

case may be) as from which the payment or increased payment is to take place, and such parent shall be liable to make such payment or increased payment accordingly.

Judge &c. committing parent to order maintenance in first instance if the evidence sufficient.

49. The judge or chairman of the court or justices committing any child to the care of the Department for Neglected Children or to a reformatory school shall by the same order fix the amount payable by the parent or parents for the maintenance of such child if the evidence before such judge chairman or justices is sufficient.

Order may be made either while the child is a ward of the Department or afterwards.

50. An order fixing or increasing the sum payable by any parent may be made at any time either while the child remains a ward of the Department or inmate or after the child has ceased to be such ward or inmate.

Burden of showing inability to pay to be on parent who may be ordered to give recognisances.

51. In any proceeding for fixing or increasing the amount of the sum payable by any parent for the maintenance of any child under the provisions of this Part of this Act such parent shall be presumed to be able to pay the sum of Twelve shillings a week unless the contrary is shown; and any parent may be ordered by the judge chairman or justices to enter into recognisances with or without some sufficient surety or sureties conditioned for compliance with the order as to payment of maintenance and to be imprisoned until such recognisances are entered into.

By whom applications may be made.

52. Applications to fix or increase the sum payable by any parent, or to vary or revoke any order suspending or dispensing with payment or to recover payment of the same, may be made by or on behalf of any person authorized by any general or special order of the Minister.

Maintenance money how payable.

53. Every such sum shall be a debt due to Her Majesty by such parent, and shall be paid by such parent at the several times appointed for paying the same to some clerk of petty sessions or other collector of imposts appointed by the Governor in Council to receive the same.

Certificate &c. in insolvency not a discharge.

54. No sequestration liquidation by arrangement certificate of discharge release from sequestration discharge or acceptance of a composition under any law now or hereafter to be in force relating to insolvency shall discharge any parent from liability to pay any such sum or any part thereof.

Persons too poor to pay may be relieved from payment.

Compare No. 216 s. 26.

55. If any parent liable under the provisions of this Act to pay any such sum as aforesaid be so poor as to be unable to pay the said sum, any two justices may upon the application of any such parent from time to time make an order suspending payment of the whole or any part of such sum for any time not exceeding six months, or reducing the amount payable or altogether dispensing with payment of the said sum, and any two justices may from time to time upon the application of any person authorized as aforesaid vary or revoke any such order

order, and payment of such sum or any part thereof of which payment may be suspended shall not be enforced while such suspension lasts, but no such parent shall be therefore discharged from liability to pay the same.

56. In addition to any other remedy for the recovery thereof every such sum and every part thereof may be recovered before any two justices on the complaint of any person authorized as aforesaid to sue for the same; and if such parent do not pay the amount due forthwith or within any time not exceeding seven days that such justices may fix or prove to the satisfaction of such justices that he has not then and has not had since the order made against him sufficient means and ability to pay the amount due or any part thereof and that he does not intend to go away with intent to evade payment such parent shall be liable to be imprisoned with or without hard labour if the amount due do not exceed Twenty pounds for any term not exceeding one month, and if the amount due exceed Twenty pounds for any time not exceeding three months unless the amount due together with the costs of the proceedings be sooner paid, or unless security be given with one or more sufficient sureties to the satisfaction of any two justices for payment of such amount and costs by instalments or otherwise within such reasonable time as to such justices may seem fit.

Payment may be recovered before justices.
Compare No. 216 s. 28.

57. No imprisonment as aforesaid shall discharge any parent from his liability to pay any sum he has not paid, but no parent shall be imprisoned twice for non-payment of the same arrears.

Imprisonment to be ordered only once for the same arrears.

58. If it be made to appear to any justice upon the complaint in writing of any person authorized as aforesaid to sue for the same that any parent has neglected to pay any such sum or any part thereof to the clerk of the court or other collector of imposts appointed to receive the same on any day on which the same is payable, such justice may issue his warrant for apprehending such parent and bringing him before any two justices to answer the said complaint and to be further dealt with according to law, but a summons may issue in the first instance instead of a warrant if that be thought more desirable.

Warrant may issue in the first instance for arrest of parent.
Compare No. 216 s. 27.

59. In this Part of this Act "parent" shall include "father" "mother" "stepfather" or "stepmother" and any person against whom an order of affiliation has been made as the putative father of any illegitimate child, and shall include mother or stepmother notwithstanding a father or stepfather of the child is alive, also the putative father of any illegitimate child which he may have recognised as his though no order of affiliation may have been made against him.

Definition of parent.
Compare No. 216 s. 24.
No. 495 s. 10.

And

Where several liable,

And where more persons than one are liable to contribute to the maintenance of any child under the provisions of this Part of this Act one order may be made against all of them or separate orders may be made against each or any of them jointly or severally as to the judge chairman or justices may seem fit, so that such persons shall not be liable to pay more than Twelve shillings a week in the aggregate in respect of any one child.

Constables to assist in collecting money from parents.

60. All clerks of courts constables and peace officers shall assist every collector of imposts appointed to receive the same in the recovery of the moneys payable to Her Majesty by the parents of wards of the Department and inmates, and in particular by obtaining and furnishing information as to the residence occupation movements and means of every such parent who may be in or may leave any district of which such clerk constable or peace officer has charge or in which he is on duty.

Percentage payable to persons assisting in the recovery of moneys from parents.

61. For the more effectual enforcing the liability of parents of wards of the Department and inmates to contribute to their maintenance a percentage upon the moneys received from parents hereunder or under any previous Act may be paid out of the consolidated revenue to any persons authorized by the Governor in Council who have assisted in recovering such moneys not being persons bound to devote their whole time to the public service by virtue of any other engagement, and the consolidated revenue is hereby appropriated for that purpose accordingly; and such percentage shall be of such amount and payable to such persons and on such conditions as may be for the time being determined by the regulations of the Governor in Council.

PART VIII.—COMMITTAL TO THE CARE OF PRIVATE PERSONS.

Power to the Governor in Council to approve private persons or institutions to have the care of neglected children.

62. Any private person and any institution formed by private persons empowered in that behalf desirous of taking charge of a neglected child or neglected children gratuitously may be from time to time approved by the Governor in Council as a person or institution to whose care neglected children may be committed under the provisions of this Act, and the Governor in Council may revoke any such order; and every such order approving of any such institution and every revocation of any such order approving of any such institution shall be published in the *Government Gazette*.

Managers of institutions to be approved by the Governor in Council. *Gazette* evidence of their appointment.

63. Every order approving any institution as an institution to the care of which neglected children may be committed hereunder shall name some person as the manager of such institution, and when from time

time to time the manager of any such institution is changed every new manager shall be submitted to the Governor in Council for his approval, and the order approving of such manager shall be published in the *Government Gazette*, and any copy of the *Government Gazette* purporting to contain any such order shall be conclusive evidence that the person named therein on that behalf is the manager of any such institution.

64. Where under the provisions of this Act any judge chairman of any court or any justices may be empowered to commit any child to the care of the Department for Neglected Children such judge chairman or justices may commit such child to the care of any person or institution for the time being approved by the Governor in Council hereunder as a person or institution to whose care neglected children may be committed, which person or institution by writing under his hand or the hand of its manager (as the case may be) may consent to accept the care of such child.

Power to judge justices &c. to commit children to the care of approved person instead of the Department.

65. Whenever any child is committed to the care of any person or institution as aforesaid such person or the manager of such institution shall become the guardian of the person and estate of such child to the exclusion of the father and every other guardian until such child attains the age of eighteen years or such greater age not exceeding twenty-one years as the Governor in Council may direct, unless such child is sooner discharged, and such person shall have the sole right to the custody of such child, and such manager shall have the sole right to the custody of such child as on behalf of such institution, subject in both cases to the provisions of this Act and to the Regulations of the Governor in Council in force hereunder.

Approved person or manager of approved institution to whose care children are committed to become their guardians.

66. Upon the publication of any order of the Governor in Council hereunder in the *Government Gazette* approving of any person as the manager of any such institution in the place of any other person, the manager so approved shall become the guardian of the person of every child of whose person and of the estate of every child of whose estate the manager in whose place he is so approved was the guardian under the provisions of this Part of this Act in the place of the manager in whose place he is so approved.

New managers of approved institutions to succeed to the guardianship.

67. No judge chairman or justices shall commit any child to the care of any such person or institution if the father or other person having the right to direct in what religion such child shall be educated object, or so that such child may be educated in a religion different from that in which it would be the duty of any guardian of such child appointed by the Supreme Court to direct such child to be educated.

Child not to be committed to care of approved person or institution if father &c. object or so as to be educated in a different religion.

68. The father of any child or the mother of any child being the guardian of such child may by writing signed before a justice of the peace

Power to father or mother being guardian to transfer the

guardianship of any child to approved person or institution.

peace commit the care of such child to any person or institution approved by the Governor in Council as a person or institution to whose care neglected children may be committed, and such person or institution by writing under his hand or the hand of its manager (as the case may be) may consent to accept the care of such child, and thereupon such person or the manager of such institution on behalf of such institution shall become the guardian of the person and estate of such child during its minority, to the exclusion of such father or mother and every other guardian.

Approved person or institution to permit children to be visited and inspected.

69. Every person or institution to whose care any child may be committed under the provisions of this Act, whether by any judge chairman or justices or by the father or mother of such child, and every person intrusted with the care of any such child by any such person or institution shall from time to time permit such child to be visited and any place where such child may be or reside to be inspected by the inspector or any person authorized by or under the regulations of the Governor in Council for the time being in force in that behalf.

Transmission of guardianship upon death of approved person or revocation of approval of person or institution.

70. Upon the death of any person having the care of any child by virtue of any order made under this Part of this Act, or upon the revocation of the order approving of any such person or of any institution, the Governor in Council may appoint some other person or institution approved as aforesaid in place of the person so dying or the person or institution the order approving of whom or which is revoked, and thereupon the same consequences shall ensue as upon an order of any judge chairman or justices made under the provisions of this Part of this Act committing the care of every child of whom such person or institution was guardian by virtue of any order made under this Part of this Act to the care of the person or institution so appointed, and in the meantime unless and until such other person or institution be so appointed the same consequences shall ensue as if upon the date of such death or of the revocation of such order an order had been made hereunder committing every child of whom such person or institution was guardian by virtue of any order made under the provisions of this Part of this Act to the care of the Department for Neglected Children.

A person or institution may be appointed in the place of a person or institution the order approving of whom or which is revoked by the order by which the revocation is made or by any subsequent order.

The order appointing an institution in the place of another institution shall be published in the *Government Gazette*.

Guardianship of approved person or institution to cease on revocation of approval.

71. Upon the revocation of any order approving of any person or institution as a person or institution to whose care neglected children may be committed, such person or the manager of such institution shall cease to be guardian of the person or estate of any child under the provisions of this Part of this Act, whether such child be under the

care

care of such person or institution by virtue of any order made under this Part of this Act or of any writing signed as aforesaid by the father or mother of such child.

72. Every order committing a child to the care of any approved person or institution hereunder may be in such form as may be prescribed by the regulations of the Governor in Council for the time being in force in that behalf or to the like effect, and such order or an office copy thereof without any warrant shall be a sufficient authority for any constable to take such child to such person or institution.

Form of order committing child to care of approved person or institution.

73. No warrant shall be necessary to authorize the detention of any child in the care of any approved person or institution hereunder, but if the right to the custody of such child be called in question by *habeas corpus* or otherwise, it shall be sufficient to give in evidence the order committing such child to the care of such person or institution and to show that such child is detained by the authority of such person or institution or the manager of such institution.

Warrant for detention of child by approved person or institution.

74. If any person or institution having the care of any child by virtue of any order made under the provisions of this Part of this Act or the manager of any such institution desire for any cause sufficient in the opinion of any two justices to be relieved of the care of such child, such justices may order such child to be committed to the care of the Department for Neglected Children.

Power to transfer child to the care of the Department for Neglected Children.

75. No person who whether as manager of any institution or otherwise is guardian of the person of any child by virtue of any order under the provisions of this Part of this Act shall remove such child or suffer such child to be removed out of Victoria without the consent of the Minister being first obtained.

Child not to be removed out of Victoria.

76. Every person who whether as the manager of any institution or otherwise is guardian of the estate of any child under the provisions of this Part of this Act shall keep proper accounts of his receipts and expenditure as such guardian in such form (if any) as may be for the time being prescribed by the regulations of the Governor in Council in force hereunder, and shall once at least in every year forward copies of such accounts to the Attorney-General.

Guardian of estate to keep accounts.

77. Where any child being then destitute has been without objection on the part of its father or other guardian received into any asylum for the care and management of destitute children incorporated under the Act No. CCXX. the by-laws of which have been approved by the Governor in Council and maintained at the expense of such asylum for a period of two years or upwards, the father or other guardian of such child shall not be entitled to remove such child out of the custody of such asylum or the committee thereof without the consent of such committee or the order of the Governor in Council unless such father or

Children received into and maintained in asylums without objection on the part of their fathers or guardians for two years not removable without the consent of the committee or order of the Governor in Council.

or guardian can show that he was ignorant that such child was being so maintained and that he has not been guilty of negligence with regard to such child during the period such child has been so maintained, and the committee of such asylum shall have the custody of the person of such child until such child attains the age of eighteen years.

PART IX.—EMPLOYMENT OF CHILDREN.

Registration of children under certain age.

78. Any child under the age at which attendance at school ceases to be compulsory under any law now or hereafter to be in force relating to education may be registered for the purpose of this Act in manner hereinafter appearing. Such child accompanied by its parent, or if the child is not resident with its parent by some adult person with whom such child resides, may apply to a clerk of petty sessions at a place near where such child resides and deliver to such clerk either a certificate of an inspector of schools that such child has been educated up to the standard or a certificate or certificates by the head master or teacher of some State or other school showing that such child has attended school the number of days required by law during the preceding twelve months, and inform such clerk of the name age and residence of such child and of the name residence and occupation of its father, or if it has no father of its mother, or if the child has neither father nor mother of some adult person with whom the child is or has recently been residing, and the clerk shall enter the said particulars in a book, and the parent or other adult person accompanying such child shall sign the same, and thereupon the clerk shall certify under his hand that the child had been registered on that date, and the registration of any child may be renewed in like manner. Every registration of a child for the purposes of this Act shall continue in force for a period of twelve months and not longer.

Penalty on employing a child under certain age who is not registered.

79. If any person after the commencement of this Act knowingly or without reasonable excuse the proof whereof shall be on such person keep or take in or into any casual employment any child under the age at which attendance at school ceases to be compulsory under any law now or hereafter to be in force relating to education not duly registered under the provisions of this Act or after the registration of any such child has expired, every person so offending on conviction of any such offence before any two justices shall be liable to a penalty not exceeding One pound for every day such child is so in his employ and not exceeding Five pounds in the whole.

Penalty on forging or fraudulently obtaining or using a certificate of registration of a child.

80. If any person for the purpose of obtaining a certificate of registration under the provisions of this Act of any child sign any statement not true to the best of such person's knowledge information and belief, he shall on conviction before any two justices be liable to a penalty not exceeding Ten pounds or to be imprisoned for any time not exceeding fourteen days, and if any person forge any such certificate

or

or produce or use any such certificate which is to the knowledge of such person forged or fraudulently obtained every such person so offending on conviction of any such offence before any two justices shall be liable to be imprisoned for any time not exceeding six months.

PART X.—OFFENCES PENALTIES AND LEGAL PROCEEDINGS.

81. If any person without lawful authority or excuse—

- (1.) Holds or attempts to hold any communication with any ward of the Department for Neglected Children in any receiving depôt industrial or probationary school or any child in any institution approved by the Governor in Council hereunder; or
- (2.) Enters any receiving depôt industrial or probationary school or any building yard or ground belonging thereto or to any such institution as aforesaid and does not depart therefrom when required to do so by the superintendent matron or other officer or servant of such depôt institution or school—

Penalty for entering schools &c. or holding communication with wards of the Department. No. 216 s. 41.

every person so offending on conviction of any such offence before any two justices shall be liable to a penalty not exceeding Twenty pounds.

82. If the superintendent or matron of any receiving depôt industrial or probationary school or any teacher officer or servant thereof negligently or voluntarily permits any ward of the Department to escape, every person so offending shall on conviction of any such offence before any two justices be liable to a penalty not exceeding Twenty pounds

Penalty for allowing ward of the Department to escape. Ib. s. 38.

83. If any person directly or indirectly—

- (1.) Withdraws unlawfully any ward of the Department for Neglected Children or child or counsels or induces any such ward or child to abscond from any receiving depôt industrial or probationary school or institution approved by the Governor in Council hereunder or from any person to or with whom such ward or child is licensed placed or boarded out or who has custody of such child under the provisions of this Act; or
- (2.) Knowing any such ward or child to have been so withdrawn or to have so absconded harbours or conceals or assists in harbouring or concealing such ward or child or prevents such ward or child from returning to the depôt school or institution from which or the person from whom such ward or child has been so withdrawn or has so absconded; or
- (3.) Being a person to or with whom any such ward or child is licensed placed or boarded out or having the control of any such child ill-treats or neglects to discharge his duty to such ward or child— every

Penalty for inducing any ward of the Department to abscond &c. or ill treating any such ward. Ib. s. 40. No. 495 ss. 15, 16.

every person so offending on conviction of any such offence before any two justices shall be liable to a penalty not exceeding Ten pounds or to be imprisoned for any time not exceeding fourteen days.

Penalty for seducing
ward of the
Department.
Compare No. 626
s. 7.

84. If any person—

- (1.) For the purpose of prostitution or defilement inveigles or entices any unmarried female ward of the Department for Neglected Children or child apparently under the age of eighteen years from any receiving depôt industrial or probationary school or institution or from the house or other place where or from any person to or with whom she may be licensed placed boarded out or apprenticed under the provisions of this Act or to whose custody she may be committed; or
- (2.) Carnally knows any such female who is apparently under the age of fifteen years in any such depôt school house institution or place; or
- (3.) Being the person to or with whom such female is licensed placed or apprenticed carnally knows any such female who is apparently under the age of eighteen years; or
- (4.) Aids or assists any person in any of the foregoing offences—

every person so offending shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for any term not exceeding three years. Provided that no conviction shall be had under the provisions of this section on the unsupported testimony of any one witness, nor unless proceedings be taken within six months after the commission of the offence. Provided also that nothing in this section shall exempt any person from prosecution under any other law but no person shall be punished for the same offence both under this section and any other law.

Power to forfeit
or retain earnings
of ward for mis-
behaviour.

Compare No. 495
s. 19.

85. If any ward of the Department for Neglected Children is guilty of any misbehaviour, of which the Minister shall be the sole judge—

- (1.) The Minister may order the whole or any part of any moneys to which such ward is entitled, invested on deposit with the Postmaster-General under any law now or hereafter to be in force relating to post-office deposit for savings, to be applied in making good to Her Majesty or any other person any loss or expense occasioned by the misbehaviour of such ward. And for the purpose of carrying out the powers contained in this section the Minister may sign an order on the Postmaster-General directing payment to the Secretary or his order of the whole or any part of such money, and the Postmaster-General shall pay the same accordingly.
- (2.) The

- (2.) The Minister may direct the whole of such moneys to be withheld from such ward, notwithstanding such ward may have come of age, until proof of the good conduct of such ward for a period of twelve months be given to the satisfaction of the Minister.

86. For the more effectual prosecution of all offences against this Act, any person found committing any such offence may be immediately apprehended without a warrant by any constable and forthwith taken before some neighbouring justice to be dealt with according to law.

Constable to apprehend offenders without warrant. No. 216 s. 42.

87. No proceedings shall be taken in any court touching the conduct of the Secretary as guardian of the person or estate of any person or in respect of anything done or omitted or purported to be done or omitted under the provisions of this Act without the previous consent in writing of the Attorney-General.

Consent of the Attorney-General required to proceedings against Secretary &c. in his character of guardian.

88. When for the purpose of exercising any of the powers conferred by this Act it is necessary to determine the age of any person the court or justices dealing with the case shall determine such age as they may be best able having regard to the evidence before them, or if there is no other sufficient evidence to the appearance of such person, and every order directing any person to be committed to the care of the Department for Neglected Children or to a reformatory school or to the care of any person or institution shall state the age of the person so committed as determined by the court or justices making such order, and the statement of the age of any such person contained in any such order shall be conclusive for the purposes of this Act.

Determination of age by the court to be conclusive.

PART XI.—REGULATIONS OF THE GOVERNOR IN COUNCIL.

89. The Governor in Council may from time to time by Order, to be published in the *Government Gazette*, make alter and repeal regulations for the following purposes:—

Power to make regulations.

- (1.) The conduct management inspection and supervision of receiving depôts industrial and probationary schools: Ib. s. 5.
- (2.) The employment education supervision and correction of wards of the Department for Neglected Children: Provided that no such regulation shall permit any corporal punishment except such as may be lawfully inflicted by schoolmasters: Ib.
- (3.) The boarding out of wards of the Department for Neglected Children: No. 495 s. 13.
- (4.) The placing out at service or apprenticing of wards of the Department for Neglected Children either on land or at sea: Ib. s. 20.
- (5.) Fixing what (if any) percentage upon moneys recovered from parents shall be paid to persons who have assisted in recovering the same, and the persons to whom and the times at which and the conditions on which such percentage is to be paid: (6.) Prescribing

- (6.) Prescribing the forms of orders warrants bonds and other instruments to be used by courts judges justices the various officers mentioned in this Act and others in carrying into execution this Act:
- (7.) The collection and investment either with the Postmaster-General under any law now or hereafter to be in force relating to post-office deposit for savings or otherwise of any earnings of any ward of the Department for Neglected Children and the application thereof or any part thereof:
- (8.) Prescribing the method of keeping accounts of payments and moneys payable under the provisions of this Act:
- (9.) Prescribing the times and conditions during and under which and not longer or otherwise children committed under the provisions of this Act to the care of any private person or institution may be boarded together in any school or asylum or establishment of a like nature:
- (10.) For the various purposes mentioned in this Act and generally for carrying this Act into effect.

Compare No. 495
s. 19.

Regulations to be
laid before Parlia-
ment.

No. 216 s. 6.

90. All regulations of the Governor in Council made hereunder shall be laid before both Houses of Parliament within ten days after the publication thereof if Parliament is then sitting, or if not then sitting then within ten days from the next assembling of Parliament.

Continuation of
regulations under
repealed Acts.

91. The regulations of the Governor in Council relating to neglected children in force at the commencement of this Act under any repealed Acts shall until repealed or altered have the same force and effect as if made under this Act.

SCHEDULE.

SCHEDULE.

Section 24.

To Wit. }

Be it remembered that on the _____ day of _____ in the said colony A.B. of _____ in the said colony a boy [or girl] of the age of _____ years [on the _____ day of _____ last past (*these words to be inserted only if the age can be exactly determined*)] is proved to the satisfaction of us the undersigned justices of the peace for _____ to have been [*state description of the charge*] and we adjudge the said A.B. to be committed to the care of the Department for Neglected Children; and we further adjudge that [C.B., the father of the said A.B., or as the case may be] pay the sum of _____ shillings every week for or towards the maintenance of the said A.B., the first payment to be made on _____ day next; and such payments are to be made to _____, collector of imposts at _____, or such other person as may be for the time being appointed by the Governor in Council to receive the same.

To Wit. }

Be it remembered that on the _____ day of _____ in the said colony A.B. of _____ in the said colony a boy [or girl] of the age of _____ years [on the _____ day of _____ last past (*these words to be inserted only if the age can be exactly determined*)] is convicted before _____ for that the said A.B. [*state offence and time and place where committed*] and _____; and we adjudge the said A.B. to be committed to the reformatory school at _____; and we adjudge that [C.B., the father of the said A.B., or as the case may be] pay the sum of _____ shillings every week for or towards the maintenance of the said A.B., the first payment to be made on _____ day next; and such payments are to be made to _____, collector of imposts at _____, or such other person as may be for the time being appointed by the Governor in Council to receive the same.

MELBOURNE:

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