- 15 ceedings consequent upon or incidental to such complaints, is hereby repealed.

PART II.

MAINTENANCE OF INFANTS.

Proceedings begun before birth. 20

Single woman
with child may take
proceedings against
father.

See Imperial Act
35 & 36 Vic. c. 65,
s. 3.

4. Where any single woman is with child by any man who has made no adequate provision for the payment of preliminary expenses of and incidental to and immediately succeeding the birth of the infant, or the expenses of the future maintenance of the infant, she, or the chief officer or any other reputable person on her behalf, may make 25 complaint on oath to any magistrate that she is with child by the said man, and that he has made no adequate provision for the payment of the expenses aforesaid; and shall when making such complaint produce evidence on oath, either oral or on affidavit, in corroboration in some material particular of the allegation as to the paternity of the infant. 30

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

Court may require
defendant to pay
preliminary
expenses.

See S.A. Act No. 702,
ss. 3, 4; Vic. Act,
No. 1,684, ss. 2 3;
Imperial Act, 35 and 36
Vic., c. 65, s. 4.

5. The court shall hear and determine so much of such complaint as relates to the paternity of the infant, and may— 35

(a) order the defendant to deposit a sum not exceeding twenty pounds for preliminary expenses; and

(b)

(b) further order the defendant to enter into a recognizance with one or more good and sufficient sureties to the satisfaction of the court for such amount as the court determines, as a security that within four months from the birth of the infant, and on such day as any magistrate, at any time not later than three months from the said birth, determines, and of which at least fourteen days' notice shall be given to the defendant by or on behalf of the complainant, the defendant will appear and show cause why he should not make such adequate provision as the court determines for the payment of the expenses of the maintenance and education of the infant after it has reached the age of three months. Every such order shall specify a date not later than six months thereafter when the order shall lapse if the infant has not been born, and if upon such date the infant has not been born the order shall lapse and the defendant and his surety or sureties shall be deemed to be released from their recognizances, and the unexpended portion of any moneys paid by the defendant as preliminary expenses shall be repaid to him.

The court shall not find that the woman is with child by the defendant unless it be proved by the evidence of some legally qualified medical practitioner that she is quick with child, and unless her evidence be corroborated in some material particular, or if the court be satisfied that at the time the infant was begotten the mother was a common prostitute.

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

6. If upon the day on which the defendant is bound to show cause as aforesaid, or upon any later day to which the proceedings are adjourned he does not appear, and it is proved to the satisfaction of the court that the infant has been born, and that the order binding the defendant to show cause has not lapsed, the recognizances entered into by the defendant and sureties before the birth shall be forfeited, and the moneys paid on behalf of the mother and infant.

7. If upon the day or later day mentioned in the last preceding section the defendant appears, and it is proved to the satisfaction of the court that the infant has been born and that the order binding the defendant to show cause has not lapsed, the court shall make an order for the payment by the defendant of a sum for the maintenance and education of the infant not less than five shillings and not more than twenty shillings per week.

Proceedings begun after birth.

Complaint may be made against father of illegitimate infant for leaving it without means of support. (See local Act No. 17, 1901, s. 4; Imperial Act, 35 & 36 Vic., c. 65, s. 3.)

Court shall hear and determine complaint and may make order for maintenance.

8. In any case where the father of an illegitimate infant has left it without means of support, the mother of the infant, or the chief officer, or any other reputable person on behalf of the infant, may make complaint on oath to a magistrate; and shall, when making such complaint, produce evidence on oath, either oral or on affidavit, in corroboration in some material particular of any allegation in such complaint as to the paternity of the infant; and upon such complaint being made, the magistrate may summon the defendant to appear before the court to answer such complaint, or, if the circumstances seem to require it, may issue a warrant for his apprehension. 5

9. The Court shall hear and determine the complaint, and may make an order for the payment by the defendant of a sum for the maintenance and education of the infant not less than the rate of five shillings per week and not exceeding the rate of twenty shillings per week. 10

In any order made under this section in respect of a complaint brought within twelve months from the birth of the infant, the court may further order that the preliminary expenses to an amount not exceeding *twenty* pounds shall be paid by the defendant. 20

Miscellaneous.

Person in charge of institution may require mother to make declaration as to paternity of infant.

c.f. S.A. Act No. 210, s. 96.

10. Where any woman has been received into an institution established for the reception of women for confinement, and wholly or partly supported by the public funds or public subscription, and has there been delivered of an infant, or where a mother and her infant, or an infant apart from its mother, have or has been received into an institution established for the reception and care of infants with or without their mothers, and supported in like manner as aforesaid, the person in charge of the institution or the chief officer may, for the purpose of identifying the father of the infant of which the mother has been delivered, or which has been received with or without its mother into the institution, require the mother to make a declaration before a magistrate respecting the paternity of the infant: 25

Provided that no woman shall be required to make a declaration under this section, and no magistrate shall receive such declaration unless the magistrate is satisfied that the reasonable expenses of the maintenance of the mother and infant, or of the infant, as the case may be, in the institution have not been paid by or on behalf of the mother or infant for a period of two weeks immediately preceding the making of such declaration. 30

The mother of any infant who being required by a person in charge of such an institution as aforesaid, or by the chief officer, to make 40

make a declaration as aforesaid, shall refuse or neglect so to do, shall for every such offence, on conviction, forfeit and pay a sum not exceeding *twenty-five* pounds.

The mother of any infant who shall wilfully make a false
5 declaration before a magistrate respecting the paternity of her infant shall be deemed guilty of perjury.

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

12. In any order made after the birth of an infant under this
Act in respect of proceedings begun before or after birth, the court
20 may further order the payment by the defendant of the funeral
expenses of the mother if she has died during parturition, or in
consequence of parturition, within one month from the birth of the
child, and the funeral expenses of the child if it has died prior to the
making of the order.

25 13. In any order under this Act, the court may further order
the payment of such costs by such persons as it thinks fit.

14. If it appears to the court that both the father and mother
of an illegitimate infant are able to contribute to any of the expenses
mentioned in the preceding sections, the court, in making any order,
30 may direct the payment of such expenses by both the father and mother
in such proportions and in such manner as it thinks fit.

15. Every order adjudging any sum to be paid for the
maintenance of an infant may be made to take effect from a date not
earlier than three months immediately preceding the date of the order,
35 or, if a previous order has been made, from the date when the last
preceding order ceased to have effect, and shall be of full force and
validity until the infant has, if a male, attained the age of fourteen
years, or has, if a female, attained the age of sixteen years, or until the
40 death of such infant if such death occurs within the respective periods
above mentioned: Provided that the court may in the order direct
that the payments to be made under it in respect of a male infant
shall continue until the infant attains the age of sixteen years, in
which case such order shall be in force until that period: Provided
45 also that for the purpose of recovering money previously due under
an order it shall always remain of full force and validity.

Women may in certain cases be compelled to testify.

Court may order payment of funeral expenses of mother and child.
(See 35 & 36 Vic., c. 65, s. 4.)

Court may order payment of costs.

Mother also to contribute to expenses of maintenance.
(See Deserted Wives and Children Act No. 17, 1901, s. 7; N.Z. Act 58 Vic. No. 22, s. 10.)

Period for which orders for maintenance may be made.

(c.f. Imperial Act 35 & 36 Vic., c. 65, s. 5; N.Z. Act 58 Vic. No. 22, s. 9.)

Security for payment of amount may be ordered.

Deserted Wives and Children Act No. 17, 1901, s. 8.

16. When an order is made under this Act for the payment of any expenses other than preliminary expenses the court may, immediately after pronouncing its decision, require the defendant to enter into a recognizance with sureties for the due performance, for a period not exceeding *twelve* months of such order, and in default of the defendant's immediately entering into such recognizance with the required sureties the court may commit the defendant to prison, there to remain for any term not exceeding *twelve* months or until such recognizance has been entered into or the said order complied with. 5

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

Ibid. s. 10.

17. Where an order has been made under this Act for the payment of expenses, or of moneys secured under recognizances, the court may, in a summary way and with or without any application for that purpose, make such orders in writing as it thinks necessary for better securing the payment and regulating the receipt of the expenses or moneys ordered to be paid, or for investing and applying the proceeds of the goods or rents ordered and directed to be sold or collected, or for ensuring the due appropriation of such expenses or moneys or for causing the child in respect of whom the order was made to be properly brought up and educated. 10 15

Seizure of defendant's goods.

Ibid. s. 9.

18. In making any order under this Act, the court may further, by the said order, authorise and direct some person forthwith to seize and sell the defendant's goods and to demand and receive his rents or such portions of the said goods or rents as the court thinks fit, and to appropriate the proceeds towards the payment of the expenses aforesaid in such manner as it from time to time directs, and if it appears on oath that the defendant has theretofore usually resided in New South Wales and has left the said State, the like order may be made and authority given by such court although no warrant or summons has been issued. 20 25

Disobedience of order may be punished.

Ibid. s. 11.

19. The court may at any time, in a summary way, inquire into any alleged disobedience of or non-compliance with any order made under this Act, and for such purpose may summon and examine all proper parties and witnesses, and may enforce compliance or may punish non-compliance with such order, by the committal of the offender until such order has been complied with, or by the infliction of a penalty not exceeding *fifty* pounds. 30 35

Court may vary order.

(See Deserted Wives and Children Act No. 17, 1901, s. 21.)

20. The court from time to time may, upon application made by or on behalf of the mother or infant or by or on behalf of the father, and upon notice given in such manner as the court shall direct to all parties to be affected thereby, vary any order made under this Act. 40

Service of summons or notice.

Ibid. s. 5.

21. (1) Every summons or notice under this Act may be served on the defendant personally, or by leaving the same at his last or most usual place of residence.

(2) The person serving the summons or notice may make an affidavit stating the mode and time and place of such service, and such affidavit may be received by the court as proof of the due service of the summons or notice. 45 22.

22. (1) If a defendant against whom a summons has been issued does not appear in accordance therewith, the court, upon proof of the service of the summons, may issue a warrant for his apprehension, or may proceed in the case *ex parte*. Court may proceed *ex parte*. Deserted Wives and Children Act No 17, 1901, s. 6.
- 5 (2) In every case where a warrant has been issued, and the defendant cannot, after strict inquiry and search, be found to be taken thereon, the court may in like manner proceed in the case *ex parte*.
23. Any magistrate on being satisfied by oath that any defendant is about to remove out of New South Wales, or to remote parts thereof, to defeat any of the provisions of this Act or any order made hereunder, may issue his warrant for the apprehension of such defendant to be dealt with under this Act. Warrant may issue in certain cases. *Ibid.* s. 13.
- 10 24. (1) Every person who wilfully refuses or neglects to comply with an order made against him under this Act, and goes or attempts or makes preparation to go beyond New South Wales, or to reside or is resident either permanently or temporarily beyond New South Wales, shall be deemed to be guilty of an indictable offence, punishable by imprisonment with hard labour for a term of not exceeding *twelve* months. Certain breaches of Act indictable when offender leaves New South Wales. (See N.Z., 1894, No. 22, s. 17; Vic., 1901, No. 1737, s. 4.)
- 15 (2) No person convicted of an offence against this section shall be liable to any other penalty or punishment for such offence.
- 20 25. A committal to prison or conviction of an offence under this Act shall not prevent the making or operation of any order for the payment of money or the doing of any act by such person which may be lawfully made. Committal to prison not to prevent making or operation of orders.
- 25 26. Whenever the Legislature of any British possession beyond the limits of the United Kingdom of Great Britain and Ireland, the Channel Islands, and the Isle of Man, and other than New South Wales, makes provision whereby the offence of desertion of children, and going to reside beyond the limits of such possession, is constituted an offence whether punishable on indictment or otherwise by imprisonment for a term of *twelve* months or more, then and in every such case every person accused of such offence and coming to New South Wales may be there arrested and dealt with under and pursuant to the provisions of the Act of the Imperial Parliament of Great Britain and Ireland, intituled the Fugitive Offenders Act, 1881, or any Act amending the same. Persons deserting children in other colony, &c., may be arrested in New South Wales. (See Vic., 1901, No. 1737, s. 5; N.Z. Act, 58 Vic. No. 22, s. 23.) 44 & 45 Vic., c. 69; 7 V.S. 321.
- 30 27. Every person aggrieved by an order of a court under this Act may appeal to a court of quarter sessions against such order in the manner provided by the Justices Act, 1902, in respect of appeals to courts of quarter sessions: Provided that where an order is made by the court at any place, and a district court is held nearer to that place than a court of quarter sessions, such appeal may be made to such district court in the same manner as an appeal may be made to a court of quarter sessions under the said Act: Appeal to quarter sessions or district court.
- 40
45 Provided

Provided also that where an order is made before birth respecting the paternity of an infant, and the party aggrieved by the order gives notice of intention to appeal to a court of quarter sessions or district court, as the case may be, and desires that the appeal shall not be heard before the birth of the infant, such party shall state his or her desire in the notice, and in such case the appeal shall be heard at the first court of quarter sessions or district court, as the case may be, held after a period of one month from the birth has elapsed, or at any court of quarter sessions or district court succeeding such first held court and to which the hearing is postponed, but no appeal shall in such case be heard earlier than such first held court. Where an appeal respecting the paternity of an infant is to be heard after the birth of the infant, no order shall be made under section seven of this Act until and unless such appeal has been heard and determined.

PART III.

15

CARE OF INFANTS IN INSTITUTIONS.

Control of places established or used for reception of infants.

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

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

The Minister shall thereupon require the board to make inquiry and report respecting such place, and the board shall thereupon make such inquiry, through the president or chief officer, 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.

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

President of board or chief officer may inspect places established or used for reception of infants.

29. 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 president of the board or the chief officer 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 president or chief officer all reasonable facilities for making such inspection.

Any person who delays, hinders, or obstructs the president or chief officer in making any such inspection as aforesaid shall be liable to a penalty not exceeding *twenty-five* pounds.

30.

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30. Where, on any inspection of a licensed place, the president of the board or the chief officer finds that any of the prescribed conditions or requirements are not complied with or fulfilled, the president or chief 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.

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

31. 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 under the age of seven years apart from their mothers, and is not licensed under the provisions of this Act, the person in charge of such place shall be liable to a penalty of not exceeding *twenty-five* 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.

Penalties on person in charge of unlicensed place.

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PART IV.

CHILDREN'S COURTS.

32. All complaints made under this Act or in respect of children deserted and left without means of support shall be dealt with by a magistrate, in this Act termed "the court."

Complaints shall be dealt with by magistrate.

33. Upon and during the hearing of any complaint made under this Act, or any complaint in respect of a child deserted or left without means of support, no person shall be or be permitted to be present in the court except the following—

Only certain persons to be present at hearing. Vic. Act No 1809, s. 2.

- (a) the adjudicating magistrate, the chief officer, the officers of the court, and a member of the police force;
 - (b) the complainant and the defendant, and their respective barristers and solicitors;
 - (c) the mother or sister, or other relative or friend of the complainant, if desired by such complainant;
 - (d) any person whilst being examined as a witness; and
 - (e) the mother or sister, or female friend of any female witness, if desired by such witness whilst being examined,
- unless the court shall, in the interest of justice, permit any other person to be present.

PART V.

SUPPLEMENTARY.

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34. 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

35. (1) The Governor may make regulations—

- (a) providing for the inspection of places established or used for the reception and care of infants under the age of seven years apart from their mothers ; or
- (b) providing for the notification by persons in charge of such places of the reception or death of infants, and of other particulars respecting infants received into such places ; 10
- (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.